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highlights

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Ten agencies have agreed to a six-month trial period based on the assignment of two days a week beginning February 9 and ending August 6 (See 41 FR 5453). The participating agencies and the days assigned are as follows:

Monday	Tuesday	Wednesday	Thursday	Friday
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	CSC			CSC
	LABOR			LABOR

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this trial program are invited. Comments should be submitted to the Director of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airworthiness Docket No. 75-WE-12-AD; Amdt. 39-2605]

PART 39—AIRWORTHINESS DIRECTIVES

McDonnell Douglas Model DC-10 Series Airplanes

Amendment 39-2126 (40 FR 11549), AD 75-06-07, requires inspection and rerigging of the forward passenger doors on Douglas Model DC-10 Series airplanes to insure proper functioning during emergency operation. After issuing Amendment 39-2126, the agency determined that alternate means of compliance could be provided to eliminate repetitive inspections required by AD 75-06-07. This finding was based upon several product improvement service bulletins released by the McDonnell Douglas Company subsequent to issuance of Amendment 39-2126. Therefore, the AD is being amended to provide alternate means of compliance for terminating AD action.

Since this amendment provides alternate means of compliance and imposes no additional burden on any person, 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 (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-2126 (40 FR 11549), AD 75-06-07, is amended by adding new paragraphs (b) (3) and (c) (3) as follows:

"(b) * * *

(3) The repetitive 1500-hour inspections required by paragraph (b) may be discontinued provided stainless steel cables and swivel clevises are installed in accordance with McDonnell Douglas Service Bulletin No. 52-152, dated February 3, 1976, or later FAA-approved revisions.

(c) * * *

(3) The repetitive 5000-hour inspections required by paragraph (c) may be discontinued provided any one of the following combination of McDonnell Douglas Service Bulletins, or later FAA-approved revisions, has been accomplished:

(i) S/B 52-118, Revision 1, dated February 14, 1975, (Installation of new cams on control mechanism), S/B 52-140, Revision 4, dated August 29, 1975, (Installation of return springs on reservoir actuator), S/B 52-146, Revision 1, dated November 21, 1975, (Installation of direct drive visible downlock), S/B 52-152, dated February 3, 1976, (Installation of stainless steel cables and swivel clevises);

(ii) S/B 52-118, Revision 1, dated February 14, 1975, S/B 52-146, Revision 1, dated November 21, 1975, S/B 52-152, dated February 3, 1976, and S/B 52-154, Revision 1, dated March 1, 1976, (Installation of new reservoir control valve assembly);

(iii) S/B 52-140, Revision 4, dated August 29, 1975, S/B 52-150, dated September 9, 1975, (Installation of combination up/downlock assembly), S/B 52-152, dated February 3, 1976; or

(iv) S/B 52-150, dated September 9, 1975, S/B 52-152, dated February 3, 1976, and S/B 52-154, Revision 1, dated March 1, 1976"

This amendment becomes effective May 17, 1976.

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

Issued in Los Angeles, California on April 30, 1976.

ROBERT H. STANTON,
Director, FAA Western Region.

[FR Doc.76-13561 Filed 5-12-76;8:45 am]

[Docket No. 75-NE-31; Amdt. 39-2603]

PART 39—AIRWORTHINESS DIRECTIVES

Pratt & Whitney Aircraft JT4A Turbojet Engines

Amendment 39-2492 (41 FR 1888), AD 76-01-08, requires repetitive shotpeening and application of antigalling compound to tenth stage compressor blades, P/N 49710 and P/N 310010, in all Pratt and Whitney Aircraft JT4A turbojet engines. After issuing Amendment 39-2492, the agency determined that the AD is more restrictive, in certain cases, than was intended. This arises because the AD, as worded, requires compliance within a relatively short time for blades with less than, but close to, the specified time in service. However, blades which already have more than the specified time in service, as of the effective date of the AD, are allowed to accumulate an additional 2000 hours before complying with the AD. It was intended to allow all blades, regardless of the amount of time in service, a minimum of 2000 hours to comply with the requirements of the AD.

The AD is therefore being amended to allow the subject blades to accumulate up to 2000 hours time in service, after January 28, 1976, before complying with the shotpeen requirements. It is also being clarified with respect to the repetitive inspection requirement of paragraphs 1 and 2.

Since this amendment relieves the initial inspection requirement, clarifies the repetitive inspection requirement and imposes no additional burden on any person, notice and public procedures are unnecessary and the amendment may be made effective upon publication.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-2492 (41 FR 1888), AD 76-01-08, is amended as follows:

1. Paragraph one is amended to read "Within 4000 hours time in service since the last shotpeening to 6A intensity or within 2000 hours time in service since January 28, 1976, whichever is later, and every 4000 hours time in service thereafter."

2. Paragraph two is amended to read "Within 6000 hours time in service since the last shotpeening to 11A intensity or 2000 hours after January 28, 1976, whichever is later and every 6000 hours time in service thereafter."

3. Paragraph three is amended to read "Blades that have never been shotpeened must be shotpeened within 2000 hours time in service since January 28, 1976, and are subsequently subject to the repetitive shotpeening requirements of paragraphs 1 and 2.

This amendment becomes effective May 20, 1976.

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

Issued in Burlington, Massachusetts, on April 30, 1976.

QUENTIN S. TAYLOR,
Director, New England Region.

[FR Doc.76-13558 Filed 5-12-76;8:45 am]

PART 39—AIRWORTHINESS DIRECTIVES

Pratt and Whitney JT8D Aircraft Engines

A proposal to amend § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-2099 (39 FR 7626), AD 75-05-06, to require quadruple torquing of certain JT8D engine fuel manifold "B" nuts within 1000 hours time in service and repetitive quadruple torquing at intervals of 2000 hours time in service was published in the FEDERAL REGISTER on January 12, 1976 (41 FR 1762).

Interested persons have been afforded the opportunity to fully participate in the making of this amendment. Comments were received from the Air Transport Association (ATA) and an interested airline in response to the notice. The commentators suggested that the requirement to quadruple torque the nuts within 1000 hours time in service would result in unnecessary aircraft down time. The ATA recommended a retorque at 2500 hours in lieu of the 1000 hours. After reviewing the data submitted

by the ATA, the agency has determined that the initial retorque can be extended to 1500 hours time in service in lieu of the 1000 hours time in service without a derogation of safety, since the AD will continue to require a daily visual inspection until the fuel manifold "B" nuts have met the torquing requirement of the AD. The commentators also objected to the repetitive retorquing requirement at intervals of 2000 hours time in service. Review of the data submitted indicates that the "B" nut leakage has been alleviated on fuel manifold "B" nuts that have been quadruple torqued or retorqued in service. Therefore, the repetitive retorquing requirement is being deleted.

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 39-2099 (39 FR 7626), AD 75-05-06 is amended as follows:

A. Add the words "with fuel manifold "B" nuts which were single or double torqued at original manufacture and have not been retorqued in service", to the end of the applicability paragraph.

B. Delete the paragraph beginning with "To detect . . ." and ending with "* * * or later FAA approved revision:" and insert the following: "To preclude possible fuel manifold leakage accomplish the following:

1. Torque the fuel manifold "B" nuts in accordance with Pratt and Whitney Aircraft Service Bulletin 4389, Revision 7, or later FAA approved revision or Section 72-37 of Pratt and Whitney Aircraft JT8D Engine Manual No. 481672, Revision 78, or later FAA approved revision within the next 1500 hours time in service after the effective date of this AD, unless already accomplished.

2. Until the fuel manifold "B" nuts are torqued in accordance with Paragraph 1, accomplish the following inspection once a day on engines with over 1000 hours total time in service since new:"

C. Delete the numbers "1" and "2" from the inspection paragraphs and insert the letters "a" and "b" respectively.

D. Add the words "and 2" to the end of Paragraph 3.

This amendment becomes effective May 20, 1976.

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

Issued in Burlington, Massachusetts, on April 30, 1976.

QUENTIN S. TAYLOR,
Director, New England Region.

[FR Doc.76-13559 Filed 5-12-76;8:45 am]

[Docket No. 15133; Amdt. 39-2606]

PART 39—AIRWORTHINESS DIRECTIVES

Slingsby Sailplanes T59D Kestrel Gliders

Amendment 39-2417 (40 FR 51416), AD 75-23-06, requires repetitive inspections and replacement of defective rudder cables on Slingsby Sailplanes T59D Kestrel gliders. After issuing Amendment 39-2417, the FAA has determined that the required repetitive inspections may be discontinued if rudder pedal travel is restricted by a rudder stop. Therefore, the AD is being amended to provide an alternative to repetitive inspections by providing for the installation of a rudder pedal stop on Slingsby Sailplanes T59D Kestrel gliders. A note containing a reference to the applicable service bulletin of the manufacturer is also being added.

Since this amendment provides an alternative means of compliance and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

This amendment is made under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 USC 1354(a), 1421, and 1423) and of section 6(c) of the Department of Transportation Act (49 USC 1655(c)).

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-2417 (40 FR 51416), AD 75-23-06, is amended by adding a new paragraph (c) and a note to read as follows:

SLINGSBY SAILPLANES. Applies to T59D Kestrel gliders certificated in all categories.

* * * * *

(c) The repetitive inspections required by this AD may be discontinued after a rudder pedal stop, P/N 59A-45-445, or an FAA approved equivalent is installed as follows:

(1) Remove the instrument panel.

(2) Remove the two screws (self tapping type) retaining the pedal assembly cover (channel section) and remove this cover.

(3) Position the stop to the upper guide tube and push it firmly up against the forward tube support; tighten the bolts.

(4) Replace the pedal assembly cover and instrument panel.

(5) Check controls for full and free operation.

NOTE.—Vickers-Slingsby Technical Instruction No. 78, dated March 15, 1976, also covers the installation of the rudder pedal stop.

This amendment becomes effective May 27, 1976.

Issued in Washington, D.C. on May 4, 1976.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc.76-13560 Filed 5-12-76; 8:45 am]

[Docket No. 15707; Amdt. 39-2616]

PART 39—AIRWORTHINESS DIRECTIVES

Start & Flug GmbH. H101 "Salto" Gliders

There has been a report of an accident involving a Start & Flug H101 "Salto" glider, the investigation of which revealed that rapid and violent actuation of the canopy fastening mechanism during acrobatic maneuvers could result in an inability to jettison or release the cockpit canopy. This could prevent the pilot from utilizing his parachute. Since this condition is likely to exist or develop in other gliders of the same type design, an airworthiness directive is being issued to require either the modification of the fastening mechanism of the H101 "Salto" glider cockpit canopy prior to further acrobatic maneuvers or the installation of a placard which specifies that acrobatic maneuvers are prohibited.

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

This amendment is made under the authority of Section 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

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

START & FLUG GmbH. Applies to H101 "Salto" gliders, certificated in all categories.

Compliance is required as indicated unless already accomplished.

To prevent possible failure of the cockpit canopy locking device and the consequent inability of the pilot to use his parachute, accomplish the following:

(a) Within the next 10 hours time in service after the effective date of this AD, either—

(1) Install an operating limitations placard on the instrument panel in full view of the pilot to read as follows:

"Acrobatic Maneuvers Prohibited;" or

(2) Modify the cockpit canopy fastening mechanism by installing polyamide stop blocks on both canopy fastening mechanisms in accordance with Start & Flug GmbH Technical Note No. 101-8, dated May 1, 1974 and Drawing No. 101-14-34, undated, or FAA-approved equivalents.

(b) The placard specified in paragraph (a)(1) of this AD, if installed, may be removed upon the incorporation of the modification described in paragraph (a)(2) of this AD.

This amendment becomes effective May 27, 1976.

Issued in Washington, D.C. on May 7, 1976.

JAMES M. VINES,
Acting Director,
Flight Standards Service.

[FR Doc.76-13950 Filed 5-12-76;8:45 am]

[Airspace Docket No. 76-SW-9]

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

Designation of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to designate a transition area at Poteau, Okla.

On March 22, 1976, a notice of proposed rule making was published in the FEDERAL REGISTER (41 FR 11842) stating the Federal Aviation Administration proposed to designate a transition area at Poteau, Okla.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 GMT, July 15, 1976, as hereinafter set forth.

§ 71.181 [Amended]

In § 71.181 (41 FR 440), the following transition area is added:

POTEAU, OKLA.

That airspace extending upward from 700 feet above the surface within an 8.5-statute-mile radius of Robert S. Kerr Airport, Poteau, Okla. (latitude 35°01'11" N., longitude 94°37'17" W.); and within 3.5 statute miles each side of the Rich Mountain, Okla., VORTAC (latitude 34°40'49" N., longitude 94°36'32" N.) 351° radial extending from the 8.5-mile-radius area to 13.5 statute miles north of the VORTAC.

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

Issued in Fort Worth, Tex., on May 4, 1976.

ALBERT H. THURBURN,
Acting Director,
Southwest Region.

[FR Doc.76-13947 Filed 5-12-76;8:45 am]

[Airspace Docket No. 76-SW-12]

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

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Dallas-Fort Worth, Tex., transition area.

On March 22, 1976, a notice of proposed rule making was published in the FEDERAL REGISTER (41 F.R. 11841) stating the Federal Aviation Administration proposed to alter the Dallas-Fort Worth, Tex., transition area.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 GMT, July 15, 1976, as hereinafter set forth.

§ 71.181 [Amended]

In § 71.181 (41 F.R. 440), the Dallas-Fort Worth, Tex., transition area is amended to read, in part, by deleting:

"to latitude 33°08'30" N., longitude 96°25'00" W.; to latitude 32°44'00" N., longitude 96°26'00" W.;"

and substituting therefor:

"to latitude 33°08'30" N., longitude 96°25'00" W.; to latitude 33°01'00" N., longitude 96°25'00" W.; thence clockwise along the arc of a 5-mile radius circle centered at latitude 32°56'00" N., longitude 96°26'00" W.; to latitude 32°51'00" N., longitude 96°25'30" W.; to latitude 32°44'00" N., longitude 96°26'00" W.;"

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

Issued in Fort Worth, Tex., on May 4, 1976.

ALBERT H. THURBURN,
Acting Director,
Southwest Region.

[FR Doc.76-13948 Filed 5-12-76;8:45 am]

[Docket No. 15697; Amdt. No. 1020]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Recent Changes and Additions

This amendment to Part 97 of the Federal Aviation Regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAPs) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAPs for the changes and additions covered by this amendment are described in FAA Forms 8260-3, 8260-4, or 8260-5 and made a part of the public rule making dockets of the FAA in accordance with the procedures set forth in Amendment No. 97-696 (35 F.R. 5609).

SIAPs are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591. Copies of SIAPs adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAPs may be purchased from the FAA Public Information Center, AIS-230, 800 Independence Avenue, S.W., Washington, D.C. 20591 or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft, or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $150.00 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Additional copies mailed to the same address may be ordered for $30.00 each.

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

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

§ 97.23 [Amended]

1. Section 97.23 is amended by originating, amending, or canceling the following VOR-VOR/DME SIAPs, effective July 1, 1976.

Gunnison, CO—Gunnison County Arpt., VOR-A, Amdt. 1.
Winnsboro, TX—Winnsboro Muni. Arpt., VOR-A, Amdt. 2.

* * * effective June 24, 1976.

Perry, GA—Perry-Fort Valley Arpt., VOR-A, Amdt. 2.
Peoria, IL—Greater Peoria Arpt., VOR Rwy 12 (TAC), Amdt. 14.
Peoria, IL—Greater Peoria Arpt., VORTAC Rwy 30, Amdt. 2.
Columbus, NE—Columbus Muni. Arpt., VOR Rwy 14, Amdt. 8.
Columbus, NE—Columbus Muni. Arpt., VOR Rwy 32, Amdt. 8.
Sanford, ME—Sanford Muni. Arpt., VOR Rwy 25, Amdt. 7.
Goldsboro, NC—Goldsboro-Wayne Muni. Arpt., VOR-B, Original.

§ 97.25 [Amended]

2. Section 97.25 is amended by originating, amending, or canceling the following SDF-LOC-LDA SIAPS, effective June 24, 1976.

Peoria, IL—Greater Peoria Arpt., LOC(BC) Rwy 12, Amdt. 13.

* * * effective June 17, 1976.

Houston, TX—Houston Intercontinental Arpt., LOC (BC) Rwy 26, Amdt. 4, cancelled.

* * * effective May 27, 1976.

Hibbing, MN—Chisholm-Hibbing Arpt., LOC (BC) Rwy 13, Amdt. 3.

* * * effective May 20, 1976.

Duluth, MN—Duluth International Arpt., LOC Rwy 27, Original, cancelled.

§ 97.27 [Amended]

3. Section 97.27 is amended by originating, amending, or canceling the following NDB/ADF SIAPS, effective July 1, 1976.

Troutdale, OR—Portland-Troutdale Arpt., NDB-A, Amdt. 3.

* * * effective June 24, 1976.

Atlanta, GA—Charlie Brown County Arpt., NDB Rwy 8R, Amdt. 9.
Peoria, IL—Greater Peoria Arpt., NDB Rwy 30, Amdt. 8.

* * * effective June 17, 1976.

Artesia, NM—Artesia Muni. Arpt., NDB Rwy 12, Amdt. 1, cancelled.
Artesia, NM—Artesia Muni. Arpt., NDB Rwy 30, Original, cancelled.

* * * effective May 27, 1976.

Somerset, PA—Somerset County Arpt., NDB Rwy 24, Amdt. 2.

§ 97.29 [Amended]

4. Section 97.29 is amended by originating, amending, or canceling the following ILS SIAPS, effective June 24, 1976.

Atlanta, GA—Charlie Brown County Arpt., ILS Rwy 8R, Amdt. 8.
Peoria, IL—Greater Peoria Arpt., ILS Rwy 30, Amdt. 10.

* * * effective May 27, 1976.

Hibbing, MN—Chisholm-Hibbing Arpt., ILS Rwy 31, Amdt. 5.

* * * effective May 20, 1976.

Duluth, MN—Duluth International Arpt., ILS Rwy 27, Original.

§ 97.31 [Amended]

5. Section 97.31 is amended by originating, amending, or canceling the fol-

lowing RADAR SIAPs, effective July 1, 1976.

Spokane, WA—Spokane Int'l Arpt., RADAR-1, Amdt. 11.

* * * effective June 24, 1976.

Tallahassee, FL—Tallahassee Muni. Arpt., RADAR-1, Original.
Peoria, IL—Greater Peoria Arpt., RADAR-1, Amdt. 3.

§ 97.33 [Amended]

6. Section 97.33 is amended by originating, amending, or canceling the following RNAV SIAPs, effective June 24, 1976.

Miami, FL—Opa Locka Arpt., RNAV Rwy 9L, Amdt. 3.
Tampa, FL—Tampa International Arpt., RNAV Rwy 18R, Amdt. 1.
Peoria, IL—Greater Peoria Arpt., RNAV Rwy 4, Amdt. 2.
Peoria, IL—Greater Peoria Arpt., RNAV Rwy 12, Amdt. 1, cancelled.
Peoria, IL—Greater Peoria Arpt., RNAV Rwy 22, Amdt. 2.
Gastonia, NC—Gastonia Muni. Arpt., RNAV Rwy 3, Amdt. 1.

CORRECTION: In Docket Number 15538, Amendment 1015 to Part 97 of the Federal Aviation Regulations published in the FEDERAL REGISTER dated April 8, 1976 on pages 14880 and 14881 * * * under Sections 97.27 and 97.29, effective May 13, 1976, Topeka, KS—Forbes Field, NDB Rwy 31, Original and ILS Rwy 31, Original * * * the effective dates of these procedures are changed to May 27, 1976.

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1958; 49 U.S.C. 1438, 1354, 1421, 1510, and Sec. 6(c) Department of Transportation Act, 49 U.S.C. 1655(c).

Issued in Washington, D.C., on May 6, 1976.

NOTE: Incorporation by reference provisions in §§ 97.10 and 97.20 approved by the Director of the Federal Register on May 12, 1969, (35 F.R. 5610).

JAMES M. VINES,
Chief, Aircraft Programs Division.

[FR Doc.76-13949 Filed 5-12-76;8:45 am]

[Docket No. 15075; Amdt. No. 159-15]

PART 159—NATIONAL CAPITAL AIRPORTS

Motor Vehicles Carrying Passengers for Hire on Washington National and Dulles International Airports

The purpose of this amendment to § 159.3 of the Federal Aviation Regulations is to provide additional rules for persons operating motor vehicles for the purpose of carrying passengers for hire on Washington National Airport (DCA) and Dulles International Airport (IAD).

Interested persons have been afforded an opportunity to participate in the making of this amendment by notice of proposed rulemaking (Notice No. 75-36) issued on October 14, 1975, and published in the FEDERAL REGISTER on October 23, 1975 (40 FR 49577). Due consideration has been given to all comments received in response to the notice.

Comments received expressed general agreement with the objectives of the proposal. However, several contained suggested revisions. Based on a review of those comments, several minor changes of a clarifying or relaxatory nature have been made.

Proposed §§ 159.2(a) and 159.4(a) would have expressly permitted the delivery of passengers for hire at DCA and IAD. Since the restrictions set forth in those paragraphs are applicable to picking up, rather than delivering, passengers for hire, the provisions applicable to the discharge or delivery of passengers are unnecessary and have been deleted.

Proposed §§ 159.2(b)(3) and 159.4(b)(3) would have required the operator of any for-hire vehicle to obey all lawful directions and signals of dispatchers. While the intent of this provision was to require taxicab operators to obey the lawful directions and signals of taxicab dispatchers, the provision could be construed to require any for-hire operator to comply with directions given by a taxicab dispatcher. Thus, to avoid confusion, that provision, as clarified, has been included in §§ 159.2(c) and 159.4(c) since those sections are applicable to taxicab operations only. In addition, § 159.2(c) has been revised to indicate clearly that a taxicab operator picking up for hire must accept as passengers those persons, and only those persons, assigned by the dispatcher.

Under proposed § 159.2(d)(3), a taxicab operator would have been required to display a rate schedule issued by the Washington Metropolitan Area Transit Commission (WMATC) and one issued by his licensing jurisdiction. A requirement to display both schedules is unnecessary and could be confusing. A taxicab operator picking up a passenger for hire on DCA must charge the rates prescribed by his licensing jurisdiction if his taxicab has a meter, and he must charge those prescribed by the WMATC for interstate taxicab transportation if his taxicab does not have a meter. Therefore, § 159.2(c)(7) of this amendment requires an operator to display only the rate schedule that he must use.

New § 159.2(c)(9) requires that a taxicab operator charge no more than either the interstate fares prescribed by the WMATC or those prescribed by his licensing jurisdiction, when picking up passengers on DCA and transporting them to points within certain areas. The proposal made reference to areas within or outside the State of Virginia but did not identify the specific areas to which it was intended to apply. For clarity, those areas are identified in § 159.2(c)(9)(i)-(v) of this amendment.

Proposed §§ 159.2(f) and 159.4(d) defined, in part, a taxicab as a motor vehicle having a seating capacity of not more than six passengers in addition to the operator. To make this definition consistent with the WMATC definition of the term "taxicab," this amendment defines such a motor vehicle as one having a seating capacity of not more than eight—rather than six—passengers in addition to the operator.

Several comments dealt with matters considered beyond the scope of Notice 75-36. These included suggestions regarding taxi stands and lanes, bookkeeping, changes to roadways and signs, and fees. These comments are being retained and will be given due consideration, where appropriate, in the event of future rulemaking actions.

Other comments addressed such matters as the placement of meters and licenses in specific locations in a taxicab, fare schedules, use of clean taxicabs, inspection of those vehicles, issuing of receipts to customers, use of direct routes, and the testing of drivers. These matters are among those covered by the taxicab ordinances or laws that have been adopted by the jurisdictions listed in § 159.2(c)(4). The FAA considers those ordinances or laws as adequate for the protection and convenience of airport patrons and believes that an amendment to the Federal Aviation Regulations dealing with identical matters would be unnecessarily duplicative.

Commenting on dispatchers and dispatching procedures, other persons made a variety of suggestions. These pertained to loading procedures, the dispatching of for-hire vehicles other than taxicabs, dispatcher's badges, permitting airport patrons to refuse cabs assigned by dispatchers, and establishing penalties for or eliminating dispatchers altogether. In this connection, it should be pointed out that most of these matters are appropriately governed by contract, or otherwise controlled by airport management, and that airport patrons are at liberty to refuse to take a particular taxicab.

On the other hand, several commentators recommended substantive revisions to the proposal which are appropriate for consideration at this time. With regard to proposed §§ 159.2(a)(3) and 159.4(a)(3), one commentator suggested revisions to permit other than taxicab operators to pick up in response to a prior request and stated that §§ 159.2(b)(1) and 159.4(b)(1) should be relaxed to permit those operators to solicit passengers. In addition, that commentator questioned the Administrator's authority to prescribe rates. However, others suggested that rates be set for trips to points beyond the WMATC Washington Metropolitan Area Transit District (Metropolitan District) and questioned the Administrator's authority to regulate the solicitation of passengers.

Under the statutory authorities cited herein, the FAA concludes that it has authority to regulate business activities conducted on DCA and IAD and that, based on that authority, it may prohibit the solicitation of passengers and require, as a condition to picking up passengers for hire, that reasonable rates be charged. However, based on past operations, the FAA concludes that it is presently unnecessary to establish rates for transportation to points beyond the WMATC Metropolitan District. The suggestions concerning relaxation of the rules applicable to prearranged pickups and solicitation have been carefully considered, but these rules have been retained as necessary to protect airport

patrons and to prevent undue congestion.

With regard to proposed §§ 159.2(c)(1) and 159.4(c), another commentator suggested that taxicab operators be permitted to stand near—rather than remain in—their vehicles while waiting within taxicab pickup zones. However, as explained in the notice, this provision also is considered necessary to prevent congestion and to discourage the solicitation of passengers. Therefore, it has been adopted as proposed.

Concern regarding the jurisdictions listed in proposed § 159.2(d)(1) was expressed by several commentators. They suggested that the jurisdictions located outside the WMATC Metropolitan District be deleted from that list. Based on its evaluation of these comments and after further consideration, the FAA concludes that it can more effectively control taxicab operations conducted by taxicab operators licensed by jurisdictions within the WMATC Metropolitan District than taxicab operations conducted by operators licensed by jurisdictions that are located outside that district. Therefore, this amendment (§ 159.2(c)(4)) includes only those jurisdictions that are within the Metropolitan District. However, that section can be amended at a later date to include additional jurisdictions, if changed circumstances warrant such a revision.

Taking a different approach, others suggested changing proposed § 159.2(d)(1) to authorize operators of "airport cabs" only, or additional taxicab operators, to pick up for hire on DCA. One commentator contended that taxicab service at that airport should be provided through contractual arrangements and that it should be specifically authorized to pick up for hire on that basis. Another commentator suggested that the Town of Vienna be included among the jurisdictions listed in that section.

In this connection, the FAA wishes to point out that any taxicab operator who complies with the licensing requirements set forth in new § 159.2(c)(4) may pick up persons for hire on DCA. However, the issue of permitting a taxicab operator to pick up for hire on that airport pursuant to a contract with the FAA was not raised in Notice 75–36 and, therefore, is not appropriate for consideration at this time. Such a change, if warranted, could be accomplished at a later date by means of appropriate rulemaking. In addition, the FAA, after investigation, finds that the Town of Vienna issues business licenses to taxicab operators but does not prescribe vehicle safety and appearance standards or fare limitations. Therefore, since one objective of the notice is to assure, for the protection of airport patrons, that taxicab operators picking up are subject to such standards and limitations, the FAA believes that it would be inappropriate at this time to include the Town of Vienna among the jurisdictions listed in § 159.2(c)(4) of this amendment.

Another commentator suggested that taxicab operators be required to show their licenses to passengers and others. In this connection, it should be noted that under new § 159.2(c)(7), a taxicab operator picking up for hire at DCA is required to display, in a place conspicuous to passengers, his operator's license and rate schedule. An operator at IAD is required by contract to display, in a like manner, his name tag and rate schedule. Under new §§ 159.2(c)(8) and 159.4(b)(4), operators must permit airport police to inspect their taxicabs to determine compliance with these requirements. The FAA believes that these provisions will provide access to the information sought by this commentator.

Others observed that the notice did not include sanctions for use against taxicab operators who charge improper fares or a procedure for filing complaints to recover overcharges. In this connection, reference is made to current § 159.191 which sets forth a variety of penalties, all of which are available for use in the event that any person willfully or knowingly violates a rule prescribed in Part 159. These include fines, imprisonment, ejection from the airport, and denial of use of the airport and its facilities. Patrons desiring to file complaints at DCA may do so by calling the number posted on display boards located near taxicab loading platforms.

Finally, one commentator suggested that the requirement concerning licensing of taxicabs and operators be made applicable to taxicab operations at IAD. However, as stated in the notice, adequate taxicab service is provided at IAD through contractual arrangements. Therefore, the FAA believes that it is unnecessary at this time to establish licensing requirements for taxicab operators picking up persons for hire at that airport.

This amendment is made under the authority of Section 2 of the Act of June 29, 1940, as amended (Administration of Washington National Airport, 54 Stat. 668); Section 4 of the Act of September 7, 1950, as amended (Second Washington Airport Act, 64 Stat. 771); Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and Section 1.47(a) of the Regulations of the Office of the Secretary of Transportation (49 CFR 1.47(a)).

In consideration of the foregoing, Part 159 of the Federal Aviation Regulations is amended, effective June 13, 1976, as follows:

1. By adding a new § 159.2 to read as follows:

§ 159.2 Motor vehicles carrying passengers for hire on Washington National Airport.

(a) No person may operate a taxicab or other motor vehicle on Washington National Airport for the purpose of picking up a passenger for hire unless he operates in accordance with one of the following conditions:

(1) He has a contract with the United States authorizing him to pick up passengers for hire on that airport.

(2) He operates a taxicab, in other than a taxicab pickup zone, to carry immediately from that airport a passenger picked up in response to a prior request, and his manifest shows the time the request was made, the name of the person to be picked up, and the time and the point of the pickup.

(3) He operates a taxicab, in other than a taxicab pickup zone, to carry immediately from that airport a passenger picked up, without a prior request, at the point of and immediately upon discharge of another passenger delivered there.

(4) He operates a taxicab on that airport to pick up a person or persons within an area designated as a taxicab pickup zone and pays a $.50 fee for each such pickup (individual or group). However, the airport manager may designate hours of operation during which a fee need not be paid.

(b) No person may operate a taxicab or other motor vehicle on Washington National Airport for the purpose of picking up or discharging a passenger for hire unless he complies with each of the following requirements:

(1) He may not solicit passengers.

(2) He may not carry in his vehicle a nonpaying passenger other than a trainee driver.

(3) He must obey all posted official airport signs and all lawful directions and signals of airport police.

(c) No person may operate a taxicab on Washington National Airport for the purpose of picking up a passenger for hire unless he complies with each of the following requirements:

(1) He must remain in his vehicle while waiting to enter a taxicab pickup zone or while in a taxicab pickup zone, except when assisting a passenger to enter the vehicle or when loading a passenger's baggage.

(2) He must accept as passengers those persons and only those persons assigned by the taxicab dispatcher, if the taxicab dispatcher is on duty at that pickup zone at the time the pickup is made.

(3) He must obey all lawful directions and signals of taxicab dispatchers.

(4) He must be licensed to operate a taxicab, and the taxicab must be licensed, by one of the following:

(i) The City of Alexandria;
(ii) The City of Falls Church;
(iii) Arlington County;
(iv) Fairfax County;
(v) Montgomery County;
(vi) Prince George's County;
(vii) The District of Columbia.

(5) He must have in his possession the licenses required by paragraph (c)(4) of this section.

(6) Upon the request of an airport police officer, he must surrender for inspection to that officer the licenses required by paragraph (c)(4) of this section.

(7) He must display in his taxicab, in a place conspicuous to passengers, his taxicab operator's license and a schedule of the rates issued by the Washington Metropolitan Area Transit Commission or the jurisdiction that has licensed his taxicab, as appropriate under paragraph (c)(9) of this section.

(8) He must permit airport police to inspect his taxicab to determine if he is displaying the license and rate schedule required by paragraph (c)(7) of this section.

(9) He must charge no more than the passenger fares prescribed by the Washington Metropolitan Area Transit Commission for interstate transportation, if his taxicab does not have a meter, or those prescribed by the jurisdiction that has licensed his taxicab, if his taxicab has a meter, when transporting a passenger from a point on Washington National Airport to:

(i) Another point on that airport;

(ii) A point on Dulles International Airport;

(iii) A point within the City of Alexandria or the City of Falls Church;

(iv) A point within the District of Columbia; or

(v) Any point within the outer geographical boundaries of Arlington County, Fairfax County, Montgomery County, or Prince George's County.

(d) As used in this section:

(1) The word "taxicab" means any motor vehicle that has a seating capacity of not more than eight passengers in addition to the operator, is being operated for the purpose of transporting passengers for hire between points along the public streets as the passengers may direct, and is not being operated on a regular route or schedule or between fixed terminals; and

(2) The words "taxicab dispatcher" mean any person employed by or designated by the airport manager to direct the movement of taxicabs.

2. By revoking and reserving § 159.3 as follows:

§ 159.3 [Reserved]

3. By adding a new § 159.4 to read as follows:

§ 159.4 Motor vehicles carrying passengers for hire on Dulles International Airport.

(a) No person may operate a taxicab or other motor vehicle on Dulles International Airport for the purpose of picking up a passenger for hire unless he operates in accordance with one of the following conditions:

(1) He has a contract with the United States authorizing him to pick up passengers for hire on that airport.

(2) He operates a taxicab to carry immediately from that airport a passenger picked up in response to a prior request, and his manifest shows the time the request was made, the name of the person to be picked up, and the time and the point of the pickup.

(3) He operates a taxicab to carry immediately from that airport a passenger picked up, without a prior request, at the point of and immediately upon discharge of another passenger delivered there.

(b) No person may operate a taxicab or other motor vehicle on Dulles International Airport for the purpose of picking up or discharging a passenger for hire unless he complies with each of the following requirements:

(1) He may not solicit passengers.

(2) He may not carry in his vehicle a nonpaying passenger other than a trainee driver.

(3) He must obey all posted official airport signs and all lawful directions and signals of airport police.

(4) He must permit airport police to inspect his vehicle to determine if he is displaying, in a place conspicuous to passengers, his name tag and rate schedule.

(c) No person may operate a taxicab on Dulles International Airport for the purpose of picking up a passenger for hire unless he complies with each of the following requirements:

(1) He must remain in his vehicle while waiting to enter a taxicab pickup zone or while in a taxicab pickup zone, except when assisting a passenger to enter the vehicle or when loading a passenger's baggage.

(2) He must obey all lawful directions and signals of taxicab dispatchers.

(d) As used in this section:

(1) The word "taxicab" means any motor vehicle that has a seating capacity of not more than eight passengers in addition to the operator, is being operated for the purpose of transporting passengers for hire between points along the public streets as the passengers may direct, and is not being operated on a regular route or schedule or between fixed terminals; and

(2) The words "taxicab dispatcher" mean any person employed by or designated by the Airport Manager to direct the movement of taxicabs.

Issued in Washington, D.C., on May 10, 1975.

JOHN MCLUCAS,
Administrator.

[FR Doc.76-14045 Filed 5-12-76;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket C-2590]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Kirby of North Providence, Inc., et al.

Codification under 16 C.F.R. 13 appears at 40 F.R. 7088.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 82 Stat. 146, 147; 15 U.S.C. 45, 1601, *et seq.*)

In the Matter of Kirby of North Providence, Inc., a corporation, and Emanual Toro, individually and as an officer of said corporation.

Order modifying previous order dated November 1, 1974, 40 F.R. 7088, 84 F.T.C. 1218, by substituting, for the notice requirement of Paragraph I (7), the notice required by the Preservation of Consumers' Claims and Defenses Trade Regulation Rule, 16 C.F.R. Part 433, effective May 14, 1976. Unless modified, the respondents would be required to include both disclosure notices on their instruments of indebtedness.

The order granting petition to reopen the proceeding and to modify the order, is as follows: [1]

Respondents have petitioned the Commission to reopen the final order in the above-styled matter for the purpose of substituting, for the notice required therein, the notice required by the Preservation of Consumers' Claims and Defenses Trade Regulation Rule, 16 C.F.R. Part 433, which becomes effective May 14, 1976. Unless modified, respondents' instruments of indebtedness would be required to include both the order notice and the trade regulation rule notice.

The Commission, having considered respondents' petition and complaint counsel's answer, which does not oppose the modification, is of the opinion that the public interest would be best served by granting the petition and modifying the order so that it comports with the notice required by the trade regulation rule. Accordingly,

It is ordered That Paragraph I (7) of the order entered on November 1, 1974, be, and it hereby is, modified to read as follows:

"7. Failing to include the following statement clearly and conspicuously on the face of any note, contract, or other instrument of indebtedness executed by or on behalf of respondents' customers:

NOTICE

ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS HEREOF. RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER."

The Order Granting Petiton to Reopen the Proceeding and to Modify the Order was issued by the Commission March 22, 1976.

CHARLES A. TOBIN,
Secretary.

[FR Doc.76-13849 Filed 5-12-76;8:45 am]

[1] Copies of the Order Granting Petition to Reopen the Proceeding and to Modify the Order, filed with the original document.

[Docket C-2816]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Thrifty Drug Stores Co., Inc.

Subpart—Discriminating in price under Section 2, Clayton Act—Knowingly inducing or receiving discriminating price under 2(f): § 13.855 Inducing or receiving discriminations. Subpart—Discriminating in price under Section 5, Federal Trade Commission Act: § 13.892 Knowingly inducing or receiving discriminating payments.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 2, 49 Stat. 1526; 15 U.S.C. 45, 13)

In the Matter of Thrifty Drug Stores Co. Inc., a corporation.

Consent order requiring a Los Angeles, Calif., chain of retail drug and discount stores and retail sporting goods stores, among other things to cease knowingly inducing and receiving from its suppliers discriminatory promotional allowances, services, facilities, and net prices. Fur-

ther, the order prohibits respondent from overcharging for promotional activities.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows: [1]

ORDER

I

It is ordered That respondent Thrifty Drug Stores Co. Inc., a corporation, its successors and assigns, and its officers, agents, representatives and employees, directly or indirectly through any corporation, subsidiary, division or other device, in connection with the processing, handling, purchasing, or offering to purchase of products or commodities by or on behalf of respondent for distribution to or resale by respondent's drug and discount stores, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, and the Clayton Act, as amended, do forthwith cease and desist from:

1. Inducing, inducing and receiving, or receiving anything of value from any supplier as compensation for or in consideration of any service or facility furnished by or through respondent in connection with the advertising, processing, handling, display, or anything else in the nature of promotional assistance, of any product or commodity of such supplier (such as but not limited to, the educator service program, sales meetings, trade shows or cooperative advertising) when respondent knows or should know that such compensation or consideration is not being affirmatively offered or otherwise affirmatively made available by such supplier on proportionally equal terms to all of its other customers who compete with respondent in the sale or distribution of such supplier's products, including retailer customers who do not purchase directly from such supplier.

2. Inducing, inducing and receiving, or receiving any service or facility from any supplier in connection with the advertising, processing, handling, display, or anything else in the nature of promotional assistance, of any product or commodity of such supplier (such as but not limited to, carpeting provided by a supplier or promotional assistance provided by a representative of a supplier) when respondent knows or should know that any such service or facility is not being affirmatively offered or otherwise affirmatively made available by such supplier on proportionally equal terms to all of its other customers who compete with respondent in the distribution and resale of such supplier's products, including retailer customers who do not purchase directly from such supplier.

3. Inducing, inducing and receiving, or receiving, anything of value from any supplier as compensation for or in consideration of any service or facility furnished by or through respondent in connection with the advertising, processing, handling, display, or anything else in the nature of promotional assistance, of any product or commodity of such supplier to the extent that such compensation or consideration exceeds respondent's actual costs incurred in the rendering of such service or in the furnishing of such facility.

4. Knowingly inducing, inducing and receiving, or receiving, in connection with any promotional activity concerning products or commodities sold or offered for sale in respondent's stores, any net price for such products or commodities from any supplier which price respondent knows or should know is:

(a) Below the net price at which such products of like grade and quality are being sold by such seller to any other purchaser with whom respondent competes or with whose customer or customers respondent competes; and

(b) Not a price differential which makes only due allowance for differences in the cost of manufacture, sale or delivery resulting from the differing methods or quantities by which said products or commodities are sold and delivered by such seller; and

(c) Not a price change in response to changing conditions affecting the market for or marketability of such products or commodities, such as but not limited to actual or imminent deterioration of perishable goods, obsolescence of seasonal goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned.

5. *Provided, however,* That this order shall not be construed to prohibit respondent from selling to other persons, corporations or firms, including suppliers, advertising time purchased by respondent on television or radio programs where such advertising time is not used to advertise or promote respondent in any way and is not otherwise prohibited by any law or regulation. Such sale by respondent of advertising time on television or radio programs shall not be at rates greater than those that would be otherwise available to such persons, corporations or firms directly from the television or radio station if such time were available for sale.

6. *Provided, however,* That paragraphs one, two, and four of this order shall not be effective unless respondent knows or should know that such compensation, consideration, service, facility or price is not being offered to respondent in good faith to meet equivalent compensation, consideration, service, facility or an equally low price offered by a competitor of the supplier. *Provided further, however,* That the above proviso shall not relieve respondent of responsibility for any violation of paragraphs one, two or four of this order where the compensation, consideration, service, facility or equally low price is induced, induced and received, or received by respondent in response to any compensation, consideration, service, facility or net price illegally induced, induced and received, or received by respondent.

II

It is further ordered That respondent shall distribute a copy of the complaint and order in this matter to all of its present and future employees who are engaged in purchasing activities related to its drug and discount stores, or the supervision of such activities, and all present drug and discount store division managers, district managers and store managers. In addition, respondent shall cause the distribution by first class mail of a copy of the complaint and order in this matter to all suppliers who at any time since September 1, 1969, have sold any products or commodities to respondent for distribution or resale in its drug and discount stores.

III

It is further ordered That respondent shall notify the Commission at least thirty (30) days prior to any proposed change in or to the corporation, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, in the creation or dissolution of any subsidiary or in any other change in the corporation which may affect compliance obligations under this order.

IV

It is further ordered That the respondent herein shall within sixty (60) days after service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

The Decision and Order was issued by the Commission April 13, 1976.

CHARLES A. TOBIN,
Secretary.

[FR Doc.76-13850 Filed 5-12-76;8:45 am]

[1] Copies of the Complaint, Decision and Order, filed with the original documents.

Title 22—Foreign Relations

CHAPTER XI—INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO, UNITED STATES SECTION

PART 1101—PRIVACY ACT OF 1974

Rules Concerning Personal Privacy and Rights of Individuals Regarding Their Personal Records

On February 5, 1976, there was published in the FEDERAL REGISTER (41 FR 5292) a notice of proposed rules for compliance with the Privacy Act of 1974, Pub. L. 93-579. Interested parties were given the opportunity to submit, not later than March 15, 1976, written data, comments, views or arguments regarding the proposed rules.

No unfavorable comments have been received and the proposed rules are hereby adopted without change and as set forth below.

Effective date: April 30, 1976.

Signed at El Paso, Texas, on May 5, 1976.

FRANK FULLERTON,
Special Legal Assistant.

PART 1101—PRIVACY ACT OF 1974

Sec.

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AUTHORITY: Privacy Act of 1974 (Pub. L. 93–579, 5 U.S.C. 552a).

§ 1101.1 Purpose and scope.

The purpose of these rules is to establish policies and procedures for implementing the Privacy Act of 1974 (Pub. L. 93–579, 5 U.S.C. 552a). The main objectives are defining the responsibilities of United States Section employees which will assure that personal information about individuals collected by the United States Section is limited to that which is legally authorized and necessary and is maintained in a manner which precludes unwarranted intrusions upon individual privacy. Further, these rules establish procedures by which an individual can: a) Determine if the United States Section maintains records or a system of records which include a record pertaining to the individual and b) gain access to a record pertaining to him for the purpose of review, amendment or correction.

§ 1101.2 Definitions.

For the purpose of these rules:

(a) "The Act" means the Privacy Act of 1974.

(b) "The Section" means the United States Section, International Boundary and Water Commission, United States and Mexico.

(c) "The Commission" means the International Boundary and Water Commission, United States and Mexico.

(d) "Agency" is defined to include 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) (5 U.S.C. 552(e)).

(e) "Individual" means a citizen of the United States or an alien lawfully admitted for permanent residence.

(f) "Maintain" includes maintain, collect, use, or disseminate.

(g) "Record" means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, his education, financial transactions, medical history, and criminal or employment history and that contains his name, or the identifying number, symbol, or other identifying means assigned to the individual, such as a finger or voice print or a photograph.

(h) "System of records" means a group of any records under the control of any agency from which information is retrived by the name of the individual or by some identifying number, symbol, or other identifying means assigned to the individual.

(i) "Statistical record" means a record in a system of records maintained for statistical research or reporting purposes only and not used in whole or in part in making any determination about an identifiable individual, except as provided by 13 U.S.C. 8 (Census data).

(j) "Routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

§ 1101.3 Procedures for requests pertaining to individual's records in a record system.

(a) Any individual may submit an inquiry to the Unietd States Section to ascertain whether a system of records contains a record pertaining to him.

(b) The inquiry should be made either in person or by mail addressed to the Comptroller, United States Section, International Boundary and Water Commission, 4110 Rio Bravo, El Paso, Texas 79902. The Comptroller shall provide assistance to the individual making the inquiry to assure the timely identification of the appropriate system of records. The office of the Comprtoller is located in Room 212 and is open to an individual between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (excluding holidays).

(c) Inquiries submitted by mail should bear the designation "PRIVACY ACT—1974" in capital letters on the address side of the envelope.

(d) The Section has an official form for making inquiries, a facsimile of which is printed as Appendix B hereto. Its use is urged. Copies may be obtained by contacting the Comptroller, Room 212, United States Section, International Boundary and Water Commission, 4110 Rio Bravo, El Paso, Texas 79902. Copies may also be obtained by contacting the Project Offices listed in Appendix A hereto.

(e) Inquiries concerning whether a system of records contains a record pertaining to an individual should contain the following:

(1) Name, address and telephone number (optional) of the individual making the inquiry;

(2) Name, address and telephone number (optional) of the individual to whom the record pertains, if the inquiring individual is either the parent of a minor or the legal guardian of the individual to whom a record pertains;

(3) A certified or authenticated copy of documents establishing parentage or guardianship;

(4) Whether the individual to whom the record pertains is a citizen of the United States or an alien lawfully admitted for permanent residence into the United States;

(5) Name of the system of records, as published in the FEDERAL REGISTER;

(6) Location of the system of records, as published in the FEDERAL REGISTER;

(7) Such additional information as the individual believes will or might assist the Section in responding to the inquiry and in verifying the individual's identity (for example: date of birth, place of birth, names of parents, place of work, dates of employment, position title, etc.);

(8) Date of inquiry; and

(9) Individual's signature.

The Section reserves the right to require compliance with the identification procedures appearing at paragraph (f) of this section where conditions warrant.

(f) The requirements for identification of individuals seeking access to records are as follows:

(1) *In person.* Each individual making a request in person shall be required to present satisfactory proof of identity. The means of proof, in the order of preference and priority, are:

(i) A document bearing the individual's photograph (for example, driver's license, passport or military or civilian identification card);

(ii) A document bearing the individual's signature, preferably issued for participation in a Federally sponsored program (for example, Social Security card, unemployment insurance book, employer's identification card, national credit card and professional, craft or union membership card; and

(iii) A document bearing either the photograph or the signature of the individual, preferably issued for participation in a Federally sponsored program (for example, Medicaid card). In the event the individual can provide no suitable documentation of identity, the Section will require a signed statement asserting the individual's identity and stipulating that the individual understands the penalty provision of 5 U.S.C. 552a(i)(3).

(2) *Not in person.* If the individual making a request does not appear in person before the Comptroller, a certificate of a notary public or equivalent officer empowered to administer oaths must accompany the request. The Section's official form, Appendix B, for requests contains a certificate.

(3) *Parents of minors and legal guardians.* An individual acting as the parent of a minor or the legal guardian of the individual or an heir or legal representative of a deceased person to whom a record pertains shall establish his or her personal identity in the manner prescribed in either paragraph (f)(1) or (2) of this section. In addition, such individual shall establish his or her identity in the representative capacity of parent or legal guardian. In the case of the parent of a minor, the proof of identity shall be a certified or authenticated copy of the minor's birth certificate. In the case of a legal guardian of

[1] Appendices A and B filed as part of the original document.

an individual who has been declared incompetent due to physical or mental incapacity or age by a court of competent jurisdiction, the proof of identity shall be a certified or authenticated copy of the court's order. A parent or legal guardian may act only for a living individual, not for a decedent. A parent or legal guardian may be accompanied during personal access to a record by another individual, provided the requirements of Paragraph (f) of § 1101.4 are satisfied. In the case of an heir or legal representative of a deceased person, the proof of identity shall be a certified copy of the Will, if any; the order of a court of competent jurisdiction admitting the Will to probate; the order of a court of competent jurisdiction appointing an executor, executrix, administrator; a letter of administration; or any other documentary evidence which establishes the identity of the individual as an heir or legal representative of a deceased person.

(g) When the provisions of this part are alleged to have the effect of impeding an individual in exercising his or her right to access, the Section will consider, from an individual making a request, alternative suggestions regarding proof of identiy and access to records.

(h) Any inquiry which is not addressed as specified in paragraph (b) of this section or which is not marked as specified in paragraph (c) of this section will be so addressed and marked by the Section's personnel and forwarded immediately to the Comptroller. An inquiry which is not properly addressed by the individual will not be deemed to have been "received" for purposes of measuring time periods for response until forwarding of the inquiry to the Comptroller has been effected. In each instance when an inquiry so forwarded is received, the Comptroller shall notify the individual that his or her inquiry was improperly addressed and the date when the inquiry was received at the proper address.

(i) Each inquiry received shall be acted upon promptly by the Comptroller. Every effort will be made to respond within ten (10) days (excluding Saturdays, Sundays and holidays) of the date of receipt. If a response cannot be made within ten (10) days, the Comptroller shall send an acknowledgement during that period providing information on the status of the inquiry and asking for such further information as may be necessary to process the inquiry.

(j) An individual shall not be required to state a reason or otherwise justify his or her inquiry.

§ 1101.4 Disclosure of requested information to individuals.

(a) Each request received shall be acted upon promptly by the Comptroller. Every effort will be made to respond within ten (10) days (excluding Saturdays, Sundays and holidays) of the date of receipt. If a response cannot be made within ten (10) days due to unusual circumstances, the Comptroller shall send an acknowledgment during that period providing information on the status of the request and asking for such further information as may be necessary to process the request. "Unusual circumstances" shall include circumstances where a search for and collection of requested records from inactive storage, field facilities or other establishments are required, cases where a voluminous amount of data is involved, instances where information on other individuals must be separated or expunged from the particular record, and cases where consultations with other agencies having a substantial interest in the determination of the request are necessary.

(b) *Grant of assess.*—(1) *Notification.* (i) An individual shall be granted access to a record pertaining to him or her except where the record is subject to an exemption under the Act and these rules.

(ii) The Comptroller shall notify the individual of such determination and provide the following information:

(A) The methods of access, as set forth in paragraph (b)(2) of this section;

(B) The place at which the record may be inspected;

(C) The earliest date on which the record may be inspected and the period of time that the records will remain available for inspection. In no event shall the earliest date be later than thirty days from the date of notification;

(D) The estimated date by which a copy of the record could be mailed and the estimate of fees pursuant to § 1101.10. In no event shall the estimated date be later than thirty (30) days from the date of notification;

(E) The fact that the individual, if he or she wishes, may be accompanied by another individual during personal access, subject to the procedures set forth in paragraph (f) of this section; and

(F) Any additional requirements needed to grant access to a specific record.

(2) *Method of Access.* The following methods of access to records by an individual may be available depending on the circumstances of a given situation:

(i) Inspection in person may be made in the office specified by the Comptroller, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (excluding holidays);

(ii) Transfer of records to a Federal facility more convenient to the individual may be arranged, but only if the Comptroller determines that a suitable facility is available, that the individual's access can be properly supervised at that facility, and that transmittal of the records to that facility will not unduly interfere with operations of the Section or involve unreasonable costs, in terms of both money and manpower; and

(iii) Copies may be mailed at the request of the individual, subject to payment of the fees prescribed in § 1101.10. The Section, at its own initiative, may elect to provide a copy by mail, in which case no fee will be charged the individual.

(c) Access to medical records is governed by § 1101.5.

(d) The Section shall supply such other information and assistance at the time of access as to make the record intelligible to the individual.

(e) The Section reserves the right to limit access to copies and abstracts of original records, rather than the original records. This election would be appropriate, for example, when the record is in an automated data media such as tape or disc, when the record contains information on other individuals, and when deletion of information is permissible under exemptions (for example, 5 U.S.C. 552(k)(1)). In no event shall original records of the Section be made available to the individual except under the immediate supervision of the Comptroller or his designee. Title 18 U.S.C. section 2701(a) makes it a crime to conceal, mutilate, obliterate, or destroy a record filed in a public office, or to attempt to do any of the foregoing.

(f) Any individual who requests access to a record pertaining to that individual may be accompanied by another individual of his or her choice. "Accompanied" includes discussion of the record in the presence of the other individual. The individual to whom the record pertains shall authorize the presence of the other individual in writing and shall include the name of the other individual, a specific description of the record to which access is sought, and the date and the signature of the individual to whom the record pertains. The other individual shall sign the authorization in the presence of the Comptroller or his designee. An individual shall not be required to state a reason or otherwise justify his or her decision to be accompanied by another individual during personal access to a record.

(g) *Initial denial of access.*—(1) *Grounds.* Access by an individual to a record which pertains to that individual will be denied only upon a determination by the Comptroller that:

(i) The record is subject to an exemption under the Act and these rules;

(ii) The record is information compiled in reasonable anticipation of a civil action or proceeding;

(iii) The provisions of § 1101.5(b) pertaining to medical records have been temporarily invoked; or

(iv) The individual unreasonably has failed to comply with the procedural requirements of these rules.

(2) *Notification.* The Comptroller shall give notice of denial of access to records to the individual in writing and shall include the following information:

(i) The Comptroller's name and title or position;

(ii) The date of the denial;

(iii) The reasons for the denial, including citation to the appropriate section of the Act and these rules;

(iv) The individual's opportunities for further administrative consideration, including the identity and address of the responsible official;

(v) If stated to be administratively final within the Section, the individual's right to judicial review under 5 U.S.C. 552a(g)(1) and (5).

(3) *Administrative Review.* When an initial denial of a request is issued by

the Comptroller, the individual's opportunities for further consideration shall be as follows:

(i) As to denial under paragraph (g) (1) (i) of this section, the sole procedure is a petition for the issuance, amendment, or repeal of a rule under 5 U.S.C. 553(e). Such petition shall be filed with the United States Commissioner, International Boundary and Water Commission, P.O. Box 20003, El Paso, Texas 79998. If the exception was determined by another agency, the Comptroller will provide the individual with the name and address of the other agency and any relief sought by the individual shall be that provided by the regulations of the other agency. Within the United States Section, no such denial is administratively final until such a petition has been filed by the individual and disposed of on the merits by the United States Commissioner.

(ii) As to denial under paragraph (g) (1) (ii), (iii) or (iv) of this section, the individual may file for review with the United States Commissioner, as indicated in the Comptroller's initial denial notification.

(h) If a request is partially granted and partially denied, the Comptroller shall follow the appropriate procedures of this section as to the records within the grant and the records within the denial.

§ 1101.5 Special procedures: medical records.

(a) In every case of a request by an individual for access to medical records, the Comptroller shall:

(1) Inform the individual that no response to any request for access to medical records will be issued for a period of seven (7) days (excluding Saturdays, Sundays and holidays);

(2) Obtain the name and address of the individual's physician and psychologist, if the individual consents to give them;

(3) Obtain specific, written consent for the Section to consult the individual's physician and psychologist in the event that the Section believes such consultation is advisable. There will be no consultation without the written consent of the individual;

(4) Obtain specific, written consent for the Section to provide the medical records to the individual's physician or psychologist in the event that the Section believes access to the record by the individual is best effected under the guidance of the individual's physician or psychologist; no records will be provided to a physician or psychologist without the written consent of the individual; and

(b) If an individual refuses to give the names and consents set forth in paragraphs (a) (2) through (4) of this section and the Section has determined that disclosure could have an adverse affect upon the individual, the Section shall refuse the individual access to said records.

§ 1101.6 Request for correction of or amendment to a record.

(a) Any individual may submit a request for correction of or amendment to a record to the Section. The request should be made either in person or by mail addressed to the Comptroller who processed the individual's request for access to the record, and to whom is delegated authority to make initial determinations on requests for correction or amendment.

(b) Since the request, in all cases, will follow a request for access under § 1101.3, the individual's identity will be established by his or her signature on the request.

(c) A request for correction or amendment should include the following:

(1) A specific identification of the record sought to be corrected or amended (for example, description, title, date, paragraph, sentence, line and words);

(2) The specific wording to be deleted, if any;

(3) The specific wording to be inserted or added, if any, and the exact place at which it is to be inserted or added; and

(4) A statement of the basis for the requested correction or amendment, with all available supporting documents and materials which substantiate the statement. The statement should identify the standard of the Act being invoked, that is, whether the information in the record is unnecessary, inaccurate, irrelevant, untimely or incomplete.

§ 1101.7 Agency review of request for correction or amendment of record.

(a) (1) Not later than ten (10) days (excluding Saturdays, Sundays and holidays) after receipt of a request to correct or amend a record, the Comptroller shall send an acknowledgement providing an estimate of time within which action will be taken on the request and asking for such further information as may be necessary to process the request. The estimate of time may take into account unusual circumstances as described in § 1101.4(a). No acknowledgment will be sent if the request can be reviewed, processed and the individual notified of the results of review (either compliance or denial) within ten (10) days (excluding Saturdays, Sundays and holidays). Requests filed in person will be acknowledged in writing at the time submitted.

(2) Promptly after acknowledging receipt of a request, or after receiving such further information as might have been requested, or after arriving at a decision within ten (10) days, the Comptroller shall either:

(i) Make the requested correction or amendment and advise the individual in writing of such action, providing either a copy of the corrected or amended record or a statement as to the means whereby the correction or amendment was effected in cases where a copy cannot be provided (for example, erasure of information from a record maintained only in an electronic data bank); or

(ii) Inform the individual in writing that his or her request is denied and provide the following information:

(A) The Comptroller's name, title and position;

(B) The date of the denial;

(C) The reasons for the denial, including citation to the appropriate sections of the Act and these rules;

(D) The procedures for appeal of the denial as set forth in § 1101.8.

The term "promptly" in this subparagraph means within thirty (30) days (excluding Saturdays, Sundays and holidays). If the Comptroller cannot make the determination within thirty (30) days, the individual will be advised in writing of the reason therefor and of the estimated date by which the determination will be made.

(b) Whenever an individual's record is corrected or amended pursuant to a request by that individual, the Comptroller shall notify all persons and agencies to which copies of the record had been disclosed prior to its correction or amendment, if an accounting of such disclosure required by the Act was made. The notification shall require a recipient agency maintaining the record to acknowledge receipt of the notification, to correct or amend the record, and to apprise any agency or person to which it had disclosed the record of the substance of the correction or amendment.

(c) The following criteria will be considered by the Comptroller in reviewing a request for correction or amendment:

(1) The sufficiency of the evidence submitted by the individual;

(2) The factual accuracy of the information;

(3) The relevance and necessity of the information in terms of purpose for which it was collected;

(4) The timeliness and currency of the information in light of the purpose for which it was collected;

(5) The completeness of the information in terms of the purpose for which it was collected;

(6) The degree of possibility that denial of the request could unfairly result in determinations adverse to the individual;

(7) The character of the record sought to be corrected or amended; and

(8) The propriety and feasibility of complying with the specific means of correction or amendment requested by the individual.

(d) The Section will not undertake to gather evidence for the individual, but does reserve the right to verify the evidence which the individual submits.

(e) Correction or amendment of a record requested by an individual will be denied only upon a determination by the Comptroller that:

(1) The individual has failed to establish, by a preponderance of the evidence, the propriety of the correction or amendment in light of the criteria set forth in paragraph (c) of this Section;

(2) The record sought to be corrected or amended was compiled in a terminated judicial, quasi-judicial or quasi-legislative proceeding to which the individual was a party or participant;

(3) The record sought to be corrected or amended is the subject of a pending judicial, quasi-judicial or quasi-legislative proceeding to which the individual in a party or participant;

(4) The correction or amendment would violate a duly enacted statute or promulgated regulation; or,

(5) The individual unreasonably has failed to comply with the procedural requirements of these rules.

(f) If a request is partially granted and partially denied, the Comptroller shall follow the appropriate procedures of this section as to the records within the grant and the records within the denial.

§ 1101.8 Appeal of initial adverse agency determination on correction or amendment.

(a) An appeal of the initial refusal to amend a record under § 1101.7 may be requested by the individual who submitted the request. The appeal must be requested in writing, signed by the individual making the request, and received by the Section within sixty (60) days of the date the individual is informed of the Comptroller's refusal to amend a record in whole or in part. The request should be addressed and sent via certified mail to the Commissioner, United States Section, International Boundary and Water Commission, P.O. Box 20003, El Paso, Texas 79998. The processing of appeals will be facilitated if the words "PRIVACY APPEAL" appear in capital letters on both the envelope and the top of the appeal papers. An appeal not addressed and marked as provided herein will be marked by Section personnel when it is so identified and will be forwarded immediately to the Commissioner.

(b) The time for decision on the appeal begins on the date the appeal is received by the Commissioner. The appeal should include any documentation, information or statements advanced for the amendment of the record.

(c) There shall be a written record of the reason for the final determination. The final determination will be made not later than thirty (30) days (excluding Saturdays, Sundays and holidays) from the date the Commissioner receives the appeal; unless for good cause shown, the Commissioner extends such determination beyond the thirty (30) day period.

(d) When the final determination is that the record should be amended in accordance with the individual's request, the Commissioner shall direct the office responsible for the record to comply. The office responsible for the record shall:

(1) Amend the record as directed;

(2) If a distribution of the record has been made, advise all previous recipients of the record of the amendment and its substance;

(3) So advise the individual in writing.

(e) When the final decision is that the request of the individual to amend the record is refused, the Commissioner shall advise the individual:

(1) Of the refusal and the reasons for it;

(2) Of his or her right to file a concise statement of the reasons for disagreeing with the decision of the Section;

(3) Of the procedures for filing the statement of disagreement;

(4) That the statement which is filed will be made available to anyone to whom the record is subsequently disclosed together with, at the discretion of the Section, a brief statement by the Section summarizing is reasons for refusing to amend the record;

(5) That prior recipients of the disputed record will be provided a copy of any statement of dispute to the extent that an accounting of disclosures was maintained; and

(6) Of his or her right to seek judicial review of the Section's refusal to amend the record.

(f) When the final determination is to refuse to amend a record and the individual has filed a statement under paragraph (e)(2) of this section, the Section will clearly annotate the record so that the fact that the record is disputed is apparent to anyone who may subsequently have access to, use, or disclose it. When information that is the subject of a statement of dispute filed by an individual is subsequently disclosed, the Section will note that the information is disputed and provide a copy of the individual's statement. The Section may also include a brief summary of the reasons for not making a correction when disclosing disputed information. Such statements will normally be limited to the reasons given to the individual for not amending the record. Copies of the Section's statement shall be treated as part of the individual's record for granting access; however, it will not be subject to amendment by the individual under these rules.

(g) An appeal will be decided on the basis of the individual's appeal papers and the record submitted by the Comptroller. No personal appearances or hearing on appeal will be allowed.

§ 1101.9 Disclosure of record to person other than the individual to whom it pertains.

(a) The Section will not disclose any information about an individual to any person other than the individual except in the following instances:

(1) Upon written request by the individual about whom the information is maintained;

(2) Prior written consent of the individual about whom the information is maintained;

(3) To parent or legal guardian, heir(s) and their legal representative(s).

(4) When permitted under 5 U.S.C. 552a(b)(1) through (11) which provides as follows:

(i) To those officers and employees of the agency which maintains the record who have a need for the record in the performance of their duties;

(ii) Required under section 552 of Title 5 of the U.S. Code;

(iii) For a routine use as defined in the Act 552a(a)(7);

(iv) To the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of Title 13 of the U.S. Code;

(v) To a recipient who has provided the agency with advance adequate written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable;

(vi) To the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Administrator of General Services or his designee to determine whether the record has such value;

(vii) To another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to the agency which maintains the record specifying the particular portion desired and the law enforcement activity for which the record is sought;

(viii) To a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if upon such disclosure notification is transmitted to the last known address of such individual;

(ix) To either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress or subcommittee of any such joint committee, and to a Congressman who is acting on behalf of his constituent;

(x) To the Comptroller General, or any of his authorized representatives, in the course of the performance of the duties of the General Accounting Office; or

(xi) Pursuant to the order of a court of competent jurisdiction.

(5) When required by the Act and not covered explicitly by the provisions of 5 U.S.C. 552a(b). These situations include the following:

(i) Dissemination of a corrected or amended record or notation of a disagreement statement (5 U.S.C. 552a(c)(4));

(ii) Disclosure of records to an individual to whom they pertain (5 U.S.C. 552a(d));

(iii) Civil actions by an individual (5 U.S.C. 552a(g));

(iv) Release of records or information to Privacy Protection Study Commission (5 U.S.C. 552—section 5(e)(2));

(v) Fulfill needs of Office of Management and Budget to provide continuing oversight and assistance to the Section in implementation of the Act (5 U.S.C. 552—section 6).

§ 1101.10 Fees.

(a) The Section will charge no fee for the first copy of an individual's personnel record.

(b) The Section will charge a fee of $0.10 per page for copies of documents which are identified by an individual and reproduced at the individual's request for retention, except that there will be no charge for requests involving cost of $1.00

or less, but the copying fees for contemporaneous request by the same individual shall be aggregated to determine the total fee.

(c) Special and additional services provided at the request of the individual, such as certification or authentication, will be charged to the individual in accordance with other published regulations of the Section pursuant to statute (for example, 5 U.S.C. 552—Freedom of Information Act).

(d) Remittances shall be in the form either of a personal check or bank draft drawn on a bank in the United States, a postal money order, or cash. Remittance shall be made payable to the order of the Treasurer of the United States and delivered to or mailed to the Comptroller, United States Section, International Boundary and Water Commission, 4110 Rio Bravo, El Paso, Texas 79902. The Section will assume no responsibility for cash sent by mail.

(e) A receipt for fees paid will be given only upon request.

§ 1101.11 Penalties.

(a) *Criminal Penalties.* The criminal penalties which have been established for violations of the Privacy Act of 1974 are set forth in 5 U.S.C. 552a(i). These penalties are applicable to any officer or employee of the Section and individuals who commit any of the violations. The three possible violations of the Act are:

(1) Unauthorized disclosure.

(2) Failure to publish a public notice of a system of records subject to these rules.

(3) Obtaining access to information under false pretenses.

(b) *Civil Remedies.* (1) An individual may bring a civil action against the United States Section to correct or amend a record, or where there is a refusal to comply with an individual request or failure to maintain any record with accuracy, relevance, timeliness and completeness, so as to guarantee fairness or failure to comply with other sections of the Act and these rules.

(2) A district court of the United States may order correction or amendment of a record and enjoin the Section from withholding a record and order the production to an individual.

(3) A district court of the United States may assess against the United States reasonable attorney fees and other costs, in any case in which a complaining individual has substantially prevailed.

§ 1101.12 General exemptions.

Individuals may not have access to records maintained by the Section but originating with another agency which has determined by regulations that such information is subject to a general exemption under 5 U.S.C. 552a(j). If such records are within a request for access, the Section will advise the requestor of their existence and of the name and address of the source agency which the requestor must contact for any further information.

§ 1101.13 Specific exemptions.

(a) Pursuant to subsection 3(k)(1) of the Act those records in any of the system of records maintained by the Section which contain any information properly classified under Executive Order 11652 and which are required by the Executive Order to be kept secret in the interest of national defense or a foreign policy are exempt. This exemption which conceivably could be applicable to individual records in any system of records for which the Section has published a systems notice is necessary because certain records in systems not specifically designated could contain isolated items of information which have been properly classified and which can not be disclosed.

(b) Those listed in the Notice of Records.

§ 1101.14 Employee: rules of conduct.

(a) Heads of Divisions, Branches, and the projects shall ensure that all Section personnel subject to their supervision are advised of the provisions of the Privacy Act, including the criminal penalties and civil liabilities provided therein, and that Section personnel are made aware of their responsibilities to protect the security of personal information, to assure its accuracy, relevance, timeliness and completeness, to avoid unauthorized disclosure either orally or in writing, and to ensure that no system of records concerning individuals, no matter how small or specialized, is maintained without public notice.

(b) Section personnel shall:

(1) Collect no information of a personal nature from individuals unless authorized to collect it to achieve a function or carry out a responsibility or function of the Section;

(2) Collect from individuals only that information which is necessary to Section responsibilities or functions;

(3) Collect information, wherever possible, directly from the individual to whom it relates;

(4) Inform individuals from whom information is collected of the authority for collection, the purpose thereof, the uses that will be made of the information, and the effects, both legal and practical, of not furnishing the information;

(5) Neither collect, maintain, use nor disseminate information concerning an individual's religious or political beliefs or activities or his membership in associations or organizations, unless (i) the individual has volunteered such information for his own benefit; (ii) the information is expressly authorized by statute to be collected, maintained, used or disseminated; or (iii) the activities involved are pertinent to and within the scope of an authorized investigation or adjudication activity;

(6) Advise an individual's supervisors of the existence or contemplated development of any system of records which retrieves information about individuals by individual identifier;

(7) Maintain an accounting of all disclosures of information to other than Section personnel;

(8) Disclose no information concerning individuals to other than Section personnel except when authorized by the Act or pursuant to a routine use published in the FEDERAL REGISTER;

(9) Maintain and process information concerning individuals with care in order to ensure that no inadvertent disclosure of the information is made to other than Section personnel; and

(10) Call to the attention of the Comptroller any information in a system maintained by the Section which is not authorized to be maintained under the provisions of the Act, including information on First Amendment activities, information that is inaccurate, irrelevant or so incomplete as to risk unfairness to the individual concerned.

(c) The system of records maintained by the Section shall be reviewed annually by the Comptroller to ensure compliance with the provisions of the Act.

(d) Information which may be used in making determinations about an individual's rights, benefits, and privileges shall, to the greatest extent practicable, be collected directly from that individual. In deciding whether collection of information from an individual, as opposed to a third party source, is practicable, the following criteria, among others, may be considered:

(1) Whether the nature of the information sought is such that it can only be obtained from a third party;

(2) Whether the cost of collecting the information from the individual is unreasonable when compared with the cost of collecting it from a third party;

(3) Whether there is a risk that information requested from the third parties, if inaccurate, could result in an adverse determination to the individual concerned;

(4) Whether the information, if supplied by the individual, would have to be verified by a third party; or

(5) Whether provisions can be made for verification by the individual of information collected from third parties.

(e) Employees whose duties require handling of records subject to the Act shall, at all times, take care to protect the integrity, security and confidentiality of these records.

(f) No employee of the Section may alter or destroy a record subject to the Act unless (1) such alteration or destruction is properly undertaken in the course of the employee's regular duties or (2) such alteration or destruction is required by a decision of the Commissioner or the decision of a court of competent jurisdiction.

§ 1101.15 Security, confidentiality and protection of records.

(a) The Act requires that records subject to the Act be maintained with appropriate administrative, technical and physical safeguards to ensure the security and confidentiality of records and to protect against any anticipated threats or hazards to their security or integrity which could result in substantial harm, embarrassment, inconvenience or unfairness to any individual on whom information is maintained.

(b) When maintained in manual form (typed, printed handwritten, etc.) records shall be maintained, at a minimum, subject to the following safeguards, or safeguards affording comparable protection:

(1) Areas in which the records are maintained or regularly used shall be posted with an appropriate warning stating that access to the records is limited to authorized persons. The warning shall also summarize the requirements of § 1101.14 and state that the Act contains a criminal penalty for the unauthorized disclosure of records to which it applies.

(2) During working hours: (i) The area in which the records are maintained or regularly used shall be occupied by authorized personnel or (ii) access to the records shall be restricted by their storage in locked metal file cabinets or a locked room.

(3) During non-working hours, access to the records shall be restricted by their storage in locked metal file cabinets or a locked room.

(4) Where a locked room is the method of security provided for a system, that security shall be supplemented by (i) providing lockable file cabinets or containers for the records or (ii) changing the lock or locks for the room so that they may not be opened with a master key. For purposes of this paragraph, a master key is a key which may be used to open rooms other than the room containing records subject to the Act, unless those rooms are utilized by officials or employees authorized to have access the records subject to the Act.

(5) Personnel handling personal information during routine use will ensure that the information is properly controlled to prevent unintentional or unauthorized disclosure. Such information will be used, held, or stored only where facilities or conditions are adequate to prevent unauthorized or unintentional disclosure.

(c) When the records subject to the Act are maintained in computerized form, safeguards shall be utilized based on those recommended in the National Bureau of Standard's booklet "Computer Security Guidelines for Implementing the Privacy Act of 1974" (May 30, 1975), and any supplements thereto, which are adequate and appropriate to assuring the integrity of the records.

§ 1101.16 Accounting for disclosures.

(a) Each system manager shall establish a system of accounting for all disclosures of records, either orally or in writing made outside the U.S. Section, unless otherwise exempted under this section. Accounting procedures may be established in the least expressive and most convenient form that will permit the Comptroller to advise individuals promptly upon request of the persons or agencies to which records concerning them have been disclosed. Accounting of disclosures made under subsection (b) (7) of the Privacy Act (552a) relating to civil or criminal law enforcement activities shall not be made available to the individual named in the record.

(b) Accounting records, at a minimum, shall include the date, nature, and purpose of each disclosure of a record and the name and address of the person or agency to whom the disclosure was made. Accounting records shall be maintained for at least five years or the life of the record, whichever is longer

(c) Accounting is not required to be kept for disclosure made within the U.S. Section or disclosures made pursuant to the Freedom of Information Act.

(d) If an accounting of the disclosure was made, the Comptroller shall inform any person or other agency about any correction or notation of dispute made by the U.S. Section in accordance with subsection (d) of section 552a of any record that has been disclosed to the person or agency.

[FR Doc.76-13912 Filed 5-12-76;8:45 am]

Title 25—Indians

CHAPTER I—BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

SUBCHAPTER F—ENROLLMENT

PART 43m—BRINGING UP TO DATE OF THE MEMBERSHIP ROLL OF THE CABAZON BAND OF MISSION INDIANS TO BE USED AS THE BASIS TO DISTRIBUTE JUDGMENT FUNDS

Issuance of New Part

MAY 3, 1976.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2. The authority to issue regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9).

On Page 10611 of the FEDERAL REGISTER of March 12, 1976 (41 FR 10611), there was published a proposed rulemaking to add a new Part 43m to Subchapter F, Chapter I, Title 25 of the Code of Federal Regulations. The regulations govern the bringing up to date of the membership roll of the Cabazon Band of Mission Indians to be used as the basis to distribute money awarded the band in Indian Claims Commission docket 148, as provided in the plan for the use and distribution of funds prepared in accordance with the Act of October 19, 1973 (87 Stat. 466).

Interested persons were given 30 days in which to submit written comments, suggestions or objections regarding the proposed regulations.

No comments, suggestions or objections have been received and the proposed regulations are hereby adopted without change and are set forth below.

Since the regulations contained in this new Part simply declare rules earlier proposed by the Cabazon Indians—a band of fewer than 25 persons—no reason exists for deferring the effective date of these regulations. Therefore, good cause is found for dispensing with a 30-day publication notice under the authority granted by subsection (d) (3) of 5 U.S.C. 553 (1970). Accordingly, this addition will become effective May 13, 1976.

MORRIS THOMPSON,
Commissioner of Indian Affairs.

PART 43m—BRINGING UP TO DATE OF THE MEMBERSHIP ROLL OF THE CABAZON BAND OF MISSION INDIANS TO BE USED AS THE BASIS TO DISTRIBUTE JUDGMENT FUNDS

Sec.

43m.1 Definitions.
43m.2 Purpose.
43m.3 Qualifications for enrollment.
43m.4 Filing of applications and deadline for filing.
43m.5 Burden of proof.
43m.6 Action by Area Director.
43m.7 Appeals.
43m.8 Decision of the Commissioner on appeals.
43m.9 Preparation of the roll.
43m.10 Certification and approval of the roll.
43m.11 Special instructions.

AUTHORITY: 87 Stat. 466.

§ 43m.1 Definitions.

(a) "Superintendent" means the Superintendent of the Southern California Agency.

(b) "Commissioner" means the Commissioner of Indian Affairs or his authorized representative.

(c) "Area Director" means the Area Director, Sacramento Area Office or his authorized representative.

(d) "Plan" means the plan prepared pursuant to the Act of October 19, 1973 (87 Stat. 466), for the use and distribution of the judgment funds awarded the Cabazon Band of Mission Indians in Indian Claims Commission docket 148, which became effective on October 30, 1975.

(e) "Band" means the Cabazon Band of Mission Indians.

(f) "Business Committee" means the Tribal Business Committee of the Cabazon Band of Mission Indians.

§ 43m.2 Purpose.

The regulations in this part govern the bringing up to date of the membership roll of the band as of October 30, 1975, to be used to distribute the judgment funds awarded the band by the Indian Claims Commission in docket 148.

§ 43m.3 Qualifications for enrollment.

The membership roll of the band prepared in accordance with Cabazon Ordinance No. 1 shall be brought up to date as of October 30, 1975:

(a) By removing after proof of death is received the names of enrollees who died prior to that date, and

(b) By adding thereto the names of persons who were born on or prior to and living as of that date who apply for enrollment and who meet the requirements for membership set forth in the ordinance.

§ 43m.4 Filing of applications and deadline for filing.

(a) Application forms may be obtained from the Chairman, Cabazon Business Committee, % Southern California Agency, Bureau of Indian Affairs, 5750 Division Street, Riverside, California 92506. Completed applications must be received by the Business Committee by close of business 30 days from the effective date of these regulations.

(b) Requests for applications for enrollment received after that date shall not be filled until after the judgment funds have been distributed.

§ 43m.5 Burden of proof.

The burden of proof rests upon the applicant to establish his eligibility for enrollment. Documentary evidence such as birth certificates, death certificates, baptismal records, copies of probate findings or affidavits may be used to support claims for enrollment. Records of the Bureau of Indian Affairs may also be used to establish eligibility.

§ 43m.6 Action by Area Director.

The Area Director must notify rejected applicants by certified mail, addressee only, return receipt requested with an explanation of the reason for the adverse action and advise them of their right to appeal to the Commissioner.

§ 43m.7 Appeals.

Appeals must be in writing addressed to the Commissioner and mailed to the Area Director within 30 days of the receipt of the rejection notice. Appellants may submit with their appeals any supporting evidence not previously furnished. If after review of the additional evidence the Area Director determines the appellant has established his right to enrollment, he shall be so notified and his name shall be added to the roll. If the Area Director determines the appellant ineligible, he shall forward the appeal with his recommendation to the Commissioner.

§ 43m.8 Decision of the Commissioner on appeals.

The decision of the Commissioner shall be final and conclusive and written notice of the decision shall be furnished the appellant.

§ 43m.9 Preparation of the roll.

The roll shall contain for each person a roll number, name, address, sex, date of birth, and, when applicable, the basic roll number, date of basic roll, and name and relationship of applicant to ancestor through whom eligibility is established.

§ 43m.10 Certification and approval of the roll.

The Business Committee and the Superintendent shall attach separate statements to the roll certifying that to the best of their knowledge and belief the roll contains only the names of those persons who meet the requirements for enrollment. The roll shall be submitted through the Superintendent to the Area Director for approval.

§ 43m.11 Special instructions.

To facilitate the work of the Business Committee, the Commissioner may issue special instructions not inconsistent with the regulations in this part.

[FR Doc.76-14014 Filed 5-12-76;8:45 am]

Title 26—Internal Revenue

CHAPTER 1—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

(T.D. 7419)

SUBCHAPTER C—EMPLOYMENT TAXES

PART 31—EMPLOYMENT TAXES; APPLICABLE ON AND AFTER JANUARY 1, 1955

Use of Government Depositaries in Connection With Railroad Retirement Taxes

This document contains amendments to the Employment Tax Regulations (26 CFR Part 31) to modify the depositary requirements applicable to taxes imposed by the Railroad Retirement Tax Act (RRTA) for calendar quarters beginning after December 31, 1975. The amendments are designed to complement certain recent changes in the return filing requirements with respect to RRTA taxes.

Treasury Decision 7396, published in the Federal Register for Tuesday, January 13, 1976 (41 F.R. 1903), amended § 31.6011(a)-2 of the regulations to provide for annual rather than quarterly filing of Form CT-1, the employer's return for railroad retirement taxes, for calendar years after 1975. As was stated in the preamble to Treasury Decision 7396, the purpose of that amendment to the regulations was to reduce the processing costs for both employers and the Internal Revenue Service. The amendments contained in this document prevent Treasury Decision 7396 from having the further effect of accelerating the due dates for certain deposits of RRTA taxes.

The acceleration of due dates would have resulted from the effect of Treasury Decision 7396 on the operation of § 31.6302 (c)-2 (a)(1) which requires an employer to make deposits of RRTA taxes for any month for which the aggregate of employer's and employee's RRTA taxes exceeds $100. Deposits for months other than the last month of a return period must be made by the fifteenth day of the following month. Deposits for the last month of a return period need not be made until the last day of the following month. When the calendar quarter was the return period, therefore, deposits for the months of March, June, September, and December were not due until the last day of the following month. With the change from a quarterly to an annual return period for calendar years after 1975, § 31.6302(c)-2(a)(1), prior to its amendment by this document, would have required employers to make deposits for the months of March, June, and September by the fifteenth day of the following month, since only December would be the last month of the new annual return period.

As amended, § 31.6302(c)-2(a)(1) provides that, for purposes of applying the monthly deposit requirements, each calendar quarter after 1975 will be treated as though it were a return period unless the employer determines that that treatment would be detrimental to the employer for that calendar quarter. Accordingly, the employer may make monthly deposits either on the basis of a quarterly return period (as in the past) or on the basis of the new annual return period. In either event, only one Form CT-1 is to be filed for the calendar year.

Under § 31.6302(c)-2(a)(2), which is amended by this document to refer to a "return period" instead of a "calendar quarter", if the total RRTA liability shown on the return for a return period exceeds by more than $100 the deposits previously made for the period, the employer must deposit the unpaid balance by the last day of the second month following the close of the period. With the change from a quarterly to an annual return period, the number of possible "catch-up" deposits for each calendar year is reduced from four to one, which is due by the last day of February of the following calendar year.

AMENDMENTS TO THE REGULATIONS

In order to modify the depositary requirements applicable to taxes imposed by the Railroad Retirement Tax Act, § 31.6302(c)-2 of the Employment Tax Regulations (26 CFR Part 31) is amended as follows, effective for calendar years after 1975:

1. Paragraph (a)(1) is amended by adding the sentence set forth below at the end thereof.

2. Paragraph (a)(2) is amended by deleting "calendar quarter" wherever it appears and inserting in lieu thereof "return period".

§ 31.6302(c)-2 Use of Government depositaries in connection with employee and employer taxes under Railroad Retirement Tax Act.

(a) *Requirement*—(1) *In general.* * * * For purposes of applying this subparagraph only, each calendar quarter beginning after December 31, 1975, shall be treated as though it were a return period (even though only a return for the calendar year will be filed), unless the employer determines that such treatment would, with respect to that calendar quarter, be detrimental to the employer.

* * * * *

Because this Treasury decision will not be detrimental to any taxpayer or employer, it is hereby found unnecessary to issue this Treasury decision with notice and public procedure thereon under 5 U.S.C. § 553(b), or subject to the effective date limitation of 5 U.S.C. § 553(d).

(68A Stat. 917; 26 U.S.C. § 7805)

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved: May 5, 1976.

CHARLES M. WALKER,
Assistant Secretary of the Treasury.

[FR Doc.76-14034 Filed 5-12-76;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 539-5]

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCE

Delegation of Authority to Commonwealth of Massachusetts

Pursuant to the delegation of authority for the standards of performance for new stationary sources (NSPS) to the Commonwealth of Massachusetts on January 23, 1976, EPA is today amending 40 CFR 60.4, "Address," to reflect this delegation. A notice announcing this delegation is published in the Notices section of today's FEDERAL REGISTER. The amended § 60.4, which adds the address of the Massachusetts Department of Environmental Quality Engineering, Division of Air Quality Control, to which all reports, requests, applications, submittals, and communications to the Administrator pursuant to this part must also be addressed, is set forth below.

The Administrator finds good cause for foregoing prior public notice and for making this rulemaking effective immediately in that it is an administrative change and not one of substantive content. No additional substantive burdens are imposed on the parties affected. The delegation which is reflected by this administrative amendment was effective on January 23, 1976, and it serves no purpose to delay the technical change of this addition of the State address to the Code of Federal Regulations.

This rulemaking is effective immediately, and is issued under the authority of Section 111 of the Clean Air Act, as amended.

42 U.S.C. 1857c-6.

Dated May 3, 1976.

STANLEY W. LEGRO,
Assistant Administrator for Enforcement.

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

1. In § 60.4 paragraph (b) is amended by revising subparagraph (W) to read as follows:

§ 60.4 Address.

* * * * *

(b) * * *

(W) Massachusetts Department of Environmental Quality Engineering, Division of Air Quality Control, 600 Washington Street, Boston, Massachusetts 02111.

[FR Doc.76-13822 Filed 5-12-76;8:45 am]

[FRL 539-6]

PART 61—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

Delegation of Authority to Commonwealth of Massachusetts

Pursuant to the delegation of authority for National Emission Standards for Hazardous Air Pollutants (NESHAPS) to the Commonwealth of Massachusetts on January 23, 1976, EPA is today amending 40 CFR 61.04, "Address, to reflect this delegation. A Notice announcing this delegation is published in the Notices section of today's FEDERAL REGISTER. The amended § 61.04, which adds the address of the Massachusetts Engineering, Division of Air Quality Control, to which all reports, requests, applications, submittals, and communications to the Administrator pursuant to this part must also be addressed, is set forth below.

The Administrator finds good cause for foregoing prior public notice and for making this rulemaking effective immediately in that it is an administrative change and not one of substantive content. No additional substantive burdens are imposed on the parties affected. The delegation which is reflected by this administrative amendment was effective on January 23, 1976, and it serves no purpose to delay the technical change of this addition of the State address to the Code of Federal Regulations.

This rulemaking is effective immediately, and is issued under the authority of Section 112 of the Clean Air Act, as amended.

42 U.S.C. 1857c-7.

Dated: May 3, 1976.

STANLEY W. LEGRO,
Assistant Administrator for Enforcement.

Part 61 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

In § 61.04 paragraph (b) is amended by revising subparagraph (W) to read as follows:

§ 61.04 Address.

* * * * *

(b) * * *

(W) Massachusetts Department of Environmental Quality Engineering, Division of Air Quality Control, 600 Washington Street, Boston, Massachusetts 02111.

[FR Doc.76-13824 Filed 5-12-76;8:45 am]

[FRL 539-3]

PART 61—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

Delegation of Authority to State of New Hampshire

Pursuant to the delegation of authority for National Emission Standards for Hazardous Air Pollutants (NESHAPS) to the State of New Hampshire on February 17, 1976, EPA is today amending 40 CFR 61.04, "Address," to reflect this delegation. A Notice announcing this delegation is published in the Notices section of today's FEDERAL REGISTER. The amended § 61.04, which adds the address of the New Hampshire Air Pollution Control Agency to which all reports, requests, applications, submittals, and communications to the Administrator pursuant to this part must also be addressed is set forth below.

The Administrator finds good cause for foregoing prior public notice and for making this rulemaking effective immediately in that it is an administrative change and not one of substantive content. No additional substantive burdens are imposed on the parties affected. The delegation which is reflected by this administrative amendment was effective on February 17, 1976, and it serves no purpose to delay the technical change of this addition of the State address to the Code of Federal Regulations.

This rulemaking is effective immediately, and is issued under the authority of Section 112 of the Clean Air Act, as amended. 42 U.S.C. 1857c-7.

Dated: May 3, 1976.

STANLEY W. LEGRO,
Assistant Administrator for Enforcement.

Part 61 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

In § 61.04 paragraph (b) is amended by revising subparagraph (EE) to read as follows:

§ 61.04 Address.

* * * * *

(b) * * *

(EE) New Hampshire Air Pollution Control Agency, Department of Health and Welfare, State Laboratory Building, Hazen Drive, Concord, New Hampshire 03301.

* * * * *

[FR Doc.76-13823 Filed 5-12-76;8:45 am]

[FRL 539-2]

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Delegation of Authority to State of New Hampshire

Pursuant to the delegation of authority for the standards of performance for new stationary sources (NSPS) to the State of New Hampshire on February 17, 1976, EPA is today amending 40 CFR 60.4, "Address," to reflect this delegation. A Notice announcing this delegation is published in the Notices section of today's FEDERAL REGISTER. The amended § 60.4, which adds the address of the New Hampshire Air Pollution Control Agency to which all reports, requests, applications, submittals, and communications to the Administrator pursuant to this part must also be addressed, is set forth below.

The Administrator finds good cause for foregoing prior public notice and for making this rulemaking effective immediately in that it is an administrative change and not one of substantive content. No additional substantive burdens are imposed on the parties affected. The delegation which is reflected by this administrative amendment was effective on February 17, 1976, and it serves no purpose to delay the technical change of this addition of the State address to the Code of Federal Regulations.

This rulemaking is effective immediately, and is issued under the authority

of Section 111 of the Clean Air Act, as amended.

42 U.S.C. 1857c-6.

Dated: May 3, 1976.

STANLEY W. LEGRO,
Assistant Administrator of Enforcement.

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

1. In § 60.4 paragraph (b) is amended by revising subparagraph (EE) to read as follows:

§ 60.4 Address.

* * * * *

(b) * * *

(EE) New Hampshire Air Pollution Control Agency, D-partment of Health and Welfare, State Laboratory Building, Hazen Drive, Concord, New Hampshire 03301.

[FR Doc.76-13821 Filed 5-12-76;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 3—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PROCUREMENT NEGOTIATIONS AND PROCEDURES

Miscellaneous Amendments to Chapter

Chapter 3, Title 41, Code of Federal Regulations is amended as set forth below. Section 3-3.505 Form and requirements of determinations and findings, is amended to read 3-3.305 Form and requirements of determinations and findings. This change corrects a typographical error. Subparagraph (a)(3) of Subsection 3-3.305-50 is amended to correct an omission in paragraph (3) of the format illustrated in that Subsection. Paragraph (d) of Section 3-50.201 is amended to reflect that the listing of contracting office identification codes is now incorporated in the DHEW Contract Information System Manual (DCIS) in lieu of Appendix B of this Chapter. Appendix B of this Chapter is rescinded in its entirety. Paragraph 3-16.5003(a) is amended to alter the procedure for the submission of requests for deviations from the HEW Contract General Provisions (Forms HEW 313-316). The format for transmitting contractual appeals to Armed Services Board of Contract Appeals has been updated to reflect the Board's current address. This format is illustrated in subparagraph 3-1.318-52(c)(1).

It is the general policy of the Department of Health, Education, and Welfare to allow time for interested parties to take part in the rule making process. However, the amendments herein involve internal administrative procedures. Therefore, the public rule making process is deemed unnecessary in this instance.

AUTHORITY: The provisions of this amendment are issued under 5 U.S.C. 301; 40 U.S.C. 486(c).

Effective Date. These amendments shall be effective May 13, 1976.

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

Dated: May 6, 1976.

JOHN OTTINA,
Assistant Secretary for Administration and Management.

PART 3-3—PROCUREMENT BY NEGOTIATION

Subpart 3-3.3—Determinations, Findings, and Authorities

1. The caption to § 3-3.505 "Form and requirements of determinations and findings" is amended to read:

§ 3-3.305 Form and requirements of determinations and findings.

2. Paragraph 3-3.305-50(a)(3) is amended to read as follows:

§ 3-3.305-50 Sample formats.

(a) * * *

(3) Section 1-3.211, Class of contracts.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

DETERMINATION AND FINDINGS

Authority to Negotiate a Class of Contracts Under 41 U.S.C. 252(c)(11)

I hereby find that:

(1) The (agency title) proposes to negotiate approximately (number) contracts in support of (identify program or project, and state the anticipated funding level).

(2) The proposed procurements are for (experimental, developmental, or research work, or for the manufacture or furnishing of property for experimentation, development, research, or test[1]).

(a) (Set forth facts and circumstances which support a judgment that the work to be performed is in fact experimental, developmental or research).

(3) It is impracticable to secure competition by formal advertising for the contracts contemplated because:

(a) (Set forth reasons why the procurements contemplated cannot be formally advertised, e.g., only ultimate objectives and general scope of work can be outlined, work cannot be described by definite drawings and specifications, etc.)

I hereby determine that:

On the basis of the above findings, the proposed procurements are for (experimental, developmental, or research work, for the manufacture or furnishing of property for experimentation, development, research, or test[1]) and that negotiation of contracts for such (work or property[1]) is authorized pursuant to 41 U.S.C. 252(c)(11); provided the required (work or property[1]) has been authorized by law.

This class determination shall remain in effect until (state terminal date (limit effective period to 1 year)).

Date _____

_____
Signature

[1] Use applicable word.

PART 3-16—PROCUREMENT FORMS

Subpart 3-16.50—Forms for Negotiated Procurement

Paragraph 3-16.5003(a) is amended to read as follows:

§ 3-16.5003 Additions, modifications, and substitutions to General Provisions.

(a) Contracting officers shall include additional clauses or substitute alternate clauses for those included in the four General Provisions (Forms 313-316) in accordance with applicable instructions in this § 3-16.5003 and the FPR. Written deviation requests shall be submitted, through procurement channels, to the Director, Division of Procurement Policy and Regulations Development, Office of Grants and Procurement Management (DPPRD-OGPM), Office of the Assistant Secretary for Administration and Management, Office of the Secretary (OASAM-OS). He will inform the contracting officer, through procurement channels, of the disposition of the request. In the event expeditious action is required, contracting officers are authorized to request oral or written approval directly from the Director, DPPRD-OGPM, who will notify the contracting officer of the disposition of the request.

This procedure will be followed in all deviation requests except those related to the "Patents Rights" and "Rights-in-Data" clauses. In those cases, the deviation request shall be submitted through procurement channels directly to the Chief, Patent Branch, Business and Administrative Law Division, Office of General Counsel (BAL-OGC), OS, with a copy to the DPPRD-OGPM. The approval shall be transmitted by BAL-OGC through procurement channels to the contracting officer with a copy to DPPRD-OGPM. In the event expeditious action is required, contracting officers are authorized to request oral or written approval directly from BAL. If oral approval is receved from BAL, contracting officers must, however, submit a confirming letter of approval to DPPRD-OGPM.

* * * * *

PART 3-1—GENERAL

Subpart 3-1.3—General Policies

Paragraph 3-1.318-52(c)(1) is amended to read as follows:

§ 3-1.318-52 Preparation and processing of appeal files.

* * * * *

(c) *Formats.* (1) The following format is suggested for transmitting appeal files to the ASBCA:

Your reference: _____
(Docket No.)

MR. GEORGE L. HAWKES,
Recorder, Armed Services Board of Contract Appeals, 200 Stovall Street, Alexandria, Virginia 22332.

DEAR MR. HAWKES: Transmitted herewith are documents relative to appeal under contract No. ---------- with the ----------

(name of contractor)

in accordance with the procedures under Rule 4.

The Government Trial Attorney for this case is: ---------- (Insert Division of Business and Administrative Law, Office of General Counsel, Department of Health, Education and Welfare, 330 Independence Avenue, S.W., Washington, D.C. 20201, telephone number 245-7752, or Regional Attorney and office address as appropriate).

The request for payment of charges resulting from the processing of this appeal should be addressed to:

(Insert name and address of cognizant finance office.)

PART 3-50—ADMINISTRATIVE MATTERS

Subpart 3-50.2—Procurement Instrument Identification Numbering System

Paragraph (d) of § 3-50.201 is amended to read as follows:

§ 3-50.201 Numbering contracts.

* * * * *

(d) *Assignment of identification codes.* Each contracting office of the Department shall be assigned a three digit identification code by the Office of Grants and Procurement Management, OASAM. Requests for the assignment of such codes for newly established contracting offices shall be submitted by the headquarters procurement staff office of the procuring activity to the Director, Division of Grants, Procurement, Materiel Management Information and Reports, OGPM-OASAM. Conversely, in the event that a contracting office is to be disestablished the Director, Division of Grants, Procurement, Materiel Management Information and Reports, OGPM-OASAM, shall be notified. A listing of the contracting office identification codes currently in use is contained in the HEW Contract Information System Manual (DCIS).

[FR Doc.76-14049 Filed 5-12-76;8:45 am]

Title 45—Public Welfare

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

PART 100a—DIRECT PROJECT GRANT AND CONTRACT PROGRAMS

PART 160d—CAREER EDUCATION PROGRAM

Notice of proposed rulemaking was published in the FEDERAL REGISTER on December 1, 1975 (40 FR 55659-55663), setting forth the proposed regulation for the Career Education Program (Section 406, Title IV of the Education Amendments of 1974, Pub. L. 93-380). This is one of the programs related to the Special Projects Act, Sec. 402 of Pub. L. 93-380. The purpose of this program was set forth in the preamble to the proposed regulation.

A. *Summary of comments.* Interested persons were given 30 days in which to submit written comments, suggestions, or objections regarding the proposed rules. Ten individuals submitted written comments to the Office of Education, and a summary of those comments follows. After each comment, a response is set forth discussing the comment and stating changes which have been made in the regulation or the reasons why no change is deemed necessary. Comments of general nature on the regulation are set forth first, followed by specific comments arranged in order of the sections of the regulation to which they pertain. Several technical and typographical corrections have also been made in the regulation.

1. *Comment.* A commenter recommends that the career education regulation be revised to guarantee each State at least one career education project. He also recommends that the regulation should not place an emphasis on the exemplary quality of the projects to be supported, but that the regulations should provide funds for spreading the implementation of career education activities throughout the nation.

Response. No change is made in the regulation. Neither of these recommendations is consistent with Section 406 of Pub. L. 93-380. The legislation does not provide a formula for distribution of the funding by States, nor does it provide that each State shall receive at least one grant. In the absence of such a provision in the legislation, it is assumed that the Congress did not intend such a distribution. Therefore, it would not be appropriate for the U.S. Commissioner of Education to impose a geographic distribution formula in this regulation.

Since Section 406(f)(1) specifies that the Commissioner shall support projects "to develop exemplary career education models," it is, therefore, necessary that the Career Education regulation emphasize the exemplary nature of the projects to be funded. Section 406 is not intended to provide general funding for large-scale national implementation of career education activities in school districts.

2. *Comment.* A commenter expressed general agreement with "these vital rules on a most useful program." His comments deal with the implementation of the proposed regulation rather than with the wording of the regulation itself. For example, the commenter suggests that the Office of Career Education should emphasize the definition of career education as provided in the regulation, and should send a letter to local school boards about the vitalness and importance of the concept of career education. The commenter suggests special training programs for employers, directors of career education projects, school board members, and school administrators. He suggests that special reinforcement, help, and guidance should be provided to local school districts to assist them in implementing and evaluating career education programs. He believes that the Office of Education should stress the position that the development of a quality career education program takes time. He feels that State boards of education should assign full-time administrative staff members to provide services to local school districts interested in developing career education programs.

Response. No change is made in the regulation. Because these comments deal with the administration and implementation of the Career Education Program rather than with the wording of the proposed career education regulation, no specific changes in the proposed regulation are necessary.

3. *Comment.* A commenter urged that the Office of Education make funds available for the development of a career education museum program on a national level. He endorses the idea of utilizing museums as the sites for innovative educational efforts bringing schools and museums together. He feels that career education should not ignore the potential in museums.

Response. No change is made in the regulation. To the extent the museums are "non profit organizations," they are eligible for grants under the proposed career education regulation. Also, projects conducted under the proposed regulation by State or local educational agencies may include joint activities with museums as part of the overall project plan. Because the comment deals with the implementation of the Career Education Program rather than with the content of the proposed career education regulation, no change in the regulation itself is considered necessary.

4. *Comment.* A commenter expressed the belief that career library materials and audio-visual equipment are extremely important in the implementation of career education programs. She also pointed out that such items are expensive. She therefore urged the Office of Education "to include career library materials and appropriate audio-visual materials in the list of criteria for career education projects in FY 76."

Response. No change need be made in the regulation. Library materials and audio-visual materials represent allowable costs under career education projects. To the extent that the library materials and/or audio-visual materials are necessary for implementing an exemplary career education project, they can be purchased with project funds. Of course, the general provision of library and audio-visual materials to colleges, universities, and local school districts at large is not a function provided for under section 406 of Pub. L. 93-380. It is only within the context of an approved exemplary project in career education that such equipment and materials could be purchased with these funds. Because it is not clear how library and audio-visual materials could be "included in the list of criteria" for career education projects, no changes are being made in the proposed regulation.

5. *Comment.* A commenter recommends that under § 160d.2, "Definitions," the definition of "Handicapped Children" be revised so that it will be consistent with the new Pub. L. 94-142.

Response. The regulation is amended as the commenter suggested. It is important that the career education regulation

reflect the latest legislation on education for handicapped children. Therefore, § 160d.2 is being modified to define "Handicapped Children" as defined in section 602 of Pub. L. 93–380 as amended by section 4(a) of Pub. L. 94–142.

6. *Comment.* A commenter suggested that in order to "insure exclusion of commercially oriented agencies or organizations," the definitions under § 160d.2 should be expanded to include a definition of "Other Nonprofit Agencies and Organizations."

Response. No change is made in the regulation. Section 406(f)(1) of Pub. L. 93–380 authorizes the U.S. Commissioner of Education to make grants "to State and local educational agencies, institutions of higher education, and other nonprofit agencies and organizations." Since the term "nonprofit" as applied to a school, agency, organization, or institution is defined in the U.S. Office of Education's General Provisions Regulations (45 CFR 100.1), it is unnecessary to repeat the definition in this regulation.

7. *Comment.* A commenter recommends that career education exemplary projects be defined as "programs demonstrating special techniques in developing alternative models of vocational education that provide assistance and services lacking in existing school programs (alternative programs providing a high school diploma, stipends, and work experience for youths having difficulty participating in the normal academic classroom)." The commenter also proposes that the special populations listed in § 160d.5(c) be expanded to include youths with delinquent backgrounds. In addition, the commenter proposes that budget items for stipends of enrollees be included in the allowances for career education projects.

Response. No change is made in the regulation. The commenter's proposed definition of career education is not consistent with section 406 of Pub. L. 93–380. The legislation certainly does not envision that career education exemplary projects should result in "alternative models of vocational education." Exemplary projects in vocational education are provided for under Part D of the Vocational Education Act, Pub. L. 90–576, as amended.

(20 U.S.C. 1301–1305)

The definition proposed by this commenter, along with the special emphasis on attention to youths with delinquent backgrounds and on the allowance of stipends for enrollees, indicates that the commenter is thinking in terms of "remedial" legislation. Actually, the career education legislation under section 406 is characterized as "preventive" legislation, focusing on the infusion and improvement of the ongoing educational program, with the idea that such an improved program would help to prevent dropouts, delinquent behavior, etc.

8. *Comment.* A commenter recommends that under § 160d.7 there be a requirement "that each project insure that no sex role bias exists in materials or activities to be funded."

Response. No change is made in the regulation. Placing this requirement in § 160d.7 would make it part of the application review criteria, and would necessitate the assigning of a certain number of points to each application on the basis of the application's responsiveness to this criterion. This approach would not be a workable one. Either an applicant would assure that this requirement would be met, or would fail to make such an assurance; there would be no degrees of assurance, worth 2 points or 4 points, etc. This requirement should not, therefore, be inserted into the application review criteria under § 160d.7. Instead, it is believed that this item should be added to Part V of the "Application for Federal Assistance," OMB Form No. 29–R0221. Part V consists of a series of "assurances," which each applicant makes at the time of application. For example, the applicant assures that "it will comply with Title VI of the Civil Rights Act of 1964 (Pub. L. 88–352)," that it will comply with the provisions of the Hatch Act, that it will comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act, etc. OMB clearance will be sought to add another assurance in which the applicant will assure there shall be no sex bias in the project activities.

9. *Comment.* The same commenter also suggests that § 160d.14 (a) and (d) be amended to include attention to the problem of reducing sex stereotyping in career choice.

Response. An appropriate change has been made in subsection (d). No change is being made in subsection (a), because "individuals concerned with sex-role stereotyping" cut across all eleven of the existing categories in subsection (a) and do not represent, in themselves, a discrete and definable category comparable to the other categories in this subsection. However, subsection (d)(4) has been changed to direct attention to the reduction of sex stereotyping in career choice.

10. *Comment.* A commenter recommended inserting the word "adult" at various points throughout the proposed regulation (§§ 160d.2, 160d.5, 160d.6, and 160d.10). For example, he recommends that the statement of program purpose be amended to say that the Commissioner of Education is "to develop exemplary career education models (including models in which handicapped children and adults receive appropriate career education)."

Under § 160d.2, he recommends that item (b) in the definition for career education be amended to read "provide opportunities for counseling, guidance, and career development for all persons (rather than for all children)."

Whereas section 406 of the legislation makes provisions for "providing for the training and retraining of persons for conducting career education programs," the commenter recommends that § 160d.5 be amended to read "for the training and retraining of persons for conducting career education programs, particularly as this relates to the training of adult education teachers and counselors to utilize career education as content within adult education programs."

Response. No change is made in the regulation. The statements mentioned above, as they appeared in the proposed regulation, were taken verbatim from the legislation. It would be inappropriate to change the wording to read "children and adults" in the regulation, when Congress said only "children" in the legislation. The kinds of changes recommended by this commenter would have to be made as amendments to the law itself, rather than as insertions into the Federal regulation.

11. *Comment.* The same commenter recommended that, under § 160d.10, an information copy of each application should be submitted not only to the State Coordinator of Career Education but also to the State Director of Adult Education, in cases where the project might involve adults.

Response. No change is made. This recommendation is not consistent with current regulations pertaining to the submission of applications. The current procedures call for the applicant to submit three copies of the application to the Federal Government, and one information copy to the State Government. These procedures, established by the Office of Management and Budget, are intended to reduce the paperwork burden on applicants in terms of the number of copies which they must prepare and submit. There would be no justification for requiring some applicants to submit an additional copy to their State Director of Adult Education. It is presumed that the State Director of Adult Education, the State Director of Vocational Education, the State Director of Guidance, and other State officials who might be concerned with career education applications will be involved in some systematic way, by the State Coordinator of Career Education, in reviewing and commenting on career education applications at the State level.

12. *Comment.* A commenter submitted comments concerning seven different sections of the proposed Federal regulation. His first comment pertained to §160d.2 "Definitions." He expressed the opinion that the definition set forth in the proposed regulation is too broad and general. He recommended that the definition be revised from an operational standpoint to reflect the goals of the Office of Career Education.

Response. No change is made in the definition of career education. The definition of career education which was set forth in the proposed regulation was taken verbatim from section 406(d) of Pub. L. 93–380. The report of the Senate Committee on Labor and Public Welfare of March 29, 1974 (Senate Report No. 93–763, 93rd Cong. 2d Session, to accompany S. 1539, page 75) in discussing this definition, says: "Subsection (d) is not intended to dictate a final definition of the term 'career education' but does provide an enumeration of qualities which are a part of, or common to, current concepts and definitions of career education. Indeed, it is among the purposes of this

section to seek the further development, articulation, and clarification of such concepts and definitions as may exist and to gain some consensus and acceptance in the field of such concepts, definitions, or alternatives as may further the purposes of this section in preparing all children and youth for full participation in the society in which they are to live and work." In further discussions between Congressional staff members and Office of Education staff members, the Congressional staff emphasized again that a single, specific definition of career education should not be formulated at this time. The Congressional staff members expressed the belief that at this time, the Office of Education should not concentrate on one theory of career education but should experiment with various theories, and should not, at this stage, try to define career education for all time. With this background in regard to the intent of Congress, the Office of Education has decided to define career education by using the exact language of Pub. L. 93-380. It is realized that this is a broad and general definition, but that is precisely what is wanted at this time.

13. *Comment.* In regard to § 160d.5 the commenter recommended that subsection (c) be eliminated entirely and that the senior high school be eliminated from subsection (b).

Response. No change is made in the regulation. The implementation of this recommendation would set the Office of Education's efforts in career education back to where they were five years ago. It was believed, five years ago, that general grants to "across the board" efforts in career education would result in the provision of career education for all children. Experience over the last five years, however, has shown that the methods and techniques which have emerged for implementing career education have been most numerous and most successful with the general population of students and at the elementary and junior high school levels. All of the recent studies on the subject have indicated that special efforts are now needed to demonstrate effective methods and techniques for delivering career education to individuals outside the "general population" group, who are handicapped, gifted and talented, or members of various minority subpopulations. The studies also indicate that special efforts must be made to focus attention on the implementation of career education at the senior high school level, building on and beyond the successful work which has been demonstrated in elementary schools and junior high schools. The Office of Education considers it very important to focus some concentrated attention on methods and techniques for delivering meaningful and effective career education to these special population groups and for implementing career education programs at the senior high school level.

14. *Comment.* In regard to § 160d.6, the commenter recommended the elimination of subsection (f). He feels that the inclusion of dissemination activities in each career education project is redundant and wasteful.

Response. No change is made in the regulation. The exemplary and demonstration projects authorized under section 406 of Pub. L. 93-380 have value only to the extent that information about them is broadly disseminated. The dissemination of innovations in education has long been a troublesome problem, and many efforts are being made by the Office of Education and by the National Institute of Education to improve the effectiveness of dissemination. However, broad-scale dissemination efforts at the agency-wide level can be effective only to the extent that initial dissemination efforts are taken by individual projects. Unless the individual project plans for dissemination and prepares appropriate materials for dissemination, there will be no input from the projects into the broader agency-wide information processing and dissemination systems. Thus, the elimination of subsection (f) would seriously inhibit the basic exemplary and demonstration purposes for which section 406 was enacted. Therefore, subsection (f) is retained in § 160d.6.

15. *Comment.* In regard to § 160d.7, the commenter recommended that separate review criteria be developed for each funding category set forth in § 160d.5. He also recommended that the amount of funds available for each category of projects be included in the statement of review criteria.

Response. No change is made in the regulation. The criteria in the proposed regulation represent a slightly modified version of the criteria which were published and used in fiscal year 1975. The FY 1975 review panels found these criteria to be suitable for use across all five categories. The few refinements which the FY 1975 reviewers recommended have been incorporated into the criteria in the proposed regulation. On the basis of this experience, it does not seem fruitful to adopt the recommendation of setting up separate review criteria for each category of projects. As for the suggestion about including in the review criteria the amount of available funds earmarked for each category, the funds to be made available for each category will vary from year to year, depending upon Congressional appropriations and upon the varying rates of development in the different categories. Placing such figures in the Federal regulation would be neither appropriate nor efficient. Figures on amounts available for each category may be provided in the Notice of Closing Date for Receipt of Applications which is published each fiscal year. The amount of funding available in each category has nothing to do with the reading, scoring, and ranking of applications on the basis of their technical content, which is the subject of § 160d.7.

16. *Comment.* In regard to § 160d.8, the commenter suggested that the maximum figure for grants be reduced from $200,000 to $125,000, with an average of $75,000 per project.

Response. No change is made in the regulation. The Office of Education believes, on the basis of five years of experience with career education projects, that the general limit of $200,000 set forth in the proposed regulation is appropriate. That same general limit was set forth in the fiscal year 1975 program, and was generally adhered to. The average size of the grant awards in FY 1975 was approximately $123,000 per project. The experience of the Office of Education to date with career education projects indicates that, for most types of projects, a minimum of $100,000 per year is necessary to provide a project of sufficient scope to have meaningful impact. The Office of Education is of the opinion, at this time, that it is better to have a smaller number of adequately funded projects ($100,000 or more per year) than to dissipate the available funding over a large number of very small projects. Based on the FY 1975 experience, establishing a general limit of $200,000 will result in applications which average about the right size.

17. *Comment.* The commenter also suggested that a new section be added to the regulation to read: "The Commissioner will establish or designate a clearing house to gather and disseminate information received from career education programs * * *. The Commissioner may contract with public or private agencies or organizations to establish and operate the clearinghouse."

Response. No change is made in the regulation. The National Institute of Education is already maintaining the "ERIC Clearinghouse on Career Education," which is part of the Educational Resources Information Center and is operated under a contract awarded to Northern Illinois University. It would, therefore, be duplicative effort for the Office of Education to establish a similar clearinghouse.

18. *Comment.* The same commenter suggested that another new section be added to the regulation to read: "The Commissioner will make available to each career education program such technical assistance and information as the program may require and such technical assistance shall be coordinated with the national clearinghouse."

Response. No change is made in the regulation. Such a statement is not needed in this regulation. The statement of organization and functions of the Office of Career Education was published in the FEDERAL REGISTER on January 31, 1975 (40 FR 4665). The functions of the Office of Career Education carried out with funds available for salaries and expenses, rather than with funds appropriated for the Career Education Program, need not be set forth in this program regulation.

Accordingly, after consideration of all comments received, Part 160d of Title 45 shall read as set forth below. This regulation will supersede the Funding Criteria (intended for Fiscal Year 1975 only) which were published in the FEDERAL REGISTER on May 9, 1975 (40 FR 20335-20336).

Amendment is also made to Part 100a "Direct Project Grant and Contract Programs" of Title 45, Code of Federal Regulations, in order to add the Career Education Program to the list of programs in § 100a.10 which are included within the scope of Part 100a.

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

(Catalog of Federal Domestic Assistance Number 13.554, Career Education Program.)

Dated: March 5, 1976.

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

Approved: May 7, 1976.

MARJORIE LYNCH,
Acting Secretary of Health, Education, and Welfare.

1. Section 100a.10 of Part 100a of Title 45 of the Code of Federal Regulations is amended to read as follows:

§ 100a.10 Scope.

(a) *Programs.* Except to the extent inconsistent with an applicable statute or regulation, the provisions contained in this part apply to all Federal programs of assistance authorized under the following authorities: * * *

(35) Projects designed to demonstrate the most effective methods and techniques in career education, to develop exemplary career education models, and to develop State plans for the implementation of career education under Section 406, Part C of Title IV, Pub. L. 93-380 (20 U.S.C. 1865);

* * * * *

2. Part 160d of Title 45 of the Code of Federal Regulations is amended to read as follows:

Subpart A—General

Sec.
160d.1 Applicability.
160d.2 Definitions.

Subpart B—Special Projects

160d.3 Scope.
160d.4 Eligible applicants.
160d.5 Project purposes.
160d.6 Required application data.
160d.7 Application review criteria.
160d.8 Allowable costs.
160d.9 Project duration.
160d.10 State review and comment.

Subpart C—State Plans

160d.11 Scope.
160d.12 Eligible applicants.
160d.13 Requirements of completed State plan.
160d.14 Required application data.
160d.15 Application review criteria.
160d.16 Allowable costs.
160d.17 Project duration.

AUTHORITY: Secs. 402, 406, Education Amendments of 1974, Pub. L. 93-380 (20 U.S.C. 1851-1853, 1865).

Subpart A—General

§ 160d.1 Applicability.

This part applies to grants and assistance contracts made by the U.S. Commissioner of Education for projects to demonstrate the most effective methods and techniques in career education, for projects to develop exemplary career education models, and for projects to enable State educational agencies to develop State plans for career education.

(20 U.S.C. 1851-1853, 1865(f) (1) and (2))

§ 160d.2 Definitions.

As used in these regulations, "Career education" means an education process designed to:

(a) Increase the relationship between schools and society as a whole;

(b) Provide opportunities for counseling, guidance and career development for all children;

(c) Relate the subject matter of the curricula of schools to the needs of persons to function fully in society;

(d) Extend the concept of the education process beyond the school into the area of employment and the community;

(e) Foster flexibility in attitudes, skills, and knowledge in order to enable persons to cope with accelerating change and obsolescence;

(f) Make education more relevant to employment and functioning in society; and

(g) Eliminate any distinction between education for vocational purposes and general or academic education.

(20 U.S.C. 1865(d))

(h) "Handicapped children" means mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, or other health impaired children or children with specific learning disabilities who by reason thereof require special education and related services.

(20 U.S.C. 1401)

(i) An "incremental improvement" means a gain in the quality and/or quantity of career education in a school or school system, reflecting the fact that the implementation of career education is a gradual process which proceeds in small steps from little or no career education to a fully integrated and successful program.

(20 U.S.C. 1865)

(j) "Institution of higher education" or "institution" means an educational institution in any State which meets the requirements set forth in section 1201(a) of the Higher Education Act of 1963 as amended.

(20 U.S.C. 1141(a))

(k) "Local educational 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 or secondary schools in a city, county, townhsip, school district, or other political subdivision of a State, or such combination of school districts or counties as are 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.

(20 U.S.C. 1141(g))

(l) "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 agency or officer, an agency or officer designated by the Governor or by State Law.

(20 U.S.C. 1141(h))

Subpart B—Special Projects

§ 160d.3 Scope.

This subpart governs the selection of applications from State and local educational agencies, institutions of higher education, and other nonprofit agencies and organizations for purposes of carrying out activities designed to improve the implementation of career education.

(20 U.S.C. 1865)

§ 160d.4 Eligible applicants.

The following categories of agencies and organizations are eligible for grants and assistance contracts pursuant to this subpart:

(a) State educational agencies;

(b) Local educational agencies;

(c) Institutions of higher education; and

(d) Other nonprofit agencies and organizations.

(20 U.S.C. 1865(f)(1))

§ 160d.5 Project purposes.

Projects funded pursuant to this subpart must be designed to contribute to one of the following purposes, to:

(a) Effect incremental improvements in K-12 career education through one or a series of exemplary projects;

(b) Demonstrate the most effective methods and techniques in career education in such settings as the senior high school, the community college, adult and community education agencies, or in institutions of higher education;

(c) Demonstrate the most effective methods and techniques in career education for such special segments of the population as handicapped, gifted and talented, minority or low income youth, or to reduce sex stereotyping in career choices;

(d) Demonstrate the most effective methods and techniques for the training and retraining of persons for conducting career education programs; and

(e) Communicate career education philosophy, methods, program activities,

and evaluation results to career education practitioners and to the general public.

(20 U.S.C. 1865)

§ 160d.6 Required application data.

Each application for assistance under this subpart must set forth a detailed plan which includes:

(a) Identification of the purpose in § 160d.5 (a)–(e) to which the application is addressed. If the applicant chooses to participate in more than one of these listed purposes, a separate application must be submitted for each purpose. For the purpose in § 160d.5(b), a single application shall address no more than one special setting. For the purpose in § 160d.5(c), a single application shall address no more than one special population;

(b) An operational plan describing, in detail, exactly how the applicant proposes to achieve the specific purpose addressed in the application and explaining the exemplary nature of the proposed procedures. This operational plan shall include, as a minimum:

(1) The process and learner outcome objectives of the proposed project stated in measurable terms;

(2) Evidence that each objective is based on documented needs of:

(i) Participants to be served in the specific geographic location of the proposed project; and

(ii) Similar participants in other locations across the nation;

(3) The tasks and strategies to be used to accomplish the stated objectives, including a description of career education processes, techniques, and materials developed in previous projects supported under the Office of Career Education, under the National Institute of Education, under Parts C, D, and I of the Vocational Education Act, and under other appropriate sources, which the applicant proposes to utilize in this proposed project; and a description of the measures to be undertaken to insure a high level of interaction between the world of education and the world of work in implementing the project;

(4) Description of the manner in which the proposed objectives, tasks, and strategies will comprise a comprehensive approach to career education for the participants to be involved; and

(5) A set of milestones and dates by which to monitor accomplishment of the proposed tasks;

(c) Specification of prior career education activities, if any, which the applicant has carried out, including data bearing on evaluation of the effectiveness of such prior activities;

(d) A specific plan to be utilized in evaluating the accomplishment of each of the process and learner outcome objectives listed pursuant to § 160d.6(b)(1), including:

(1) The criteria of success for evaluating each objective;

(2) The evaluation design to be used for each objective;

(3) The data collection instruments or other techniques to be used for each objective;

(4) The data analysis to be conducted for each objective;

(5) The dates by which data on the various objectives will be available; and

(6) The evaluation resources of personnel and budget that will be utilized;

(e) A description of applicant or other additional resources, if any, to be contributed to the proposed activities to supplement funds received under this subpart;

(f) A plan for disseminating information to others during the course of the project and at the conclusion of the project funding period;

(g) Identification of all proposed staff, their duties, and a description of the qualifications possessed by all proposed professional staff; and

(h) Evidence of any commitment already received from outside organizations, groups, or individuals to cooperate in the implementation of the proposed activities;

(i) Each application for assistance under this subpart must contain on a single page, as the first page of the narrative, the following information:

(i) Identification of the purpose from § 160d.5(a)–(e) to which the application is addressed;

(ii) A brief abstract of the proposed project; and

(iii) A statement that a copy of the application has been submitted to the State Career Education Coordinator of the State within which the application originated.

(20 U.S.C. 1865)

§ 160d.7 Application review criteria.

Criteria will be utilized by the reviewers in reviewing formally transmitted applications. Segments or a segment of the application must address each criterion area. Each criterion is weighted and includes the maximum score that can be given to a segment of an application in relation to the criteria. Criteria weights total 100 points. The criteria and maximum weight for each criterion are as follows:

Criteria:	Maximum score
(a) *Evidence of need.* The application clearly demonstrates the need for its proposed activities in terms of the purpose it seeks to attain and the population(s) it seeks to serve	5
(b) *Objectives.* The objectives of the proposed project are sharply defined, clearly stated, capable of being attained by the proposed procedures, and capable of being measured	10
(c) *Operational plan.* (1) Utilization of prior activities of applicant and others: The application clearly describes the prior career education activities which the applicant has carried out, if any, and presents evidence describing the effectiveness of these activities. The application describes relevant career education processes, techniques, and materials developed in previous projects supported by the Office of Career Education, the National Institute of Education and other agencies and sources, and explains how this prior work will be utilized in implementing the proposed project	8
(2) Proposed activities: A specific description is provided of the activities proposed for each major step in the project. The time required for each activity, and the period of the project it covers, is clearly charted in the operational plan	17
(d) *Interaction and involvement.* Specific measures are described for achieving a high level of interaction between the world of education and the world of work in implementing the proposed project	10
(e) *Evaluation plan.* Provision is made for adequate evaluation of the effectiveness of the project and for determining the extent to which the objectives are accomplished	20
(f) *Exemplary nature of project.* The plan clearly calls for a comprehensive career education model that, if successfully attained, holds high promise of serving as one that others could profit by emulating. The activities hold promise of being useful in other career education projects or programs for similar educational purposes	15
(g) *Personnel.* The personnel with committed major responsibilities for the proposed activities have the necessary qualifications and experience to assure successful completion of the activities. Evidence presented shows the commitment necessary from individuals and groups whose assistance is needed to accomplish the proposed objectives	10
(h) *Budget.* The size, scope, and duration of the project are reasonable and the estimated cost is reasonable in relation to anticipated results	5

(20 U.S.C. 1865)

§ 160d.8 Allowable costs.

(a) Allowable costs under grants and assistance contracts awarded under this subpart shall be determined in accordance with cost principles set forth in Appendix B, C, or D (as applicable) to Subchapter A of Title 45 Code of Federal Regulations (the Office of Education's General Provisions Regulations).

(b) It is expected that grants and assistance contracts under this subpart will generally not exceed $200,000, although each application will be judged on the basis of the proposed activities.

(20 U.S.C. 1865)

§ 160d.9 Project duration.

(a) Projects will normally be one year in duration. However, applicants should make a realistic estimate of the amount of time needed to implement the proposed project activities. Where this esti-

mate indicates that more or less than one year is necessary, the operational plan and budget should reflect this.

(b) With respect to applications requesting more than one year of funding, it is anticipated that generally an initial grant or assistance contract will be awarded for the first year of the project. In order to be considered for funding for any remaining time period, the grantee or assistance contractor will be required to submit a new application upon announcement of subsequent competition for funding. This new application will be judged on the basis of the published evaluation criteria in competition with other applications received in such subsequent competition.

(20 U.S.C. 1865)

§ 160d.10 State review and comment.

States may submit advice and comment on any application originating within their States. In order to allow for this, an applicant must provide a copy of its application to the State educational agency of the State within which the applicant is located. This copy must be submitted to the State Coordinator of Career Education, as designated by the Chief State School Officer, concurrently with the submission of the application to the Commissioner.

(20 U.S.C. 1865)

Subpart C—State Plans

§ 160d.11 Scope.

This subpart governs the selection of applications from State educational agencies for the purpose of enabling them to develop State plans for the development and implementation of career education programs in the local educational agencies of the States. Awards will be made on a competitive basis. Awards of Federal funds to allow for the implementation of the completed State plans are not authorized under paragraph f(2) of section 406 of Pub. L. 93–380.

(20 U.S.C. 1865(f)(2))

§ 160d.12 Eligible applicants.

State educational agencies are the only applicants eligible for funding under this subpart.

(20 U.S.C. 1865(f)(2))

§ 160d.13 Requirements of completed State plan.

Projects funded under this subpart must be designed to develop a comprehensive State plan for implementing career education in the elementary and secondary schools of the State. This plan (which must be submitted upon completion of activities funded pursuant to this subpart) must set forth at least the following:

(a) The State educational agency's definition of career education and the conceptual base upon which career education within the State rests;

(b) The need for career education within the State;

(c) Career education efforts and accomplishments to date to meet identified needs within the State, including an assessment of existing programs, practices, and materials;

(d) The objectives for the short range (one year) and long range (five years) implementation of career education within the State (the one year objectives and plan must cover school year 1977–1978 and the five year objectives and plan must cover school year 1977–1978 through school year 1981–1982 inclusive);

(e) The strategies, activities, and resources to be utilized in implementing the short- and long-range plan in the following areas:

(1) Curriculum changes, including experiential learning outside of the school building and changes in vocational education;

(2) Career counseling, career guidance, career placement and follow-up;

(3) Meeting the career education needs of special groups, including the handicapped and other educationally disadvantaged students, and eliminating the stereotyping of career opportunities by race or by sex;

(4) Involving the business-labor-industry-professional-government community in career education;

(5) Involving the home and family structure in career education; and

(6) Training and retraining, both pre- and in-service, for personnel to enable them to implement career education;

(f) Plans for evaluating the effectiveness of career education inputs, processes, and outcomes in local educational agencies and personnel training programs;

(g) Plans for disseminating information about career education, career education practices and products, and the results of career education efforts to interested persons within the State;

(h) The funding that will be needed to implement the various components of the one year and five year plans and the sources of the necessary funding, where these sources are available;

(i) The relationship of the State plan for career education to career education activities being carried out and contemplated in postsecondary and adult education settings; and

(j) The manner in which the plan is to be implemented and administered by the State educational agency, including allocation of resources, management of activities, provision of assistance to others within the State, staffing for career education within the State educational agency, and the relationship of the career education plan to other planning efforts at the State level (e.g. Vocational Education State Plan, Title III State Plan, etc.).

(20 U.S.C. 1865)

§ 160d.14 Required application data.

Each application for assistance under this subpart must set forth a detailed proposal which includes at least the items listed below. In the event that the applicant has already initiated or completed any of the following activities, the application will describe fully the procedures used and the results obtained. The remainder of the application will then deal with the activities proposed as necessary to complete or update work already underway on a State plan. The application shall include:

(a) Provisions for the establishment and use of a career education advisory group to provide advice and assistance during the development of the State plan. This group shall contain members representing at least the following groups:

(1) Major units of the State educational agency and, where these are separate organizations, the State Board of Vocational Education and the State system of higher education;

(2) Other State governmental units whose assistance is considered necessary in implementing career education;

(3) Business and industry;

(4) Labor;

(5) Institutions of higher education with educational personnel preparation programs;

(6) School administrators;

(7) Counselors;

(8) Teachers;

(9) Vocational education personnel;

(10) Parents; and

(11) Students.

(b) Provisions for assessing the career education needs of all students in the elementary, middle/junior high, and senior high schools of the State, including the special needs of handicapped and other educationally disadvantaged students;

(c) Provisions for assessing the need for the training and retraining of educational personnel to serve in career education programs;

(d) Provisions for identifying existing and potential resources from across the United States that could be used to develop and implement career education within the State, including at least the following types of resources:

(1) Career education instructional materials;

(2) Educational facilities;

(3) Educational personnel;

(4) Career education programs and practices with potential for use within the State, including programs and practices designed to eliminate sex-role stereotyping in career choices;

(5) Business, labor, industry, professional, government, and other community resources; and

(6) Funding sources and funds.

(e) Provisions for developing both a short-range (one year—school year 1977–1978) and long-range (five years—school years 1977–1978 through 1981–1982 inclusive) plan for the development and implementation of career education, including procedures to be used in:

(1) Setting goals;

(2) Specifying performance objectives;

(3) Determining strategies, activities, and resources to be used; and

(4) Determining the process to be used to administer, monitor, and update the implementation of the plan;

(f) A statement of the manner in which the applicant will manage the preparation of the plan, including the names and qualifications of proposed staff, their reporting relationships within the State educational agency, any proposed subcontracts, a management plan, including tasks and timelines, for completing the plan in the time period specified in the application; and

(g) A statement by the Chief State School Officer of the State educational agency endorsing the submission of the application for funding under this subpart.

(20 U.S.C. 1865(f)(2))

§ 160d.15 Application review criteria.

Criteria will be utilized by reviewers in reviewing formally transmitted applications. Segments or a segment of the application must address each criterion area. Each criterion is weighted and includes the maximum score that can be given to a segment of an application in relation to the criterion. Criteria weights total 100 points. The criteria and maximum weights for each criterion are as follows:

Criteria:	Maximum score
(a) *Evidence of need.* The application demonstrates an understanding of career education and justifies the State's need for a comprehensive State plan for the development and implementation of career education. Any prior State plan efforts and their results are fully described and it is clear that the proposed activities will build upon these prior efforts. Evidence is presented which demonstrates the State's commitment to implement the plan that is developed, including endorsement of the application by the Chief State School Officer	10
(b) *Advisory group.* The application fully describes the present or planned advisory group to be used in the development of the plan. The types of constituents to be represented and the names and titles of members are presented. The group is broadly representative of the constituencies to be involved in the implementation of career education and procedures are described for effective use of the group	10
(c) *Needs assessment.* The application fully describes the procedures to be used and the areas to be covered in conducting the needs assessment. Survey techniques planned are described in detail. The procedures will assure identification of the career education needs of all children within the State. If a career education needs assessment has already been initiated, the data are sufficient, of high quality, and support the conclusions drawn	25
(d) *Resource identification.* The application fully describes the procedures to be used to survey existing and potential resources for use in the development and implementation of career education within the State. The process assures the surveying of resources from across the nation. If resource identification has already been initiated, the results are sufficient, of high quality, and support the conclusions drawn	15
(e) *Development of plan.* The application clearly describes the process to be used to develop both the 1-year and the 5-year plans	20
(f) *Personnel and management.* The application clearly identifies the staff to be used in developing the plan and their qualifications match the tasks to be accomplished. The management plan for the proposed activities presents tasks and timelines which assure that the plan will be developed effectively and in a timely manner	15
(g) *Budget.* The size, scope, and duration of the project are reasonable and the estimated cost is reasonable in relation to anticipated results	5

(20 U.S.C. 1865)

§ 160d.16 Allowable costs.

(a) Allowable costs under grants and assistance contracts pursuant to this subpart shall be determined in accordance with cost principles set forth in Appendix B to Subchapter A of Title 45 Code of Federal Regulations (the Office of Education's General Provisions Regulations).

(b) It is expected that grants for any single year of activity under this subpart will generally not exceed $50,000 although each application will be judged on the basis of the proposed activities.

(20 U.S.C. 1865(f)(2))

§ 160d.17 Project duration.

(a) Projects will normally be one year in duration. However, applicants should make a realistic estimate of the amount of time needed to implement the proposed project activities. The exact funding period requested should be based on the extent of planning which remains to be accomplished to develop the plan required by this subpart. It is expected that States which have already engaged in career education planning efforts will not be funded for more than one year unless this is strongly justified.

(b) With respect to applications requesting more than one year of funding, it is anticipated that generally an initial grant or assistance contract will be awarded for the first year of the project. In order to be considered for funding for any remaining time period, the grantee or assistance contractor will be required to submit a new application upon announcement of subsequent competition for funding. This new application will be judged on the basis of the published evaluation criteria in competition with other applications received in such subsequent competition.

(20 U.S.C. 1865)

[FR Doc.76-14041 Filed 5-12-76;8:45 am]

CHAPTER V—FOREIGN CLAIMS SETTLEMENT COMMISSION

PART 504—PRIVACY ACT REGULATIONS

Implementation Procedures

On August 27, 1975, the Foreign Claims Settlement Commission (FCSC) published its rules implementing the Privacy Act of 1974 (45 CFR 500). The rules appeared at 40 FR 39381 et seq. Although no public comments were received, the Office of Management and Budget (OMB) commented on the rules in a letter dated December 4, 1975. These rules have, therefore, been adopted with the changes as recommended by OMB as follows:

1. Section 504.5(b)(3) is revised.
2. Section 504.6(b) is revised.
3. Section 504.5 is amended by adding paragraph (d).
4. Subparagraph "(1)" after paragraph (c), § 504.6 is redesignated paragraph "(d)".

Dated at Washington, D.C. on April 22, 1976.

WAYLAND D. MCCLELLAN,
General Counsel.

Sec.

504.1 General policies.
504.2 Definitions.
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504.9 Fees.
504.10 Exemptions.
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504.12 Notices.

AUTHORITY: 5 U.S.C. 552a(f).

§ 504.1 General policies.

The Foreign Claims Settlement Commission will protect the privacy of an individual identified in any information or record systems which it maintains. Accordingly, its officials and employees, except as otherwise provided by law or regulation, will:

(a) Permit an individual to determine what records pertaining to such individual are collected, maintained, used or disseminated by the Foreign Claims Settlement Commission.

(b) Permit an individual to prevent records pertaining to such individual obtained by the Foreign Claims Settlement Commission for a particular purpose from being used or made available for another purpose from being used or made available for another purpose without the individual's consent.

(c) Permit an individual to gain access to information pertaining to such individual in Foreign Claims Settlement Commission records, to have a copy made of all or any portion thereof, and to correct or amend such records.

(d) Collect, maintain, use, or disseminate any record of identifiable personal information in a manner that assures that such action is for a necessary and lawful purpose, that the information is current and accurate for its intended use, and that adequate safeguards are pro-

vided to prevent misuse of such information.

(e) Permit exemptions from record requirements provided under the Privacy Act only where an important public policy used for such exemption has been determinated in accordance with specific statutory authority.

§ 504.2 Definitions.

For the purpose of this part:

(a) The term "agency" includes any executive department, military department, government corporation, government controlled corporation, or other establishments in the executive branch of the government (including the Executive Office of the President) or any independent regulatory agency. The Foreign Claims Settlement Commission (FCSC) is an "agency" within the meaning of the term.

(b) The Micronesian Claims Commission, created under the provisions of the Micronesian Claims Act of 1971, Public Law 92-39, 85 Stat. 92, under the control and direction of the Chairman of the Foreign Claims Settlement Commission, is deemed a component part of the FCSC, an "agency" defined under paragraph (a) of this section for the purposes of the Privacy Act.

(c) The term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence.

(d) The term "maintain" includes maintain, collect, use, or disseminate.

(e) The term "record" means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, an individual's education, financial transactions, medical history, and criminal or employment history, and that contains an individual's name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph.

(f) The term "statistical record" means a record in a system of records maintained for statistical research or reporting purposes only and not used in whole or in part in making any determination about an identifiable individual except as provided by section 8 of Title 13, United States Code.

(g) The term "system of records" means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

(h) The term "routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

§ 504.3 Conditions of disclosure.

The Commission will not disclose any record contained in a system of records by any means of communication to any person or any other agency except by written request of or prior written consent of the individual to whom the record pertains unless such disclosure is:

(a) To those officers and employees of the Commission which maintains the record and who have a need for the record in the performance of their duties;

(b) Required under the Freedom of Information Act, 5 U.S.C. 552;

(c) For a routine use;

(d) To the Bureau of Census for purposes of planning or carrying out a census or survey or related activity under the provisions of Title 13 of the United States Code;

(e) To a recipient who has provided the Commission with adequate advance assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable;

(f) To the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government or for evaluation by the Administrator of General Services or his designee to determine whether the record has such value;

(g) To another agency or to an instrumentality of any government jurisdiction within or under control of the United States for a civil or criminal law enforcement activity authorized by law, provided the head of the agency or instrumentality has made a prior written request to the Commission, specifying the particular record and the law enforcement activity for which it is sought;

(h) To a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if upon such disclosure notification is transmitted to the last known address of such individual;

(i) To either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress or subcommittee of any such joint committee;

(j) To the Comptroller General, or any of his authorized representatives, in the course of the performance of the duties of the General Accounting Office;

(k) Pursuant to the order of a court of competent jurisdiction.

§ 504.4 Accounting of certain disclosures.

(a) Except for disclosures under § 504.3 (a) and (b) of this part, the Executive Director shall keep an accurate accounting of each disclosure or a record to any person or to another agency made under § 504.3 (c), (d), (e), (f), (g), (h), (i), (j), and (k) of this part.

(b) Except for a disclosure made to another agency or to an instrumentality of any governmental jurisdiction under § 504.3(g) of this part, the Executive Director shall make the accounting as required under paragraph (a) of this section available to any individual upon written request made in accordance with § 504.5.

(c) The Executive Director shall inform any person or other agency about any correction or notation of dispute in accordance with § 504.7(d) of any record that has been disclosed to the person or agency if an accounting of the disclosure was made.

(d) An accounting of disclosures of records within this section shall consist of the date, nature, the purpose of each disclosure of a record to any person or to another agency, and the name and address of the person or agency to whom the disclosure is made.

(e) Such accounting shall be retained for 5 years or the life of the record, whichever is longer, after the disclosure for which the accounting is made.

§ 504.5 Access to records or information.

(a) Upon request in person or by mail, any individual shall be informed whether or not a system of records maintained by the Commission contains a record or information pertaining to such individual.

(b) Any individual requesting access to such record or information in person shall preesnt himself at the Office of the Executive Director, Foreign Claims Settlement Commission, Vanguard Building, 4th Floor, 1111 20th Street, NW, Washington, DC, between the hours of 8:30 a.m. and 5 p.m., Monday through Friday, and

(1) Provide information sufficient in the opinion of the Executive Director to identify the record, e.g., the individual's own name, claim and decision number, date and place of birth, etc.;

(2) Provide identification acceptable to the Executive Director to verify the individual's identity, e.g., driver's license, identification or medicare card;

(3) Any individual requesting access to records or information pertaining to such individual may be accompanied by a person of the individual's own choosing while reviewing the record thereof. If an individual elects to be so accompanied, he shall notify the Executive Director of such election in his request, and shall provide a written statement authorizing disclosure and discussion of the record in the presence of the accompanying person at any time, including the time access is granted.

(c) Any individual making a request for access to records or information pertaining to such individual by mail, shall address such request to the Executive Director (Privacy Officer) Foreign Claims Settlement Commission, 1111 20th Street, NW., Washington, DC 20579, and shall provide information acceptable to the Executive Director to verify the individual's identity, e.g., claim and decision number, description of property loss, etc.

(d) Resonses to requests under this section normally will be made within ten (10) days of receipt (excluding Saturdays, Sundays, and legal holidays). If it is not possible to respond to requests within such period, an acknowledgement will be sent to the individual within ten (10) days of receipt of the request (excluding Saturdays, Sundays, and legal holidays).

§ 504.6 Determination of requests for access to records.

(a) Upon request made in accordance with § 504.5, the Executive Director shall:

(1) Determine whether or not such request will be granted;

(2) Make such determination and provide notification within a reasonable period of time after receipt of such request.

(b) If access to a record is denied because information has been compiled by the Commission in reasonable anticipation of a civil or criminal action or proceeding, the Executive Director shall notify the individual of such determination and that such individual shall be apprised of the reason(s) for denial, and his right to judicial appeal under 5 U.S.C. 552a(g).

(c) If access to the record is granted, the individual making such request shall notify the Executive Director whether the records requested are to be copied and mailed to the individual.

(d) If records are to be made available for personal inspection, the individual shall arrange with the Executive Director a mutually agreeable time and place for inspection of the record.

§ 504.7 Amendment of record.

(a) Any individual may request amendment of a record pertaining to him according to the procedure in paragraph (b) of this section except those records described under paragraph (e) of this section.

(b) After inspection by an individual of a record pertaining to such individual, such individual may file a written request, presented in person or by mail, with the Executive Director for an amendment to a record. Such request shall specify the particular portions of the record to be amended, the desired amendments and the reasons therefor.

(c) Not later than 10 days (excluding Saturdays, Sundays, and legal holidays) after the receipt of a request made in accordance with this section to amend a record in whole or in part, the Executive Director shall:

(1) Make any correction of any portion of the record which the individual believes is not accurate, relevant, timely, or complete and thereafter inform the individual of such correction; or

(2) Inform the individual, by certified mail return receipt requested, of the refusal to amend such record setting forth the reasons therefor, and notify the individual of his right to appeal that determination to the Chairman of the Commission under § 504.8 of this part.

(d) The Executive Director shall inform any person or other agency to whom a record or notation of dispute made by the Executive Director with respect to such records in accordance with § 504.4 of this part referring to amendment of a record, if an accounting of such disclosure has been made.

(e) The provisions for amending records do not permit the alteration of evidence presented in the course of Commission proceedings in the adjudication of claims, nor do they permit collateral attack upon what has already been subject to final agency action in the adjudication of claims in programs previously completed by the Commisison pursuant to statutory time limitations.

§ 504.8 Appeals from denial of request for amendment to records.

(a) An individual whose request to amendment of a record pertaining to him is denied, may further request a review of such determination in accordance with paragraph (b) of this section.

(b) Not later than 30 days (excluding Saturdays, Sundays, and legal public holidays from the date on which the individual requests such review, the Chairman of the Commission or an officer designated by the Chairman to act in his absence shall complete such review and make a final determination unless, for good cause shown, the Chairman of the Commisison or an officer designated by the Chairman to act in his absence extends such 30-day period.

(c) Such request shall be addressed to the Chairman, Foreign Claims Settlement Commission, 1111 20th Street, NW., Washington, D.C. 20579, and shall specify the reasons for which the refusal to amend is challenged.

(d) Upon appeal from a denial to amend a record, the Chairman of the Commission or the officer designated by the Chairman to act in his absence, shall make a determination whether or not to amend the record and shall notify the individual of that determination by certified mail return receipt requested not later than 30 days (excluding Saturdays, Sundays, and legal holidays) after receipt of such appeal, unless extended pursuant to paragraph (g) of this section.

(e) The Chairman or the officer designated by the Chairman to act in his absence shall also notify the individual of the provisions of 5 U.S.C. 552a(g)(1)(A) regarding judicial review of the Chairman's or the officer's determination.

(f) If on appeal the refusal to amend the record is upheld, the Commission shall permit the individual to file a statement setting forth the reasons for his disagreement with the Chairman's or the officer's determination.

(g) The Chairman or the officer acting in his absence may extend up to 30 days the time prescribed in paragraph (d) of this section within which to make a determination on an appeal from refusal to amend a record for the reason that a fair and equitable review cannot be completed within the prescribed period.

§ 504.9 Fees.

(a) Fees to be charged, if any, to any individual for making copies of such individual's record, excluding the cost of any search for and review of the record will be as follows:

(1) Photocopy reproductions, each copy $0.05.

(2) Where the Commission undertakes to perform for a requestor for any other person services which are very clearly not required to be performed under the Privacy Act, either voluntarily or because such services are required by some other law, the question of charging fees for such services will be determined by the official or designee authorized to release the information, under the Federal user charge statute 31 U.S.C. 483a, any other applicable law, and the provisions of § 503.14 of Part 503 of the Commission's regulations.

§ 504.10 Exemptions.

No system of records maintained by the Foreign Claims Settlement Commission are exempt from the provisions of 5 U.S.C. 552a as permitted under certain conditions by 5 U.S.C. a (j) and (k). However the Chairman of the Commission reserves the right to promulgate rules in accordance with the requirements of 5 U.S.C. 553(b) (1), (2) and (3), (c) and (e) to exempt any system of records maintained by the Commission in accordance with the provisions of 5 U.S.C. 552a(k).

§ 504.11 Reports.

(a) The Executive Director or designee will provide adequate advance notice to Congress and the Office of Management and Budget of any proposal to establish or alter any Commission system or systems of records, as required by 5 U.S.C. 552a(0).

(b) If at any time a system or systems of records maintained by the Commission is determined to be exempt from the application of 5 U.S.C. 552a in accordance with the provisions of 5 U.S.C. 552a (j) and (k), the number of records contained in such system or systems will be separately listed and reported to the Office of Management and Budget.

§ 504.12 Notices.

(a) The Commission shall publish in the FEDERAL REGISTER at least annually a notice of the existence and character of the system or systems of records which it maintains. Such notice shall include:

(1) The name and location of the system;

(2) The categories of individuals on whom records are maintained in the system;

(3) The categories of records maintained in the system;

(4) Each routine use of the records contained in the system including the categories of users and the purpose of each use;

(5) The policies and practices of the Commission regarding storage, retrievability, access controls, retention, and disposal of the records;

(6) The title and business address of the agency official who is responsible for the system of records;

(7) Commission procedures whereby an individual can be notified at his retem of records contains a record pertaining to him.

(8) Commission procedures whereby an individual can be notified if the sys-

quest how he can gain access to any record pertaining to him contained in the systems of records, and how he can contest its contents, and

(9) The categories of sources of records in the system.

[FR Doc.76-13563 Filed 5-12-76;8:45 am]

CHAPTER VI—NATIONAL SCIENCE FOUNDATION

PART 660—PROJECT NOTIFICATION AND REVIEW SYSTEM; NOTIFICATION TO STATES OF AWARD INFORMATION

Pursuant to the provisions of 5 U.S.C. 522 and to requirements of the Office of Management and Budget and the Department of the Treasury, the interim regulations and proposed final regulations of the National Science Foundation to implement OMB Circular A-95 (Revised) and Department of the Treasury Circular 1082 (Revised) were published on Wednesday, February 25, 1976. (FEDERAL REGISTER, Vol. 41, No. 38, FR 8172-8175)

After considering the comments received from various organizations, the following changes are hereby made to the proposed final regulations:

(1) Section 660.4(d) is changed by adding three sentences to read as set forth below.

(2) In § 660.4(e) a new last sentence is substituted to read as set forth below.

(3) Section 660.6(b) is amended by changing the 24th line to read as set forth below.

(4) Section 660.8(b) is amended by revising the last line to read as set forth below.

The interim regulations as published, with the four changes above, are herewith promulgated as the final regulations, effective May 1, 1976.

Dated: April 30, 1976.

ELDON D. TAYLOR,
Assistant Director for Administration.

Sec.
660.1 Purpose.
660.2 Application of part.
660.3 Definitions.
660.4 Notification of intent and consultation and review procedures.
660.5 State requirements.
660.6 Submission of SF 424 with proposals under covered programs.
660.7 NSF consideration of clearinghouse comments.
660.8 Notification to clearinghouses of action taken—SF 424.
660.9 Supplemental reporting of award information.

AUTHORITY: Intergovernmental Cooperation Act of 1968 (PL 90-577); OMB Circular A-95 (Revised) appearing at 41 FR 2052; Treasury Circular 1082 (Revised) appearing at 40 FR 54378, with additional subsections appearing at 41 FR 2652; National Science Foundation Act of 1950, as amended, (PL 81-507) Sec. 11(a).

§ 660.1 Purpose.

As required by paragraph 7 of OBM Circular A-95 (Revised) (hereinafter referred to as "A-95") this part prescribes the regulations of the National Science Foundation (hereinafter referred to as "NSF") to implement the project notification and review system prescribed by Part I of a A-95, including the use of Standard Form 424, Federal Assistance Preapplication, Application, Notification of Intent or Report of Federal Action (hereinafter referred to as "SF 424") in connection with proposals to NSF Programs subject to Part I requirements and for notification of action thereon. This part also describes NSF implementation of the supplemental reporting requirements of Treasury Circular 1082 (Revised) (hereinafter referred to as "TC 1082").

§ 660.2 Application of part.

This part applies to (1) any agency of State or local government, any academic institution, or any other organization or individual, undertaking to submit a proposal to NSF for support of a project or major substantive modification thereto under a Federal program covered by Part I of A-95, and (2) NSF employees involved in the receipt, evaluation, or action taken on such proposals. Unless otherwise indicated, references to "A-95" used hereinafter mean Part I of that Circular as revised.

§ 660.3 Definitions.

Terms used in this Part will have the meanings indicated below. Where the primary source of a term is Title I of PL 90-577, Part V of A-95, or Paragraph 4 of TC 1082, that fact is indicated parenthetically.

(a) *State*—Any of the several States of the United States, the District of Columbia, Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State, but does not include the governments of the political subdivision of the State. (PL 90-577, Sec. 102)

(b) *Local Government*—a local unit of government, including specifically a county, municipality, city, town, township, or a school or other special district political subdivisions of the State. (PL 90-577, Sec. 103)

(c) *Unit of general local government*—any city, county, town, parish, village, or other general purpose political subdivision of a State (PL 90-577, Sec. 104)

(d) *Special-purpose unit of local government*—any special district, public purpose corporation, or other strictly limited-purpose political subdivision of a State, but shall not include a school district. (PL 90-577, Sec. 105)

(e) *Grant-in-Aid*—money, or property provided in lieu of money, paid or furnished by the United States under a fixed annual or aggregate authorization—

(1) To a State; or

(2) To a political subdivision of a State; or

(3) To a benficiary under a plan or program, administered by a State or a political subdivision of a State, which is subject to approval by a Federal agency; if such authorization either (i) requires the States or political subdivisions to expend non-Federal funds as a condition for the receipt of money or property from the United States; or (ii) specifies directly, or establishes by means of a formula, the amounts which may be paid or furnished to States or political subdivisions, or the amounts to be allotted for use in each of the States by the States, political subdivisions, or other beneficiaries. The term does not include payments under research and development contracts or grants which are awarded directly and on similar terms to all qualifying organizations, whether public or private (PL 90-577, Sec. 106).

(f) *Federal assistance*—programs that provide assistance through grant or contractual agreements. (PL 90-577, Sec. 107)

(g) *Clearinghouse*—includes:

(1) *State Clearinghouse*—an agency of the State Government designated by the Governor or by State law to carry out the requirements of Part I of A-95.

(2) *Areawide Clearinghouse*—(i) In nonmetropolitan areas, a comprehensive planning agency designated by the Governor (or Governors in the case of regions extending into more than one State) or by State law to carry out requirements of A-95; or

(ii) In metropolitan areas, an areawide agency that has been recognized by the Office of Management and Budget as an appropriate agency to perform review functions under A-95. (A-95, V. 10)

(h) *State central information reception agency* (SCIRA)—the State agency which has been designated by the Governor, in consultation with the legislature, to serve as the central reception point for Federal grant-in-aid information furnished under section 201 of the Intergovernmental Cooperation Act of 1968. (TC 1082, 4 F)

(i) *Covered Program*—Any NSF Program listed in Attachment D to A-95 or in Appendix I to the *Catalog of Federal Assistance*, whichever is later.

(j) *Project*—A definitely formulated research activity or other planned scientific undertaking. Excludes international travel grant activities.

(k) *Exempt Project*—(1) A project proposed for support under an NSF program not covered by A-95 (see also Sec. 660.5); or (2) A proposed project, for support under a covered program, which is national in scope and would not impact on the development of the particular State, area, or locality in which it is being conducted. (See § 660.4).

(l) *Major Substantive Modification*—(1) Any change in the nature or scope of the project which might result in a funding change, considered to be a "revision" for the purposes of SF 424; or (2) Any proposal for renewed support of a project beyond the period contemplated in the original proposal, considered to be a "renewal" for the purposes of SF 424.

(m) *Proposal*—An application for NSF support of a project.

§ 660.4 Notification of intent (NOI) and consultation and review procedures.

(a) Any individual, organization, or association planning to submit a proposal

for NSF support of a project, or major substantive modification thereto, which is not exempt from the provisions of this part, must notify the State clearinghouse of its intent. In the event a national organization or association intends to submit a proposal which it believes to be exempt under Sec. 660.3 k (2), the prospective applicant should consult with the appropriate NSF Program Officer prior to concluding that a notification of intent (NOI) is not required.

(b) Unless requested to do so by the clearinghouse in accordance with subparagraph 4 g of A–95, NSF grantees or contractors need not send an NOI to the clearinghouse prior to submitting a proposal either for supplemental support of a project during the currently approved period of support, considered to be an "augmentation" for the purposes of SF 424, or for continued support of a project beyond the current period of support if the project was proposed and has been approved for such longer period of support and no major substantive modification is contemplated, considered to be a "continuation" for the purposes of SF 424.

(c) If the project has specific applicability to or would affect local or areawide planning or programs, the governmental unit(s) where such impact would occur shall be identified and the notification also shall be sent to the areawide clearinghouse(s) having jurisdiction.

(d) Unless an applicable clearinghouse has prescribed some other form, SF 424 (Attachment E to A–95) may be used as the NOI required by subparagraph 2a of that Circular, by completion of Section I, Applicant/Recipient Data, as prescribed in "Applicant Procedures for Section I." The legal applicant/recipient described in item 4 of SF 424 should establish such internal control procedures as may be appropriate to ensure that the NOI adequately describes a project which the organization will conduct, if ultimately approved. Item 2 may be used for this purpose. Section 660.5(c), below, provides amplifying instructions for the subsequent use of the same form as the face sheet for the proposal to a covered NSF program.

(e) The NOI should be sent at the earliest feasible time, to permit the clearinghouse(s) to perform the functions prescribed in paragraph 3 of A–95. As indicated in subparagraph 4a of A–95, clearinghouses normally have 30 days to coordinate the NOI with appropriate State, multi-State, local, or regional governments or agencies, and to furnish comments to the applicant. If the review is not completed during this period, subparagraph 4b of A–95 provides for a clearinghouse to assist the applicant, during the proposed preparation phase, in the resolution of any problems raised by the NOI. If the clearinghouse so requires, it may have 30 days to review the completed application.

(f) A clearinghouse may request information beyond that contained in the NOI. If the requested information is required by NSF in its proposal submission guidelines, it, or the proposal itself, should be furnished to the clearinghouse. If the requested information is not so required, the applicant is encouraged to supply it to the clearinghouse if it is readily at hand and will not entail any extra expenditures of time or resources. In either event, the proposing institution or organization may omit confidential information of the types described in subparagraph 4e of A–95.

§ 660.5 State requirements.

Subparagraph 8g of A–95 recognizes that some States may have laws, executive orders, or administrative regulations which require review of applications for Federal assistance under various programs not covered by A–95. Proposing institutions or organizations are encouraged to ascertain the existence of such State requirements and to acquaint themselves with applicable State procedures. However, implementation of any such requirements is enforced through State laws and regulations. Nothing in this regulation shall be construed as an NSF requirement to extend the provisions of A–95 to any proposal for support of a project not covered thereby nor to enforce the rules and regulations of any of the several States concerning review of applications for Federal assistance.

§ 660.6 Submission of SF 424 with proposals under covered programs.

(a) In accordance with subparagraph 4f of A–95, applicants for support under covered programs must submit to NSF, with the completed proposal, evidence that the consultation and review procedures have been followed, and, where comments or recommendations have been made by or through clearinghouses, to furnish them to NSF.

(b) SF 424 provides a standardized means of evidencing compliance with the consultation and review procedures and is the required face sheet for proposals to covered programs. Proposing institutions or organizations are encouraged to begin using that form as soon as feasible, but shall do so in connection with any proposals submitted to covered programs on and after April 29, 1976. If the State clearinghouse has returned the SF 424 used as the NOI, the same form (or reproduced copies thereof) may be used by the proposing institution or organization to satisfy this requirement by (1) checking "application" in Section I, (2) completing Sections I and II in accordance with the applicant procedures prescribed on the form, as amplified in (c) below, and (3) attaching to the signed original any written comments received by or through clearinghouse(s). If more than 30 days (plus round trip mail time) have elapsed since the NOI was submitted with no comments from the clearinghouse(s), the proposing institution or organization may prepare a new SF 424, certifying that there has been no response. However, the State Application Identifier (SAI) must be shown. In either event, the completed SF 424 should be reproduced in sufficient copies to be used in lieu of the proposal cover page traditionally required by NSF.

(c) The applicant procedures for Sections I and II of SF 424 are amplified as follows for proposals for NSF support of projects under covered programs:

(1) Item 4, Legal Applicant Recipient—

(i) Applicant Name—list the commonly used name of the institution or organization which will provide the facilities and logistic support for the proposed project. (Normally, this is the employer of the principal investigator or project director.) In the event the grant or contract should be awarded to a different organization, check item 21, and, in Section IV add: "4 i, Grantee" (or contractor, if appropriate), and list the commonly used name of the organization to which the grant (or contract) should be awarded, if the project is approved for NSF support, and the address if different from that shown in (c) through (g).

(ii) Organization Unit—for any proposal, list the agency, department, or school, to which the principal investigator or project director is assigned; if the proposal is from a branch or campus of a statewide institution of higher education, list such branch or campus.

(iii) Address—list the mailing address of the organizational unit in (b).

(iv) Contact Person—list the name, title, and telephone number of the prospective principal investigator or project director, whose signature must be added to the original of the SF 424 used as the face sheet for the original proposal. Such signature signifies the agreement of the signor to assume responsibility for the scientific or technical direction of the project if NSF agrees to support it and for the preparation of required technical reports.

(2) Item 6, Program—if the proposal is in response to a Proposal Solicitation or Request for Proposals, check item 21, and in Section IV add: "6c., Program Solicitation" (or Request for Proposals) and indicate the number and date of the NSF document which solicited or requested the proposal.

(3) Item 7, Title and Description of Applicant's Project—This project description is not a substitute for the scientific abstract required in NSF proposals. It should be worded so as to assist the clearinghouse(s) in determining which State or local governmental agency might be interested in the project, and to assist such agencies in determing whether or not the project might have a direct impact on their capacity building or other planning activities. It should indicate the basic project nature (e.g., basic or applied research, interchange of scientific information, etc.) and its objectives.

(4) Item 11—Estimated Number of Persons Benefitting—unless the project is jurisdiction specific, and its expected results are anticipated to directly affect persons within that jurisdiction, indicate "N.A." (not applicable).

(5) Item 13—Proposed Funding—In most science projects supported by NSF, the only cost-sharing requirement is that the grantee must share in the costs of a project, not solicited by NSF, in more

than a token amount, as defined in the NSF Grant Administration Manual. Therefore, unless there are specific plans for significant funding commitments from the types of agencies or organizations listed in b. through e., those entries should be marked "N.A." (not applicable).

(6) Item 22 a, Applicant Certification—In lieu of the assurances contained in Part V of Exhibit M–3 to FMC 74–7, the "attached assurances" for NSF purposes are:

"On behalf of the applicant agency, institution, or organization I certify that the project described above is consistent with its policies and goals and that submission of this proposal is in accordance with its procedures and pursuant to appropriate authority. On behalf of the organization designated as the intended recipient of the requested Federal funding, I certify that it has legal authority to accept grants or contracts and the requisite policies, procedures, and personnel to ensure stewardship of Federal funds as outlined in the NSF Grant Administration Manual."

"In the event that NSF agrees to provide financial support of the project substantially as requested in the attached proposed budget or such modifications thereof as may be mutually agreed, I affirm that the applicant agency, institution, or organization will:

(i) Make available the necessary facilities, equipment, services, and personnel to conduct the project substantially as outlined in the attached proposal or such modifications thereof as may be mutually agreed;

(ii) Conduct such project oversight as may be appropriate, manage the Federal funding with probity and prudence, and comply with the terms and conditions of the NSF grant or contract; and

(iii) Comply with applicable laws and regulations."

"In submitting this proposal, I further affirm that the 'Assurance of Compliance with National Science Foundation Regulations under Title VI of the Civil Rights Act of 1964,' previously executed, is fully applicable to the project."

(d) In accordance with subparagraph 6(b) of A–95, any formal proposal for support of a project under a covered program, not accompanied by evidence of compliance with the consultation and review procedures and an SAI number, will be returned to the proposing institution or organization for compliance with such procedures.

§ 660.7 NSF consideration of clearinghouse comments.

(a) The NSF Program Officer who makes the staff evaluation of the proposal will consider any comments submitted by or through clearinghouses. However, since the subject matter of clearinghouse comments and recommendations, prescribed by paragraph 5 of OMB Circular A–95, does not involve the NSF criteria for the selection of research projects (appearing at 39 FR 42954), copies of such clearinghouse comments normally will not be made available to outside reviewers.

(b) In some cases, a clearinghouse may recommend that a proposal be disapproved or that it be approved only with specific and major substantive changes. In the event that the Program Officer of a covered program recommends approval of the project substantially as proposed, or with changes which differ from those recommended by the clearinghouse, a brief explanation for the clearinghouse will be prepared as required by subparagraph 6d of A–95, for attachment to the SF 424.

(c) In some cases, a clearinghouse may recommend against approval of a project because it appears to conflict with or duplicate another Federal or federally assisted project. In that event, the Program Officer will consult with the agency assisting the referenced project, as required by subparagraph 6e of A–95, prior to recommending an award. If the Program is covered by A–95, such consultation will be indicated in Section IV of SF 424.

(d) In some cases, clearinghouse comments may indicate that a unit of general local government, having jurisdiction over the area in which a project is to be performed by a special purpose unit of local government, has submitted or plans to submit a proposal for the same or a similar type of project. Although NSF administers no programs of grants-in-aid which are subject to the provisions of Section 402 of the Intergovernmental Cooperation Act of 1968 or of subparagraph 6f of A–95 (favoring units of general local government) the Program Officer shall consider the merits of each of the two proposals prior to recommending final action on that from the special purpose unit of local government.

(e) When action is recommended on a proposal, the Program Office in a covered Program will complete those portions of Section III of SF 424, submitted with the proposal, which identify the Program, and indicate whether or not remarks have been added. Other Program Offices may file the externally-initiated SF 424 or comparable State form in the proposal jacket without further action. (During the transition period between the effective date of this part and the time at which proposals accompanied by externally-initiated SF 424 reach the action stage, the Program Officer will initiate the SF 424, completing sufficient portions of Section I to provide the types of identifying information formerly furnished in Standard Form 240, plus programmatic portions of Section III.)

§ 660.8 Notification to clearinghouses of action taken—SF 424.

In accordance with subparagraph 6c of A–95 the following notification actions will be taken:

(a) If a proposal for support under a covered program is withdrawn or declined, the Program Officer shall complete additional appropriate entries in Section III and mail the completed form(s) to the clearinghouse(s) listed in Section II within seven working days after receipt of the withdrawal request or simultaneously with dispatch of the declination letter, as appropriate.

(b) If the Program Officer recommends that an award be made, the SF 424 and related documents shall be sent to the Division of Grants and Contracts as part of the recommended award package, for completion and dispatch. However, since the amounts of funding, if any, to be contributed by the proposing institution or organization, the State or local government, or other source are not required in proposals to most NSF programs and would not normally be known to NSF except through the proposed funding entries in Section I, the funding contributions by other than the Federal government will not be shown in Section III. Following signature of the grant or contract, the action date will be stamped on the form at the same time that the award is dated and copies will be dispatched to each of the clearinghouses listed in Section II simultaneously with dispatch of the award instrument to the grantee or contractor.

§ 660.9 Supplemental reporting of award information.

In furtherance of the TC 1082 supplemental reporting requirement, NSF will continue to provide to each SCIRA a Statewide Award Report which provides aggregated information on each project award made by NSF during the previous quarter to any agency of State or local government, any academic institution, or any other non-profit organization or commercial firm within the State. The report includes information on all such awards, including those separately reported to clearinghouses in accordance with A–95 requirements.

It contains most of the essential data elements contained in SF 424. However, since the SAI number is not a standard NSF data element, it is contained only in the SF 424 furnished to clearinghouses in accordance with § 660.8 of this part.

[FR Doc.76–13572 Filed 5–12–76;8:45 am]

Title 46—Shipping

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER R—NAUTICAL SCHOOLS

[CGD 74–201]

PART 167—PUBLIC NAUTICAL SCHOOL SHIPS

Manning

The purpose of this amendment is to provided that manning requirements for nautical school ships be stated in the Certificate of Inspection. This amendment is based on a notice of proposed rulemaking published in the January 21, 1975, issue of the FEDERAL REGISTER (40 FR 3311).

Seven comments were received. All of the comments supported the proposal. However, two commenters questioned the proposed paragraph (b) which provided for the Master of a nautical school

ship to accept students to perform the duties of, and fill, unlicensed crew requirements. The comments were concerned with the authority of the Master to determine qualifications for manning. The Coast Guard agrees with the concern and has not adopted proposed paragraph (b). Requirements of the certificate of inspection for the employment of seamen required to be qualified and certificated cannot be met by the mere assignment of a student who does not hold the necessary certificates. Further, the determination as to who is qualified to perform the duties of certificated crew members cannot be delegated to a Master or any other authority since it is statutorily vested in the Coast Guard.

Another commenter was concerned as to when the manning requirements provided for in the proposal will actually be in effect. The commenter questioned whether the manning requirements will apply at all times, or only when the vessel is in an active status as opposed to being moored in port for use as a student training laboratory or as a dormitory for quartering students. The Certificate of Inspection will specify manning requirements to provide sufficient qualified personnel for the safe navigation of the vessel while students are being trained at sea. During in-port training periods, it is the responsibility of the Master of the vessel to utilize members of his crew to ensure that security and safety of the vessel are maintained.

In consideration of the foregoing, Part 167 of Title 46 of the Code of Federal Regulations is amended by revising § 167.60–15 to read as follows:

§ 167.60–15 Manning and persons allowed to be carried.

The Officer in Charge, Marine Inspection, shall specify in the Certificate of Inspection the minimum complement of officers and crew necessary for the safe navigation of the vessel and shall specify the total number of persons allowed to be carried.

(R.S. 4405, as amended, R.S. 4462, as amended, Sec. 6(b)(1), 80 Stat. 937; 46 U.S.C. 375, 416, 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b))

Effective date. These amendments shall become effective on June 14, 1976.

Dated: May 6, 1976.

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

[FR Doc.76–13763 Filed 5–12–76;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

PART 1033—CAR SERVICE

[S.O. No. 1125–A]

St. Louis-San Francisco Railway Company Authorized To Operate Over Tracks of the Kansas City Southern Railway Company

MAY 10, 1976.

At a Session of the INTERSTATE COMMERCE COMMISSION, Railroad Service Board, held in Washington, D.C., on the 7th day of May, 1976.

Upon further consideration of Service Order No. 1125 (38 F.R. 6883, 19126, 33482; 39 F.R. 18281, 44208; and 40 F.R. 24006), and good cause appearing therefor:

It is ordered, That:

§ 1033.1125 *St. Louis-San Francisco Railway Company authorized to operate over tracks of the Kansas City Southern Railway Company be, and it is hereby, vacated and set aside.*

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2).)

It is further ordered, That this order shall become effective at 11:59 p.m., May 7, 1976; that copies of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, Members Lewis R. Teeple, Thomas J. Byrne, and William J. Love.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.76–14027 Filed 5–12–76;8:45 am]

Title 7—Agriculture

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

[Navel Orange Regulation 380]

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

Limitation of Handling

PREAMBLE

This regulation fixes the quantity of California-Arizona Navel oranges that may be shipped to fresh market during the weekly regulation period May 14–20, 1976. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 907. The quantity of Navel oranges so fixed was arrived at after consideration of the total available supply of Navel oranges, the quantity currently available for market, the fresh market demand for Navel oranges, Navel orange prices, and the relationship of season average returns to the parity price for Navel oranges.

§ 907.680 Navel Orange Regulation 380.

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

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

(i) The committee has submitted its recommendation with respect to the quantities of Navel oranges that should be marketed during the next succeeding week. Such recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors enumerated in the order. The committee further reports that the fresh market demand for Navel oranges has improved for size 113's and larger. Prices f.o.b. averaged $3.05 a carton on a reported sales volume of 1,207 carlots last week, compared with an average f.o.b. price of $3.12 per carton and sales of 1,133 carlots a week earlier. Track and rolling supplies at 515 cars were down 65 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the respective quantities of Navel oranges which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time this regulation must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective

time has been disseminated among handlers of such Navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period herein specified; and compliance with this regulation will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on May 11, 1976.

(b) *Order.* (1) The respective quantities of Navel oranges grown in Arizona and designated part of California which may be handled during the period May 14, 1976, through May 20, 1976, are hereby fixed as follows:

(i) District 1: 1,050,000 cartons;
(ii) District 2: Unlimited movement;
(iii) District 3: Unlimited movement."

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

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

Dated: May 12, 1976.

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

[FR Doc.76-14257 Filed 5-12-76;11:44 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 STATE

Office of the Secretary

[22 CFR Part 6]

[Docket No. SD-118]

FREEDOM OF INFORMATION FEES

Proposed Amendment to Freedom of Information Act

The Department of State is considering an amendment to Title 22, Part 6 of the Code of Federal Regulations that would revise § 6.14 (a) (1) and (c) concerning the schedule of fees and method of payment for services rendered under the Freedom of Information Act, as amended (5 U.S.C. 552).

Interested persons may participate in the proposed amendment by submitting such written data, views, or arguments as they may desire. Communications should be submitted to the Assistant Legal Adviser for Management, Room 5423, Department of State, Washington, D.C. 20520. All communications received on or before June 7, 1976 will be considered before action is taken on the proposed amendment.

On February 19, 1975 (40 FR 7256) revised regulations specified that requesters be notified if search charge is likely to exceed $25. At that time this represented five hours search at $5 an hour. On October 16, 1975 (40 FR 48503) the Department amended § 6.14(a)(1) by changing the schedule of fees to $6 an hour for clerical and $11 an hour for professional search for records.

Since the implementation of the Act, the Department has noted that when professional search is required the cost very frequently exceeds $25. It is, therefore, proposed that the figure of $25 stated in paragraph (c) of this section be changed to $50 so that where it is anticipated that the fee charge will amount to more than $50 the requester will be notified.

Accordingly, it is proposed to change § 6.14(a)(1) and (c) of title 22 of the Code of Federal Regulations to read as follows:

§ 6.14 Schedule of fees and method of payment for service rendered.

(a) * * *

(1) Search for records, per hour or fraction thereof—

(i) Professional (GS-9 level and above)	$11.00
(ii) Clerical (GS-8 level and below)	6.00

* * * * *

(c) Where it is anticipated that the fees chargeable under this section will amount to more than $50 and the requester has not indicated in advance his willingness to pay fees as high as are anticipated, the requester shall be promptly notified of the amount of the anticipated fees or such portion thereof as can readily be estimated. In appropriate cases, an advance deposit may be required. The notice or request for an advance deposit shall extend an offer to the requester to confer with knowledgeable Departmental personnel in an attempt to reformulate the request in a manner which will reduce the fees and meet the needs of the requester. Dispatch of such a notice or request shall suspend the running of the period for response by the Department until a reply is received from the requester.

* * * * *

This revision is proposed under authority of 5 U.S.C. 552 as amended by Pub. L. 93-502.

For the Secretary of State.

Dated: April 30, 1976.

[SEAL]

LAWRENCE S. EAGLEBURGER,
Deputy Under Secretary for Management.

[FR Doc.76-13855 Filed 5-12-76;8:45 am]

DEPARTMENT OF DEFENSE

Corps of Engineers

[33 CFR Part 209]

ADMINISTRATIVE PROCEDURE

Proposed Erection of Structures in Navigable Waters

Notice is hereby given that pursuant to the provisions of Section 10 of the River and Harbor Act of 3 March 1899 (30 Stat. 1151; 33 U.S.C. 403), and Section 4 of the Outer Continental Shelf Lands Act of 7 August 1953 (67 Stat. 462; 43 U.S.C. 1333 (f)), the regulations set forth below in tentative form are proposed by the Secretary of the Army (acting through the Chief of Engineers) to control the erection of structures in navigable waters and the Outer Continental Shelf. It is proposed to amend the present regulations with respect only to paragraph (d) (29) in 33 CFR 209.135 to revise the Southwest Pass (Mississippi River) Anchorage Area to allow access to extensive hydrocarbon reserves located under a portion of the existing anchorage area.

Prior to the adoption of the proposed regulations consideration will be given to any comments, suggestions or objections thereto which are submitted in writing to the Office of the Chief of Engineers, Forrestal Building, Washington, D.C. 20314, Attention: DAEN-CWO-N on or before June 14, 1976.

209.135 Shipping Safety Fairways and Anchorage Areas, Gulf of Mexico.

* * * * *

(d) The Areas.

* * * * *

(29) *Southwest Pass (Mississippi River) Anchorage.* The area between lines joining points at:

Latitude	*Longitude*
28°53'30"	89°25'18"
28°53'30"	89°21'48"
28°55'06"	89°21'48"
28°55'06"	89°19'18"
28°52'41"	89°17'30"
28°50'40"	89°21'14"
28°50'40"	89°24'48"
28°52'42"	89°24'48"
28°53'30"	89°25'18"

* * * * *

Dated: May 4, 1976.

MARVIN W. REES,
Colonel, Corps of Engineers
Executive Director of Civil Works.

[FR Doc.76-13848 Filed 5-12-76;8:45 am]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 33]

SPORT FISHING

Proposed Opening of Refuge

Notice is hereby given that 50 CFR Part 33 is proposed to be amended by the addition of Big Stone Wildlife Refuge, Ortonville, Minnesota, to the list of refuge areas open for sport fishing, which is published at 50 CFR (§ 33.4).

Pursuant to the authority of 16 U.S.C. § 668dd(d), as redelegated to the Director of the United States Fish and Wildlife Service at D.M. 242.1.1, the Director may permit sport fishing on a wildlife refuge area upon a determination that it would not be contrary to the provisions of law applicable to the area, would be compatible with the principles of sound fisheries management and would otherwise be in the public interest. As a general rule, most areas within the Wildlife Refuge System are closed to sport fishing until officially opened by regulation. It is the purpose of this proposed rulemaking to allow sport fishing on the Big Stone Wildlife Refuge, which is presently prohibited.

Special circumstances are involved in the promulgation of this rulemaking which limit the amount of time which the Service can allow for only public comment. Specifically, the administration of the area was recently transferred from the U.S. Corps of Engineers to the U.S. Fish and Wildlife Service and State fishing seasons begin in mid-May.

Nevertheless it is the policy of the Department of the Interior whenever practicable to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions or objections regarding the proposal

to Regional Director, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111. All relevant comments received on or before May 21 shall be considered by the Director prior to the isssuance of a final rulemaking.

Furthermore, pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. § 4332(2)(C)), an environmental assessment has been prepared on this proposal to determine whether this rulemaking constitutes a major federal action significantly affecting the human environment. A copy of this assessment is available for public inspection at the office above.

§ 33.4 [Amended]

Accordingly, it is proposed to amend (§ 33.4) in Title 50 of the Code of Federal Regulations as set forth below:

MINNESOTA

BIG STONE NATIONAL WILDLIFE REFUGE

LYNN A. GREENWALT,
Director,
U.S. Fish and Wildlife Service.

MAY 10, 1976.

[FR Doc.76-14003 Filed 5-12-76;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Parts 1062, 1007, 1011, 1030, 1032, 1046, 1049, 1050, 1063, 1064, 1065, 1068, 1070, 1071, 1073, 1076, 1078, 1079, 1090, 1094, 1096, 1097, 1098, 1099, 1101, 1102, 1104, 1106, 1108, 1120, 1126, 1131, 1132, 1138]

[Docket Nos. AO-10-A52, et al.]

MILK IN THE ST. LOUIS-OZARKS AND CERTAIN OTHER MARKETING AREAS

Proposed Amendments to Tentative Marketing Agreements and Orders

CFR Part	Marketing area	Docket No.	
1062	St. Louis-Ozarks	AO-10-A52	
1007	Georgia	AO-366-A15	
1011	Appalachian	AO-251-A19	R01
1030	Chicago Regional	AO-361-A16	
1032	Southern Illinois	AO-313-A30	
1046	Louisville-Lexington-Evansville.	AO-123-A46	
1049	Indiana	AO-319-A27	
1050	Central Illinois	AO-355-A20	
1063	Quad Cities-Dubuque	AO-105-A43	R01
1064	Greater Kansas City	AO-23-A50	
1065	Nebraska-Western Iowa	AO-86-A36	
1068	Upper Midwest	AO-178-A35	
1070	Cedar Rapids-Iowa City	AO-229-A32	R01
1071	Neosho Valley	AO-227-A33	
1073	Wichita, Kans	AO-173-A34	
1076	Eastern South Dakota	AO-260-A23	
1078	North Central Iowa	AO-272-A27	R01
1079	Des Moines, Iowa	AO-295-A32	R01
1090	Chattanooga, Tenn	AO-266-A21	R01
1094	New Orleans-Mississippi	AO-103-A39	
1096	Greater Louisiana	AO-257-A27	
1097	Memphis, Tenn	AO-219-A33	
1098	Nashville, Tenn	AO-184-A41	
1099	Paducah, Ky	AO-183-A35	
1101	Knoxville, Tenn	AO-195-A25	R01
1102	Fort Smith, Ark	AO-237-A27	
1104	Red River Valley	AO-298-A27	
1106	Oklahoma Metropolitan	AO-210-A40	
1108	Central Arkansas	AO-243-A31	
1120	Lubbock-Plainview, Tex	AO-238-A20	
1126	Texas	AO-231-A44	
1131	Central Arizona	AO-271-A22	
1132	Texas Panhandle	AO-262-A29	
1138	Rio Grande Valley	AO-335-A25	

Notice is hereby given of a public hearing to be held at the Colony Hotel, 7730 Bonhomme Avenue, Clayton, Missouri 63105, beginning at 10:00 a.m. local time on June 2, 1976, with respect to possible amendments to the tentative marketing agreements and to the orders, regulating the handling of milk in the aforesaid specified marketing areas.

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

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the issues hereinafter set forth and any appropriate modification to the tentative marketing agreements and to the orders.

There is no amendment which has been specifically proposed for consideration at the hearing. Consequently, there is no proposed amendment that has received the approval of the Secretary of Agriculture.

The hearing on advance Class II pricing is required by a Decision and Order issued April 29, 1976, by the Judicial Officer of the United States Department of Agriculture. Other issues included for hearing are related to the principal issue of advance Class II pricing and they will afford a full consideration of the principal issue.

BACKGROUND

In 1970, at the request of the Milk Industry Foundation and the International Association of Ice Cream Manufacturers, a rulemaking hearing was held for seven Federal milk orders to consider proposals relating to the classification and pricing of milk. One of the proposals was that the price for Class II milk be announced in advance of the date on which it becomes effective. In 1971, a similar rulemaking hearing was held with respect to 33[1] other Federal milk orders to consider similar proposals, one of which also proposed advance announcement of the Class II milk price.

As a result of the hearings, four final decisions by the Assistant Secretary were published in the FEDERAL REGISTER on March 4, 5, 6, and 7, 1974, relating to the 39 Federal orders. The order amendments involved in the rulemaking hearings were effective August 1, 1974 (39 F.R. 15404, 15762, 15997, 16232). The four final decisions rejected advance price announcement for the Class II price.

A proceeding under § 8c (15)(A) of the Agricultural Marketing Agreement Act of 1937[2] was instituted by certain handlers of milk regulated by various Federal milk orders. The petition challenged the legality of provisions which provide that handlers are not advised of the price of Class II milk which they use in any month until the fifth day of the following month.

After due consideration of the petition and evidence in the proceeding, and the initial decision of the Administrative Law Judge, the Judicial Officer of the Department concluded that the provisions providing for past notice of the Class II price in the 39 orders involved in the rulemaking proceedings referred to above are not in accordance with law.

The Judicial Officer retained jurisdiction of the proceeding for a subsequent final Decision and Order and left it to the Secretary to determine what corrective action should be taken. In this connection, it is concluded that a hearing should be convened to consider further the issue of advance pricing for Class II milk and other issues necessarily related to such consideration. Such issues will be open for consideration at the hearing, but only to the extent of resolving the Decision and Order of the Judicial Officer in the "Babcock" decision.

It is noted that there are not 39 orders listed above. The initial number of markets has been reduced by the Texas merger (effective July 1, 1975) and the Upper Midwest merger (effective June 1, 1976 and involving the Minneapolis-St. Paul, Southeastern Minnesota, Minnesota-North Dakota and Duluth-Superior orders).

The Appalachian and Knoxville orders are included herein as a reopened hearing on the basis of a proceeding in progress to merge those orders with the Chattanooga order, which was included in the initial 39-order proceeding. A recommended decision to merge the three orders and to redesignate the area as the Tennessee Valley marketing area was issued March 12, 1976.

Also, this hearing reopens a merger hearing, held March 29, 1976, comprising the Des Moines, Quad Cities-Dubuque, Cedar Rapids-Iowa City, and North Central Iowa orders.

ISSUES FOR CONSIDERATION AT THE HEARING

1. Advance announcement of the Class II milk price.
2. Products to be classified in Class II and Class III.
3. For Class II milk, differential pricing over the Class III price.
4. Revisions that may be necessary to make the entire marketing agreements and the orders conform with any amendments thereto that may result from this hearing.

Certain issues that were considered in the initial "classification" proceeding are not appropriate for consideration at this hearing in light of the order provisions affected by the Decision and Order issued by the Judicial Officer. The issues that are not appropriate for consideration at the hearing are listed below for the convenience of participants in preparing for the hearing.

ISSUES NOT APPROPRIATE FOR CONSIDERATION AT THE HEARING

a. Class I classification provisions.
b. Class I and Class III price provisions.
c. Basic formula price.
d. Class II and Class III butterfat differentials.

[1] One of the orders (Mississippi) was terminated leaving a total of 39 involved in the 1970 and 1971 rulemaking proceedings.

[2] AMA Docket No. M MM-3 in re The Babcock Dairy Company of Ohio, et al.

e. Other source milk definition.
f. Accounting for nonfat milk solids added to milk and milk products.
g. Classification of milk transferred or diverted to other plants.
h. Classification of end-of-month inventories.
i. Classification of shrinkage, milk dumped and milk disposed of for animal feed.
j. Allocation of receipts and utilization.
k. Reports.
l. Treatment of filled milk.
m. Equivalent price provision.
n. Any other issue not listed above and which is not specifically related to the issues enumerated for consideration at the hearing.

Copies of this notice of hearing and the orders may be obtained from the market administrators of the respective orders, or from the Hearing Clerk, Room 112-A, Administration Building, United States Department of Agriculture, Washington, D.C. 20250 or may be there inspected.

Signed at Washington, D.C., on May 10, 1976.

IRVING W. THOMAS,
Acting Administrator.

[FR Doc.76-13954 Filed 5-12-76;8:45 am]

DEPARTMENT OF COMMERCE

Maritime Administration

[46 CFR Parts 206 and 207]

OPERATING-DIFFERENTIAL APPLICATION HEARINGS

Amended Notice of Proposed Rulemaking

In FR Doc. 76-12229 appearing in the FEDERAL REGISTER on April 28, 1976, (41 FR 17750) Notice of Proposed Rulemaking was given covering revision of miscellaneous fees and procedures for furnishing statistical data under Subpart A of Part 206 of Title 46 of the Code of Federal Regulations, inviting comment thereon by Wednesday, May 12, 1976.

Said Notice of Proposed Rulemaking is hereby amended to extend the date for submission of written comments to close of business on Wednesday May 26, 1976.

By order of the Maritime Subsidy Board.

Dated: May 10, 1976.

JAMES S. DAWSON, Jr.,
Secretary,
Maritime Subsidy Board.

[FR Doc.76-14036 Filed 5-12-76;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 55]

[FRL 542-4]

ENERGY-RELATED AUTHORITY: IOWA

Proposed Compliance Date Extension(s)

The Administrator of the United States Environmental Protection Agency proposes to amend 40 CFR Part 55 by adding a new § 55.821 to subpart Q to provide for the issuance of a compliance date extension to Iowa Public Service Company, George Neal Station, Unit 1, Salix, Iowa. This proposed rulemaking is based upon the authority granted the Administrator in Sections 119 and 301 of the Clean Air Act, as amended (42 U.S.C. 1857 et seq.), and is in accordance with the procedures provided in 40 CFR Part 55.

BACKGROUND

Congress enacted on June 22, 1974, the Energy Supply and Environmental Coordination Act of 1974 (ESECA) (P.L. 93-319, 88 Stat. 246, 15 U.S.C. § 791) "to provide for a means to assist in meeting the essential needs of the United States for fuels, in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment * * *."

ESECA authorizes and directs the Administrator of the Federal Energy Administration (FEA) under section 2(a) of ESECA (15 U.S.C. § 792) to prohibit until January 1, 1985, the use of petroleum products or natural gas as the primary energy source at certain power plants and major fuel burning installations. Section 3 of ESECA (added to the Clean Air Act, 42 U.S.C. 1857c-10, as a new section 119) provides that the Administrator of the Environmental Protection Agency (EPA) must take certain actions in response to the issuance of FEA prohibition orders.

Section 119 requires the Administrator of EPA to take specific steps intended to assure that the national primary ambient air quality standards (NPAAQS) are not jeopardized by increased emissions resulting from conversions to coal necessitated by the issuance of FEA prohibition orders. In addition, to treat equitably those ordered sources which must convert to coal and whose primary energy source was, prior to September 15, 1973, oil or natural gas, section 119(c) provides for relief in the form of "compliance date extensions" (CDE). If certain conditions are met, an ordered source, situated in an AQCR in which the NPAAQS for a specific pollutant is being attained, may be issued a compliance date extension which extends the time required to meet specified, air pollution control requirements for that pollutant. An ordered source situated in an AQCR in which the NPAAQS for a specified pollutant is not being attained, will be issued a compliance date extension which provides for meeting currently applicable air pollution requirements for that pollutant as soon as practicable, and FEA cannot make its section 2 ESECA order effective before the date the source should be able to meet these requirements. Since section 119(c) of ESECA and the granting of compliance date extensions constitute new approaches to problems addressed elsewhere in the framework of the Clean Air Act, a brief explanation of that statute is appropriate.

THE CLEAN AIR ACT, AS AMENDED

Under the Clean Air Act, as amended, each state submitted a plan (known as the State implementation plan or SIP) for approval by the EPA Administrator. Each SIP is designed to provide for attainment and maintenance of national primary and secondary ambient air quality standards. The SIP for Iowa was approved at 40 CFR 52.822 (40 FR 10867) by the Administrator on May 31, 1972. Under section 110 of the Clean Air Act all NPAAQS are to be met as expeditiously as practicable. The attainment date for NPAAQS for sulfur oxides and particulate matter was May 31, 1975.

National primary standards are established at levels calculated to protect the public from adverse health effects. National secondary standards represent the ambient air concentration levels necessary to protect against adverse effects on property and crops (welfare related), and are generally more stringent than national primary standards. Pollutants for which standards have been promulgated include sulfur oxides, particulate matter, hydrocarbons, carbon monoxide, nitrogen oxides, and photochemical oxidants, but increased coal burning will most significantly result in increased emission of sulfur oxides and particulate matter.

The SIPs now in effect generally provide for meeting national ambient air quality standards by requiring sources of these pollutants not to exceed specified limits on the amounts of pollutants emitted into the ambient air. These emission limitations, the dates by which they must be met, and other applicable air pollution requirements may be the subjects of compliance date extensions under section 119(c).

THE RELATIONSHIP BETWEEN ESECA AND THE CLEAN AIR ACT

Under § 2 (a) and (b) of ESECA, the Administrator of the Federal Energy Administration (FEA) must by order prohibit any powerplant from burning natural gas or petroleum products as its primary energy source if he finds that (1) burning coal at that powerplant is practicable and consistent with the purposes of ESECA, (2) coal and coal transportation facilities will be available during the period the order is in effect, (3) such a prohibition will not impair the reliability of service at that powerplant, and (4) the powerplant, on June 22, 1974, had the capability and necessary plant equipment to burn coal. On June 30, 1975, the Administrator of FEA issued orders under § 2 of ESECA to 74 generating units at 32 powerplants. FEA's authority to issue prohibition orders extends to June 30, 1977, and its authority to enforce these orders will expire on January 1, 1985.

Section 119 of the Clean Air Act additionally provides that, having received FEA prohibition orders, sources which on or after September 15, 1973, convert to the use of coal as their primary energy source are eligible for "compliance date extensions" (CDE) for applicable air pollution requirements if the Administrator of EPA determines that certain other conditions, provide for in § 119 (c) and (d), are met. In particular, section 119 (c) provides that a compliance date extension may be issued only if the EPA Administrator finds that (1) the source

cannot burn coal which is available to it in compliance with all applicable air pollution requirements without an extension; (ii) during the period of the extension the source will be able to comply with all applicable primary standard conditions (PSC) and any applicable regional limitations (RL) (described in more detail below); and (iii) the source has submitted and EPA has approved a compliance plan with certain specified features. Upon the grant of a compliance date extension, in accordance with § 119(d)(1)(B), EPA will certify to the Administrator of FEA the earliest date the source can burn coal and comply with any applicable PSC or RL. This certification date represents the earliest date FEA can make its prohibition order effective against the source.

EFFECT OF A COMPLIANCE DATE EXTENSION

Any compliance date extension will be specific to an individual source and will be issued on a unit-by-unit basis. It may affect requirements for one pollutant only, or for more than one. The determination whether or not the NPAAQS for a pollutant is being attained in the AQCR will dictate which of two possible effects of the grant of a CDE concerning that pollutant to that source will result:

(1) If the NPAAQS for a particular pollutant is being attained in the AQCR in which the source is situated, a compliance date extension may permit, for a specified period of time, the burning of coal resulting in emissions of that pollutant in excess of applicable air pollution requirements, including State implementation plan emission limitations for the pollutant for which the standard is being met, so long as all NPAAQS are maintained. Sources granted such extensions must achieve compliance with State implementation plan requirements as soon as practicable, but no later than December 31, 1978. Meanwhile, the source must enter into an enforceable compliance schedule to assure compliance with air pollution requirements by the time the extension expires.

In addition, when a compliance date extension is issued to a source situated in an AQCR in which the NPAAQS is being attained for the pollutant for which the CDE is granted, "primary standard conditions" (PSC) must be imposed by EPA, in consultation with appropriate States. Primary standard conditions are emission limitations, requirements respecting the pollution characteristics of coal, or other enforceable measure for control of emissions, which the Administrator determines must be met by a converting source in order to assure, throughout the terms of the extensions, that the burning of coal by that source will not cause or contribute to concentrations of any air pollutant in excess of any national primary ambient air quality standards. Once the PSC is met, the source may begin coal burning so long as any applicable regional limitations (discussed below) are also met.

(2) If a source is situated in an AQCR in which the NPAAQS is being exceeded for a specific pollutant, an additional condition, the "regional limitation," is imposed in connection with the issuance of a CDE under section 119(c)(2)(D). FEA is precluded from making its prohibition order effective against a source to which an RL applies prior to the date the source should be able to comply with the RL. When the regional limitation is applicable for a given pollutant, the source may not violate any requirement, including emission limitations, under the applicable SIP concerning that pollutant.

For example, a source located in an AQCR in which primary standards for sulfur oxides are being met but standards for particulate matter are not being met may receive a CDE and could exceed applicable SIP emission limitations for sulfur oxides so long as it complies with prescribed primary standards conditions for sulfur oxides. The source, however, would be required to meet the regional limitation (the implementation plan requirements) for particulate matter at all times, even after conversion to coal, and it must be taking steps before conversion to assure that those requirements will be met by the effective date of the FEA's prohibition order. If, at any time subsequent, it is determined that the national primary standard is being attained in that AQCR, the source would no longer be subject to the regional limitation and necessary primary standard conditions for particulate matter will be prescribed. The source could burn coal in violation of extended SIP particulate matter requirements as soon as such primary standard conditions are met.

Interim requirements which must be met prior to conversion to coal (such as requirements to meet increments contained in compliance schedules for PSCs, RLs, and all extended requirements) may be imposed and enforced by EPA under section 119 of the Clean Air Act even though the source has not yet converted to the use of coal. However, the source will not be excused from compliance with any applicable air pollution requirement until it has fulfilled *all* applicable conditions on the extension (PSCs or RLs) and has actually made the conversion to coal. The "effective date" of the CDE is, therefore, the date on which the conditions are met and compliance with applicable air pollution requirements is excused as provided by the terms of the CDE.

DETERMINING WHETHER A CDE MAY BE GRANTED

Within 90 days after the issuance of a § 2(a) prohibition order, a source eligible for a CDE is required at 40 CFR Part 55 (40 FR 18438, April 28, 1975) to submit specified information necessary to enable the Administrator of EPA either to find that the source can comply with all applicable air pollution requirements without a CDE or to issue a CDE and impose appropriate conditions, limitations, and interim requirements thereon.

Information submitted under 40 CFR Part 55, ambient air quality monitoring data, atmospheric simulation modelling data, and any other relevant information available to the Administrator will for the basis for the Administrator's findings on ability to meet applicable PSCs and RLs, and approvability of plans for compliance.

A. Coal availability. In order to receive a compliance date extension, a source must show that it cannot burn coal which is available to it in compliance with all applicable air pollution requirements without a CDE. This showing should include documentation of efforts to obtain coal of such quality that it can be burned in compliance with applicable requirements. Such documentation might include copies of advertisements for coal of suitable specified quality or within a suitable specified range of characteristics; records of contacts with named suppliers, and relevant correspondence or telephone memoranda.

B. Ability to comply with primary standard conditions and regional limitations. Once EPA has determined the appropriate primary standard conditions necessary to protect NPAAQS throughout the period that applicable requirements are extended, and has determined whether the regional limitation applies, a finding must be made that the source can comply with applicable PSC and RL before a compliance date extension may be granted. Such a finding of ability to meet applicable primary standard conditions and regional limitations may involve several more limited findings. For example, the Administrator may find that a specific source can meet applicable PSC and/or RL by one or more of the following: obtaining through advertisement (or other means) coal with appropriate sulfur and ash content; upgrading pollution control equipment presently in place; installation of new control equipment; or the use of supplementary control systems (only for purposes of meeting primary standard conditions) at isolated powerplants which will assume responsibility for violation of NPAAQS in the area affected by such plant's emissions.

C. Approvable compliance schedules. Before a CDE may be issued, the source must submit and EPA must approve (or modify if necessary) a plan for compliance (based upon continued usage of coal as primary energy source) with the requirements of the applicable SIP (and any applicable New Source Performance Standard or National Emission Standard for Hazardous Pollutants) for which an extension has been granted. Specifically, EPA must require that the source achieve the most stringent degree of emission reduction that such source would have been required to achieve under the applicable implementation plan which was in effect on the date of submittal of such compliance plan under 40 CFR Part 55 (or if no applicable implementation plan was in effect on such date, under the first applicable implementation plan which takes effect after such date).

Such compliance plans are enforceable by EPA under section 119(g)(2). Once an extension is granted, it will extend the date for compliance with specified air pollution requirements. Such require-

ments may be those imposed at the State, Federal, or local level, whether or not they are included in the applicable State implementation plan. Where the requirements affected by an extension are not federally enforceable (e.g., State or local requirements which are not part of an EPA approved implementation plan), EPA must, in order to make the appropriate certification to FEA, require submission of a compliance plan for meeting these requirements to determine the date by which the source can comply, but EPA does not have authority to enforce such compliance plans. However, State and local authorities may independently establish, adopt, and enforce appropriate schedules for each of their own requirements so long as the burning of coal by the source is not thereby prohibited prior to January 1, 1979.

D. Reporting and monitoring requirements. Any source subject to a CDE (including those subject to RL) must furnish regular status reports to the Enforcement Division Director of the appropriate EPA regional office at six month intervals dating from the issuance of the CDE, as required by 40 CFR Part 55.04 (g). Such status reports will summarize the source's progress towards achieving compliance with all applicable air pollution requirements. Sources are also required, at 40 CFR Part 55.04(a)(2)(i)(F) or (a)(2)(ii)(F), to notify the appropriate Enforcement Division Director no later than five days after the date that each incremental step towards final compliance is required is, in fact, completed (or if not, the reason for failure and a schedule for completion).

The Administrator may find that new or additional ambient air quality monitors are needed to monitor ambient air concentrations of pollutants to determine the effect on air quality of a conversion to coal and, in some cases, to determine compliance with PSCs. Where this finding is made, the source will be required, under 40 CFR Part 55.04(f), to install such monitors, and to report on the data produced at those monitors in the source's semi-annual report under 40 CFR Part 55.04(g).

Findings Under Section 119

The Administrator of the Environmental Protection Agency, based upon information submitted pursuant to 40 CFR Part 55, and other information available to him, proposes to issue a compliance date extension to Iowa Public Service Company, George Neal Station, Unit 1, Salix, Iowa [hereinafter referred to as "the source"], for Iowa Department Environmental Quality (IDEQ) Regulation 4.3(2)b which limits emissions of *particulate matter*, and IDEQ Regulation 4.3(2)d which limits *visible emissions*, based upon these preliminary findings:

(i) The source is subject to a section 2(a) FEA prohibition order, No. 007, and will convert after September 15, 1973, to coal as its primary energy source;

(ii) The Administrator, pursuant to section 119(c)(2)(A), finds that the source cannot burn coal available to it in compliance with Iowa Department of Environmental Quality Regulations 4.3(2)b and 4.3(2)d;

(iii) The source can comply with all conditions upon which a compliance date extension may be granted for IDEQ 4.3(2)b and 4.3(2)d in that:

(a) EPA has determined, after consultation with the State of Iowa, Department of Environmental Quality, that the source is burning, and will continue to burn, coal which will emit no more than six (6) pounds of sulfur oxides per million BTU per hour heat input, assuring compliance with IDEQ Regulation 4.3(3)a which limits the emissions of sulfur oxides.

(b) The Administrator finds that the compliance plans pursuant to the section 113 Order issued to the source on August 5, 1975, and resubmitted under Part 55 by the source on November 29, 1975, provide for compliance with IDEQ 4.3(2)b and 4.3(2)d on the basis of coal usage by October 1, 1978, that the compliance plans provide for compliance as soon as practicable, and that the compliance plans are therefore approvable under section 119(c).

(iv) the source can comply with all conditions upon which a compliance date extension may be granted for IDEQ 4.3(2)b and 4.3(2)d in that:

(a) The regional limitation for particulate matter is applicable since the NPAAQS for total suspended particulate matter is being exceeded in the AQCR in which the source is situated; and

(b) The source can burn coal and comply with IDEQ 4.3(2)b and 4.3(2)d to satisfy the regional limitation requirement by October 1, 1978, by the terms of a compliance plan submitted by the source, such compliance is as soon as practicable and the compliance plan is therefore approvable. Gas conditioning studies underway at the source may enable the source to achieve compliance by August 1, 1976. If this becomes apparent, this CDE will be revised at that time to reflect the changed compliance status of the source.

Compliance With Conditions Upon Which CDE Is Granted

A. Compliance with Regional Limitation. Final compliance with the regional limitation for *particulate matter* by the source will be achieved by instituting a continuous program of gas conditioning and use of coal additives. Tests of the effectiveness of this program will be completed by April 1, 1976. If final compliance is achieved by August 1, 1976, the source need not take further steps to meet the Iowa regulations. If, however, final compliance is not achieved on that date, the source wil proceed to award contracts for installation of an additional precipitator or modification to upgrade the precipitator now in place in order to achieve final compliance with Iowa Department of Environmental Quality Regulations 4.3(2)b and 4.3(2)d by October 1, 1978. This plan for achieving compliance will be followed in accordance with the requirements of an administrative order issued by EPA to Iowa Public Service Company on January 31, 1975, as amended by a revised order issued on August 7, 1975, and in accordance with the schedule for compliance contained therein.

B. Compliance with Primary Standard Conditions. No Primary Standard Conditions are applicable.

C. Final Compliance with Extended Air Pollution Requirements. The Administrator has determined that the following dates for achieving full compliance (on the basis of coal usage) with air pollution requirements proposed to be extended by CDEs provide for compliance as soon as practicable, as provided by section 119(c)(2)(C):

Source	Location	Pollutant	Regulation involved	Date of adoption	Effective date of extension	Final compliance date [1]
Iowa Public Service Co., George Neal Station:						
Unit No. 1	Salix, Iowa	SO_2	Iowa Department of Environmental Quality (IDEQ), regulation 4.3(3)a.	Dec. 17, 1974	Not available.	(2)
Do	do	Particulate matter.	Iowa Department of Environmental Quality (IDEQ), regulation 4.3(2)b.	Sept. 23, 1970	Regional limitation applies.	Oct. 1, 1978
Do	do	Visible emissions.	Iowa Department of Environmental Quality (IDEQ), regulation 4.3(2)d.	do	do	Do.

[1] Increments of progress, enforceable against the source, to enable final compliance by the proposed date (including the date by which contracts will be entered into, initiation of onsite construction, and completion of onsite construction, etc.) are available for public inspection during business hours at the U.S. Environmental Protection Agency, 1735 Baltimore Ave., Kansas City, Mo. 64108.

[2] Immediately effective.

Monitoring and Reporting Requirements

The Nebraska Department of Environmental Control operates an ambient air monitoring station in South Sioux City, Nebraska. The annual geometric mean ambient suspended particulate concentration measured in 1974, at this site (106.6 ug/m³) exceeds federal primary and secondary standard levels. Although sulfur oxides are not measured at the Sioux City site, diffusion modeling demonstrates that ambient concentrations of this pollutant are well below the National Standards.

Based on the information summarized above, it is not necessary to impose am-

bient air monitoring requirements on the source.

Pursuant to the Order issued to the source under § 113 of the Act, the Iowa Public Service Company must certify to the Director, Enforcement Division, Region VII, no later than five (5) days after the deadline for completing each increment of progress required by the Order whether such increment has been achieved. The company must also give notice of the required performance tests at least ten (10) days prior to conducting the test.

The reporting requirements stipulated in the Order issued under § 113 of the Act and those specified at 40 CFR 55.04 (g) are considered to be adequate and additional reporting requirements are not necessary to determine progress.

CERTIFICATION TO FEA

The Administrator proposes to certify under section 119(d)(2)(B), *October 1, 1978*, to the Administrator of FEA as the earliest date upon which Iowa Public Service Company, George Neal Station, Unit No. 1, can burn coal in compliance with the applicable regional limitation. This date, *October 1, 1978*, represents the earliest date upon which the FEA can, through its Notice of Effectiveness, make its order *No. 007* effective against this source. The certification will be qualified by a statement that the source's efforts to comply by instituting a program of gas conditioning and use of coal additives may be successful as soon as August 1, 1976, and if this should be the case, the certification will be modified accordingly.

PUBLIC PARTICIPATION

Interested parties are hereby notified that the public will be afforded an opportunity for oral and written presentations of data, views, and arguments. Information upon which the Administrator bases this proposed rulemaking is available for public inspection during regular business hours (7:15 a.m. to 4:00 p.m.) at the Region VII Office of the U.S.E.P.A., 1735 Baltimore Avenue, Kansas City, Missouri 64108.

Information available includes: The EPA Regional Office Evaluation Summary for the action proposed herein (including an evaluation of the expeditiousness of proposed compliance schedules); compliance schedules including increments of progress, providing for final compliance with air pollution requirements extended by the CDE and for the regional limitation for particulate matter; information submitted by Iowa Public Service Company for George Neal Station, Unit 1, under 40 CFR Part 55; air quality data and analyses relevant to the source, including ambient air quality monitoring records for the AQCR in which the source is situated; written comments [or a summary of verbal comments, if any] made by the Iowa Department of Environmental Quality on the proposed PSC; and copies of the FEA prohibition order and supporting background documents.

The Administrator specifically invites the public to comment on the following aspects of the proposed compliance date extension:

(i) The applicability of the regional limitation for particulate matter and visible emissions;

(ii) The adequacy of the proposed means for achieving compliance with particulate matter and visible emissions control requirements;

(iii) The expeditiousness of the proposed compliance schedule for meeting State implementation plan requirements and the regional limitations on the basis of coal usage; and

(iv) The appropriateness of the Administrator's finding that the source is in compliance and is expected to continue to be in compliance with Iowa implementation plan requirements limiting emissions of sulfur dioxide.

Comments and requests for public hearing received on or before June 13, 1976 will be considered. All such comments and requests should be directed to:

Shirley Shepard, Regional Hearing Clerk, U.S. Environmental Protection Agency, Region VII, 1735 Baltimore Avenue, Kansas City, Missouri 64108.

Requests for public hearing must be accompanied by a statement supporting the need for such a hearing, including an indication of which issues are to be raised and a brief summary of the information to be offered at the hearing.

If the hearing officer finds that there is significant public interest or that there is pertinent and substantial information to be offered, a public hearing will be held no sooner than 30 days from the date of this notice. If such a hearing is deemed appropriate, prominent notice will be published in the AQCR in which the source is situated, identifying the date, time, place, and subject of such a hearing.

Due consideration shall be given to all timely relevant public comment whether submitted as a written comment or adduced at a public hearing, and where appropriate, proposed rulemaking then under consideration will be modified to reflect such comments.

This proposed rulemaking is based upon the authority of section 119 and 301 of the Clean Air of 1970, as amended (42 U.S.C. 1857 et seq.).

Dated: April 22, 1976.

CHARLES V. WRIGHT,
Acting Regional Administrator.

It is proposed to amend Part 55 of Chapter 1, Title 40 of the Code of Federal Regulations, by adding a new § 55.821 to Subpart Q as follows:

Subpart Q—Iowa

§ 55.821 Compliance Date Extension.

(a) The Administrator issues a Compliance Date Extension to Iowa Public Service Company, George Neal Station, Unit #1, located in Salix, Iowa, upon the following conditions:

(1) *Regional Limitation.* Unit 1 shall comply with IDEQ Regulations 4.3(2)b and 4.3(2)d by October 1, 1978.

(2) Test procedures to determine compliance with (a)(1) above shall be in accordance with IDEQ Regulations, Chapter 7—MEASUREMENT OF EMISSIONS.

(3) The source shall not, until January 1, 1979, be prohibited from burning coal which is available to such source by reason of the application of any air pollution requirement except as provided in section 119(d)(3) of the Clean Air Act (42 U.S.C. 1857, et seq.).

(b) [Reserved]

[FR Doc.76-13815 Filed 5-12-76;8:45 am]

[40 CFR Part 55]

[FRL 541-8]

ENERGY-RELATED AUTHORITY: IOWA

Proposed Compliance Date Extensions

The Administrator of the United States Environmental Protection Agency proposes to amend 40 CFR Part 55 by adding a new subpart Q, and adding a new § 55.870 to provide for the issuance of a compliance date extension to Iowa Electric Light and Power Company, Sutherland Station, Units 1, 2, and 3, Marshalltown, Iowa. This proposed rulemaking is based upon the authority granted the Administrator in Sections 119 and 301 of the Clean Air Act, as amended (42 U.S.C. 1857 et seq.), and is in accordance with the procedures provided in 40 CFR Part 55.

BACKGROUND

Congress enacted on June 22, 1974, the Energy Supply and Environmental Coordination Act of 1974 (ESECA) (P.L. 93-319, 88 Stat. 246, 15 U.S.C. § 791), "to provide for a means to assist in meeting the essential needs of the United States for fuels, in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment. * * *"

ESECA authorizes and directs the Administrator of the Federal Energy Administration (FEA) under section 2(a) of ESECA (15 U.S.C. § 792) to prohibit until January 1, 1979, the use of petroleum products or natural gas as the primary energy source at certain powerplants and major fuel burning installations. Section 3 of ESECA (added to the Clean Air Act, 42 U.S.C. 1857c-10, as a new section 119) provides that the Administrator of the Environmental Protection Agency (EPA) must take certain actions in response to the issuance of FEA prohibition orders.

Section 119 requires the Administrator of EPA to take specific steps intended to assure that national primary ambient air quality standards (NPAAQS) are not jeopardized by increased emission resulting from conversions to coal necessitated by the issuance of FEA prohibition orders. In addition, to treat equitably those orders sources which must convert to coal and whose primary energy source was, prior to September 15, 1973, oil or natural gas, section 119(c) provides for relief in the form of "compliance date extensions" (CDE). If certain condi-

tions are met, an ordered source, situated in an AQCR in which the NPAAQS for a specific pollutant is being attained, may be issued a compliance date extension which extends the time required to meet specified air pollution control requirements for that pollutant. An ordered source situated in an AQCR in which the NPAAQS for a specified pollutant is not being attained, will be issued a compliance date extension which provides for meeting currently applicable air pollution requirements for that pollutant as soon as practicable, and FEA cannot make its section 2 ESECA order effective before the date the source should be able to meet these requirements. Since section 119(c) of ESECA and the granting of compliance date extensions constitute new approaches to problems addressed elsewhere in the framework of the Clean Air Act, a brief explanation of that statute is appropriate.

THE CLEAN AIR ACT, AS AMENDED

Under the Clean Air Act, as amended, each State submitted a plan (known as the State implementation plan or SIP) for approval by the EPA Administrator. Each SIP is designed to provide for attainment and maintenance of national primary and secondary ambient air quality standards. The SIP for Iowa was approved at 40 CFR 52.822 (40 FR 10867) by the Administrator on May 31, 1972. Under section 110 of the Clean Air Act, all NPAAQS are to be met as expeditiously as practicable. The attainment date for NPAAQS for sulfur oxides and particulate matter in Iowa was July 31, 1975.

National primary standards are established at levels calculated to protect the public from adverse health effects. National secondary standards represent the ambient air concentration levels necessary to protect against adverse effects on property and crops (welfare related), and are generally more stringent than national primary standards. Pollutants for which standards have been promulgated include sulfur oxides, particulate matter, hydrocarbons, carbon monoxide, nitrogen oxides, and photochemical oxidants, but increased coal burning will most significantly result in increased emission of sulfur oxides and particulate matter.

The SIPs now in effect generally provide for meeting national ambient air quality standards by requiring sources of these pollutants not to exceed specified limits on the amounts of pollutants emitted into the ambient air. These emission limitations, the date by which they must be met, and other applicable air pollution requirements may be the subjects of compliance date extensions under section 119(c).

THE RELATIONSHIP BETWEEN ESECA AND THE CLEAN AIR ACT

Under § 2(a) and (b) of ESECA, the Administrator of the Federal Energy Administration (FEA) must by order prohibit any powerplant from burning natural gas or petroleum products as its primary energy source if he finds that (1) burning coal at that powerplant is practicable and consistent with the purposes of ESECA, (2) coal and coal transportation facilities will be available during the period the order is in effect, (3) such a prohibition will not impair the reliability of service at that powerplant, and (4) the powerplant, on June 22, 1974, had the capability and necessary plant equipment to burn coal. On June 30, 1975, the Administrator of FEA issued orders under § 2 of ESECA to 74 generating units at 32 powerplants. FEA's authority to issue prohibition orders extends to June 30, 1977, and its authority to enforce these orders will expire on January 1, 1985.

Section 119 of the Clean Air Act additionally provides that, having received FEA prohibition orders, sources which on or after September 15, 1973, convert to the use of coal as their primary energy source are eligible for "compliance date extensions" (CDE) for applicable air pollution requirements if the Administrator of EPA determines that certain other conditions. provided for in § 119(c) and (d), are met. In particular, section 119 (c) provides that a compliance date extension may be issued only if the EPA Administrator finds that (i) the source cannot burn coal which is available to it in compliance with all applicable air pollution requirements without an extension; (ii) during the period of the extension the source will be able to comply with all applicable primary standard conditions (PSC) and any applicable regional limitations (RL) (described in more detail below); and (iii) the source has submitted and EPA has approved a compliance plan with certain specified features. Upon the grant of a compliance date extension, in accordance with § 119 (d)(i)(B), EPA will certify to the Administrator of FEA the earliest date the source can burn coal and comply with any applicable PSC or RL. This certification date represents the earliest date FEA can make its prohibition order effective against the source.

EFFECT OF A COMPLIANCE DATE EXTENSION

Any compliance date extension will be specific to an individual source and will be issued on a unit-by-unit basis. It may affect requirements for one pollutant only, or for more than one. The determination whether or not the NPAAQS for a pollutant is being attained in the AQCR will dictate which of two possible effects of the grant of a CDE concerning that pollutant to that source will result:

(1) If the NPAAQS for a particular pollutant is being attained in the AQCR in which the source is situated, a compliance date extension may permit, for a specified period of time, the burning of coal resulting in emissions of that pollutant in excess of applicable air pollution requirements, including State implementation plan emission limitations for the pollutant for which the standard is being met, so long as all NPAAQS are maintained. Sources granted such extensions must achieve compliance with State implementation plan requirements as soon as practicable, but no later than December 31, 1978. Meanwhile, the source must enter into an enforceable compliance schedule to assure compliance with air pollution requirements by the time the extension expires.

In addition, when a compliance date extension is issued to a source situated in an AQCR in which the NPAAQS is being attained for the pollutant for which the CDE is granted, "primary standard conditions" (PSC) must be imposed by EPA, in consultation with appropriate States. Primary standard conditions are emission limitations, requirements respecting the pollution characteristics of coal, or other enforceable measures for control of emissions, which the Administrator determines must be met by a converting source in order to assure, throughout the term of the extensions, that the burning of coal by that source will not cause or contribute to concentrations of any air pollutant in excess of any national primary ambient air quality standard. Once the PSC is met, the source may begin coal burning so long as any applicable regional limitations (discussed below) are also met.

(2) If a source is situated in an AQCR in which the NPAAQS is being exceeded for a specific pollutant, an additional condition, the "regional limitation," is imposed in connection with the issuance of a CDE under section 119(c)(2)(D). FEA is precluded from making its prohibition order effective against a source to which an RL applies prior to the date the source should be able to comply with the RL. When the regional limitation is applicable for a given pollutant, the source may not violate any requirement including emission limitations, under the applicable SIP concerning that pollutant.

For example, a source located in an AQCR in which primary standards for sulfur oxides are being met but standards for particulate matter are not being met may receive a CDE and could exceed applicable SIP emission limitations for sulfur oxides so long as it complies with prescribed primary standards conditions for sulfur oxides. The source, however, would be required to meet the regional limitation (the implementation plan requirements) for particulate matter at all times, even after conversion to coal, and it must be taking steps before conversion to assure that those requirements will be met by the effective date of the FEA's prohibition order. If, at any time subsequent, it is determined that the national primary standard is being attained in that AQCR, the source would no longer be subject to the regional limitation and necessary primary standard conditions for particulate matter will be prescribed. The source could burn coal in violation of extended SIP particulate matter requirements as soon as such primary standard conditions are met.

Interim requirements which must be met prior to conversion to coal (such as requirements to meet increments contained in compliance schedules for PSCs, RLs, and all extended requirements) may be imposed and enforced by EPA under section 119 of the Clean Air Act

even though the source has not yet converted to the use of coal. However, the source will not be excused from compliance with any applicable air pollution requirement until it has fulfilled *all* applicable conditions on the extension (PSCs or RLs) and has actually made the conversion to coal. The "effective date" of the CDE is, therefore, the date on which the conditions are met and compliance with applicable air pollution requirements is excused as provided by the terms of the CDE.

DETERMINING WHETHER A CDE MAY BE GRANTED

Within 90 days after the issuance of a § 2(a) prohibition order, a source eligible for a CDE is required at 40 CFR Part 55 (40 FR 18438, April 28, 1975) to submit specified information necessary to enable the Administrator of EPA either to find that the source can comply with all applicable air pollution requirements without a CDE or to issue a CDE and impose appropriate conditions, limitations, and interim requirements thereon.

Information submitted under 40 CFR Part 55, ambient air quality monitoring data, atmospheric simulation modelling data, and any other relevant information available to the Administrator will form the basis for the Administrator's findings on ability to meet applicable PSCs and RLs, and approvability of plans for compliance.

A. Coal availability. In order to receive a compliance date extension, a source must show that it cannot burn coal which is available to it in compliance with all applicable air pollution requirements without a CDE. This showing should include documentation of efforts to obtain coal of such quality that it can be burned in compliance with applicable requirements. Such documentation might include copies of advertisements for coal of suitable specified quality or within a suitable specified range of characteristics; records of contacts with named suppliers, and relevant correspondence or telephone memoranda.

B. Ability to comply with primary standard conditions and regional limitations. Once EPA has determined the appropriate primary standard conditions necessary to protect NPAAQS throughout the period that applicable requirements are extended, and has determined whether the regional limitation applies, a finding must be made that the source can comply with applicable PSC and RL before a compliance date extension may be granted. Such a finding of ability to meet applicable primary standard conditions and regional limitations may involve several more limited findings. For example, the Administrator may find that a specific source can meet applicable PSC and/or RL by one or more of the following: obtaining through advertisement (or other means) coal with appropriate sulfur and ash content; upgrading pollution control equipment presently in place; installation of new control equipment; or the use of supplementary control systems (only for purposes of meeting primary standard conditions) at isolated powerplants which will assume responsibility for violation of NPAAQS in the area affected by such plant's emissions.

C. Approvable compliance schedules. Before a CDE may be issued, the source must submit and EPA must approve (or modify if necessary) a plan for compliance (based upon continued usage of coal as primary energy source) with the requirements of the applicable SIP (and any applicable New Source Performance Standard or National Emission Standard for Hazardous Pollutants) for which an extension has been granted. Specifically, EPA must require that the source achieve the most stringent degree of emission reduction that such source would have been required to achieve under the applicable implementation plan which was in effect on the date of submittal of such compliance plan under 40 CFR Part 55 (or if no applicable implementation plan was in effect on such date, under the first applicable implementation plan which takes effect after such date).

Such compliance plans are enforceable by EPA under section 119(g)(2). Once an extension is granted, it will extend the date for compliance with specified air pollution requirements. Such requirements may be those imposed at the State, Federal, or local level, whether or not they are included in the applicable State implementation plan. Where the requirements affected by an extension are not federally enforceable (e.g., State or local requirements which are not part of an EPA approved implementation plan), EPA must, in order to make the appropriate certification to FEA, require submission of a compliance plan for meeting these requirements to determine the date by which the source can comply, but EPA does not have authority to enforce such compliance plans. However, State and local authorities may independently establish, adopt, and enforce appropriate schedules for each of their own requirements so long as the burning of coal by the source is not thereby prohibited prior to January 1, 1985.

D. Reporting and monitoring requirements. Any source subject to a CDE (including those subject to RL) must furnish regular status reports to the Enforcement Division Director of the appropriate EPA regional office at six month intervals dating from the issuance of the CDE, as required by 40 CFR Part 55.04(g). Such status reports will summarize the source's progress towards achieving compliance with all applicable air pollution requirements. Sources are also required, at 40 CFR Part 55.04(a)(2)(i)(F) or (a)(2)(ii)(F), to notify the appropriate Enforcement Division Director no later than five days after the date that each incremental step towards final compliance is required is, in fact, completed (or if not, the reason for failure and a schedule for completion).

The Administrator may find that new or additional ambient air quality monitors are needed to monitor ambient air concentrations of pollutants to determine the effect on air quality of a conversion to coal and, in some cases, to determine compliance with PSCs. Where this finding is made, the source will be required, under 40 CFR Part 55.04(f), to install such monitors, and to report on the data produced at those monitors in the source's semi-annual report under 40 CFR Part 55.04(g).

FINDINGS UNDER SECTION 119

The Administrator of the Environmental Protection Agency, based upon information submitted pursuant to 40 CFR Part 55, and other information available to him, proposes to issue a compliance date extension to Iowa Electric Light and Power Company, Sutherland Generating Station, Units 1, 2, and 3, located at Marshalltown, Iowa [hereinafter referred to as "the sources"] for Iowa Department of Environmental Quality Regulation 4.3(2)b which limits emissions of *particulate matter* based upon these preliminary findings:

(i) The sources are subject to section 2(a) FEA prohibition orders *Nos. 002, 003, and 004*, respectively, and will convert after September 15, 1973, to coal as their primary energy source;

(ii) The Administrator, pursuant to section 119(c)(2)(A), finds that the sources cannot burn coal available to them in compliance with Iowa Department of Environmental Quality Regulation 4.3(2)b;

(iii) The sources can comply with all conditions upon which a compliance date extension may be granted for Iowa Department of Environmental Quality Regulation 4.3(2)b in that:

(a) EPA has determined, after consultation with the State of Iowa Department of Environmental Quality, that the sources are burning, and will continue to burn, coal which will emit no more than six (6) pounds of sulfur oxides per million BTU per hour heat input, assuring compliance with IDEQ Regulation 4.3(3)a which limits the emissions of sulfur oxides.

(b) the Administrator finds that the compliance plans, pursuant to the Section 113 Order issued to the source on March 31, 1975, and resubmitted under Part 55 by the source on November 25, 1975, provide for compliance with Iowa Department of Environmental Quality Regulation 4.3(2)b on the basis of coal usage by December 31, 1976, that the compliance plans provide for compliance as soon as practicable, and that the compliance plans are therefore approvable under section 119(c);

(iv) The sources can comply with all conditions upon which a compliance date extension may be granted for Iowa Department of Environmental Quality Regulation 4.3(2)b in that:

(a) the regional limitation for particulate matter is applicable since the NPAAQS for total suspended particulate matter is being exceeded in the ACQR in which the sources are situated; and

(b) the sources can burn coal and comply with Iowa Department of Environmental Quality Regulation 4.3(2)b to satisfy the regional limitation requirement by December 31, 1976, by the terms of compliance plans submitted by the

sources, such compliance is as soon as practicable and the compliance plans are therefore approvable.

Compliance With Conditions Upon Which CDES Are Granted

A. Compliance with regional limitations. Final compliance with the regional limitation for *particulate matter* by the sources will require the installation of a mechanical collector on Unit 3, and the installation of cold side electrostatic precipitators at Units 1, 2, and 3, and can be achieved by December 31, 1976, in accordance with the compliance plan contained therein.

Previous increments in this compliance plan which provided for receipt of bids for the mechanical collector and cold side precipitators, awarding of purchase contracts for the mechanical collector and cold side precipitators, and completion of installation and cutover of the mechanical collector on Unit 3, have been completed by the source pursuant to the enforcement order issued to Units 1, 2, and 3, under § 113 of the Clean Air Act.

B. Compliance with primary standard conditions. No Primary Standard Conditions are applicable.

C. Final compliance with extended air pollution requirements. The Administrator has determined that the following dates for achieving full compliance (on the basis of coal usage) with air pollution requirements proposed to be extended by CDEs provide for compliance as soon as practicable, as provided by section 119(c)(2)(C):

Source	Location	Pollutant	Regulation involved	Date of adoption	Effective date of extension	Final compliance date [1]
Iowa Electric Light & Power Co., Sutherland Station:						
Unit No. 1	East Main St., Marshalltown, Iowa.	SO_2	Iowa Department of Environmental Quality (IDEQ), regulation 4.3(3)a.	Dec. 17, 1974	Not available.	[2]
Unit No. 2	do	SO_2	do	do	do	[2]
Unit No. 3	do	SO_2	do	do	do	[2]
Unit No. 1	do	Particulate matter.	Iowa Department of Environmental Quality (IDEQ), regulation 4.3(2)b.	Sept. 23, 1970	Regional limitation applies.	Dec. 31, 1976
Unit No. 2	do	do	do	do	do	Do.
Unit No. 3	do	do	do	do	do	Do.

[1] Increments of progress, enforceable against the source, to enable final compliance by the proposed date (including the date by which contracts will be entered into, initiation of onsite construction, and completion of onsite construction, etc.) are available for public inspection during business hours at the U.S. Environmental Protection Agency, 1735 Baltimore Ave., Kansas City, Mo. 64108.

[2] Immediately effective.

Monitoring and Reporting Requirements

The Iowa Department of Environmental Quality operates an ambient air monitoring station in Marshalltown, Iowa. The annual geometric mean ambient suspended particulate concentration measured in 1974, in the City of Marshalltown, Iowa (84 $\mu g/m^3$) exceeds federal and state primary and secondary standard levels. Although sulfur oxides are not measured at the Marshalltown site, diffusion modelling demonstrates that ambient concentrations for this pollutant are well below the National Standards.

Based on the information summarized above, it is not necessary to impose ambient air monitoring requirements on the source.

Pursuant to the Order issued to the source under § 113 of the Act, the Iowa Electric Light and Power Company must certify to the Director, Enforcement Division, Region VII, no later than five (5) days after the deadline for completing each increment of progress required by the order, whether such increment has been achieved. The company must also give notice of the required performance tests at least ten (10) days prior to conducting the test.

The reporting requirements stipulated in the Order issued under § 113 of the Act are considered to be adequate and additional reporting requirements are not necessary to determine progress.

Certification to FEA

The Administrator proposes to certify under section 119(d)(2)(B), December 31, 1976, to the Administrator of FEA as the earliest date upon which Iowa Electric Light and Power Company, Sutherland Generating Station, Units 1, 2, and 3, can burn coal in compliance with the applicable regional limitation. This date, December 31, 1976, represents the earliest date upon which the FEA can, through its Notice of Effectiveness, make its orders *Nos. 002, 003, and 004*, effective against these sources.

Public Participation

Interested parties are hereby notified that the public will be afforded an opportunity for oral and written presentations of data, views, and arguments. Information upon which the Administrator bases this proposed rulemaking is available for public inspection during business hours at the Region VII Office of the U.S.E.P.A., 1735 Baltimore Avenue, Kansas City, Missouri 64108.

Information available includes: The EPA Regional Office Evaluation summary for the action proposed herein (including an evaluation of the expeditiousness of proposed compliance schedules); compliance schedules including increments of progress, providing for final compliance with air pollution requirements extended by the CDE and for meeting the regional limitations for particulate matter and visible emissions; information submitted by Iowa Electric Light and Power Company under 40 CFR Part 55; air quality data and analyses relevant to the source, including ambient air quality monitoring records for the AQCR in which the source is situated; written comments [or a summary of verbal comments, if any] made by the State of Iowa Department of Environmental Quality on the proposed PSC; and copies of the FEA prohibition order and supporting background documents.

The Administrator specifically invites the public to comment on the following aspects of the proposed compliance date extension:

(i) The applicability of the regional limitation for particulate matter and visible emissions;

(ii) The adequacy of the proposed means for achieving compliance with particulate matter and visible emissions control requirements;

(iii) The expeditiousness of the proposed compliance schedules for meeting State implementation plan requirements and the regional limitations on the basis of coal usage; and

(iv) The appropriateness of the Administrator's finding that the sources are in compliance and are expected to continue to be in compliance with Iowa implementation plan requirements limiting emissions of sulfur dioxide.

Comments and requests for public hearing received on or before June 14, 1976 will be considered. All such comments and requests should be directed to:

Shirley Shepard, Regional Hearing Clerk, U.S. Environmental Protection Agency, Region VII, 1735 Baltimore Avenue, Kansas City, Missouri 64108.

Requests for public hearing must be accompanied by a statement supporting the need for such a hearing, including an indication of which issues are to be raised and a brief summary of the information to be offered at the hearing.

If the hearing officer finds that there is significant public interest or that there is pertinent and substantial information to be offered, a public hearing will be held no sooner than 30 days from the date of this notice. If such a hearing is deemed appropriate, prominent notice will be published in the AQCR in which the source is situated, identifying the date, time, place, and subject of such a hearing.

Due consideration shall be given to all timely relevant public comment whether submitted as written comment or adduced at a public hearing, and where appropriate, proposed rulemaking then under consideration will be modified to reflect such comments.

This proposed rulemaking is based upon the authority of sections 119 and 301 of the Clean Air Act of 1970, as amended (42 U.S.C. 1857 et seq.).

Dated: April 22, 1976.

Charles V. Wright,
Acting Regional Administrator.

It is proposed to amend Part 55 of Chapter 1, Title 40 of the Code of Federal Regulations, by adding a new § 55.870 to Subpart Q as follows:

Subpart Q—Iowa

§ 55.870 Compliance Date Extension.

(a) The Administrator issues a Compliance Date Extension to Iowa Electric Light and Power Company, Sutherland Station, Units 1 and 2, located on East Main Street in Marshalltown, Iowa, upon the following conditions:

(1) *Regional Limitation.* Units 1 and 2 shall comply with Iowa Department of Environmental Quality Regulation 4.3 (2) b by December 31, 1976.

(2) Test procedures to determine compliance with (a) (1) above shall be in accordance with Iowa Department of Environmental Quality Regulations, Chapter 7—MEASUREMENT OF EMISSIONS.

(3) The source shall not, until January 1, 1979, be prohibited from burning coal which is available to such source by reason of the application of any air pollution requirement except as provided in section 119(d) (3) of the Clean Air Act (42 U.S.C. 1857, et seq.).

(4) The source shall not, until December 31, 1976, be prohibited from burning coal which is available to such source by reason of the application of any air pollution requirement except as provided in section 119(d) (3) of the Clean Air Act (42 U.S.C. 1857, et seq.).

(b) The Administrator issues a Compliance Date Extension to Iowa Electric Light and Power Company, Sutherland Generating Station, Unit #3, located on East Main Street in Marshalltown, Iowa (the source), upon the following conditions:

(1) *Regional Limitation.* The source shall comply with Iowa Department of Environmental Quality Regulation § 4.3 (2) b by December 31, 1976.

(2) *Sulfur Oxides.* Unit 3, on and after the effective date of this rulemaking, shall burn coal which will emit no more than six (6) pounds of sulfur oxides per million BTU per hour heat input.

(3) Test procedures to determine compliance with (a) (1) above shall be in accordance with Iowa Department of Environmental Quality Regulations, Chapter 7—MEASUREMENT OF EMISSIONS.

(4) The source shall not, until December 31, 1976, be prohibited from burning coal which is available to such source by reason of the application of any air pollution requirement except as provided in section 119(d) (3) of the Clean Air Act (42 U.S.C. 1857, et seq.).

(c) [Reserved]

[FR Doc.76-13816 Filed 5-12-76;8:45 am]

[FRL 542-1]

[40 CFR Part 55]

ENERGY-RELATED AUTHORITY: KANSAS

Proposed Compliance Date Extensions

The Administrator of the United States Environmental Protection Agency proposes to amend 40 CFR Part 55 by adding a new subpart R to provide for the issuance of a compliance date extension to *The Kansas Power and Light Company, Lawrence Energy Center*, Units 3, 4, and 5, Lawrence, Kansas. This proposed rulemaking is based upon the authority granted the Administrator in Sections 119 and 301 of the Clean Air Act, as amended (42 U.S.C. 1857 et seq.), and is in accordance with the procedures provided in 40 CFR Part 55.

BACKGROUND

Congress enacted on June 22, 1974, the Energy Supply and Environmental Coordination Act of 1974 (ESECA) (P.L. 93-319, 88 Stat. 246, 15 U.S.C. § 791) "to provide for a means to assist in meeting the essential needs of the United States for fuels, in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment. * * *"

ESECA authorizes and directs the Administrator of the Federal Energy Administration (FEA) under section 2(a) of ESECA (15 U.S.C. § 792) to prohibit until January 1, 1979, the use of petroleum products or natural gas as the primary energy source at certain powerplants and major fuel burning installations. Section 3 of ESECA (added to the Clean Air Act, 42 U.S.C. 1857c-10, as a new section 119) provides that the Administrator of the Environmental Protection Agency (EPA) must take certain actions in response to the issuance of FEA prohibition orders.

Section 119 requires the Administrator of EPA to take specific steps intended to assure that national primary ambient air quality standards (NPAAQS) are not jeopardized by increased emissions resulting from conversions to coal necessitated by the issuance of FEA prohibition orders. In addition, to treat equitably those ordered sources which must convert to coal and whose primary energy source was, prior to September 15, 1973, oil or natural gas, section 119(c) provides for relief in the form of "compliance date extensions" (CDE). If certain conditions are met, an ordered source, situated in an AQCR in which the NPAAQS for a specific pollutant is being attained, may be issued a compliance date extension which extends the time required to meet specified, air pollution control requirements for that pollutant. An ordered source situated in an AQCR in which the NPAAQS for a specified pollutant is not being attained, will be issued a compliance date extension which provides for meeting currently applicable air pollution requirements for that pollutant as soon as practicable, and FEA cannot make its section 2 ESECA order effective before the date the source should be able to meet these requirements. Since section 119(c) of ESECA and the granting of compliance date extensions constitute new approaches to problems addressed elsewhere in the framework of the Clean Air Act, a brief explanation of that statute is appropriate.

THE CLEAN AIR ACT, AS AMENDED

Under the Clean Air Act, as amended, each state submitted a plan (known as the State implementation plan or SIP) for approval by the EPA Administrator. Each SIP is designed to provide for attainment and maintenance of national primary and secondary ambient air quality standards. The SIP for Kansas was approved by the Administrator on May 31, 1972 (37 F.R. 10842). Under section 110 of the Clean Air Act, all NPAAQS are to be met as expeditiously as practicable. The attainment date for NPAAQS for sulfur oxides and particulate matter in Kansas was July 31, 1975.

National primary standards are established at levels calculated to protect the public from adverse health effects. National secondary standards represent the ambient air concentration levels necessary to protect against adverse effects on property and crops (welfare related), and are generally more stringent than national primary standards. Pollutants for which standards have been promulgated include sulfur oxides, particulate matter, hydrocarbons, carbon monoxide, nitrogen oxides, and photochemical oxidants, but increased coal burning will most significantly result in increased emission of sulfur oxides and particulate matter.

The SIP's now in effect generally provide for meeting national ambient air quality standards by requiring sources of these pollutants not be exceed specified limits on the amounts of pollutants emitted into the ambient air. These emission limitations, the dates by which they must be met, and other applicable air pollution requirements may be the subjects of compliance date extensions under section 119(c).

THE RELATIONSHIP BETWEEN ESECA AND THE CLEAN AIR ACT

Under § 2(a) and (b) of ESECA, the Administrator of the Federal Energy Administration (FEA) must by order prohibit any powerplant from burning natural gas or petroleum products as its primary energy source if he finds that (1) burning coal at that powerplant is practicable and consistent with the purposes of ESECA, (2) coal and coal transportation facilities will be available during the period the order is in effect, (3) such a prohibition will not impair the reliability of service at that powerplant, and (4) the powerplant, on June 22, 1974, had the capability and necessary plant equipment to burn coal. On June 30, 1975, the Administrator of FEA issued orders under § 2 of ESECA to 74 generating units at 32 powerplants. FEA's authority to issue prohibition orders extends to June 30, 1977, and its authority to enforce these orders will expire on January 1, 1985.

Section 119 of the Clean Air Act additionally provides that, having received FEA prohibition orders, sources which on or after September 15, 1973, convert to the use of coal as their primary energy source are eligible for "compliance date extensions" (CDE) for applicable air pollution requirements if the Administrator of EPA determines that certain other conditions, provided for in § 119(c) and

(d), are met. In particular, section 119 (c) provides that a compliance date extension may be issued only if the EPA Administrator finds that (i) the source cannot burn coal which is available to it in compliance with all applicable air pollution requirements without an extension; (ii) during the period of the extension the source will be able to comply with all applicable primary standard conditions (PSC) and any applicable regional limitations (RL) (described in more detail below); and (iii) the source has submitted and EPA has approved a compliance plan with certain specified features. Upon the grant of a compliance date extension, in accordance with § 119 (d) (1) (B), EPA will certify to the Administrator of FEA the earliest date the source can burn coal and comply with any applicable PSC or RL. This certification date represents the earliest date FEA can make its prohibition order effective against the source.

EFFECT OF A COMPLIANCE DATE EXTENSION

Any compliance date extension will be specific to an individual source and will be issued on a unit-by-unit basis. It may affect requirements for one pollutant only, or for more than one. The determination whether or not the NPAAQS for a pollutant is being attained in the AQCR will dictate which of two possible effects of the grant of a CDE concerning that pollutant to that source will result:

(1) If the NPAAQS for a particular pollutant is being attained in the AQCR in which the source is situated, a compliance date extension may permit, for a specified period of time, the burning of coal resulting in emissions of that pollutant in excess of applicable air pollution requirements, including State implementation plan emission limitations for the pollutant for which the standard is being met, so long as all NPAAQS are maintained. Sources granted such extensions must achieve compliance with State implementation plan requirements as soon as practicable, but no later than December 31, 1978. Meanwhile, the source must enter into an enforceable compliance schedule to assure compliance with air pollution requirements by the time the extension expires.

In addition, when a compliance date extension is issued to a source situated in an AQCR in which the NPAAQS is being attained for the pollutant for which the CDE is granted, "primary standard conditions" (PSC) must be imposed by EPA, in consultation with appropriate States. Primary standard conditions are emission limitations, requirements respecting the pollution characteristics of coal, or other enforceable measures for control of emissions, which the Administrator determines must be met by a converting source in order to assure, throughout the term of the extensions, that the burning of coal by that source will not cause or contribute to concentrations of any air pollutant in excess of any national primary ambient air quality standard. Once the PSC is met, the source may begin coal burning so long as any applicable regional limitations (discussed below) are also met.

(2) If a source is situated in an AQCR in which the NPAAQS is being exceeded for a specific pollutant, an additional condition, the "regional limitation," is imposed in connection with the issuance of a CDE under section 119(c)(2)(D). FEA is precluded from making its prohibition order effective against a source to which an RL applies prior to the date the source should be able to comply with the RL. When the regional limitation is applicable for a given pollutant, the source may not violate any requirement, including emission limitations, under the applicable SIP concerning that pollutant.

For example, a source located in an AQCR in which primary standards for sulfur oxides are being met but standards for particulate matter are not being met may receive a CDE and could exceed applicable SIP emission limitations for sulfur oxides so long as it complies with prescribed primary standards conditions for sulfur oxides. The source, however, would be required to meet the regional limitation (the implementation plan requirements) for particulate matter at all times, even after conversion to coal, and it must be taking steps before conversion to assure that those requirements will be met by the effective date of the FEA's prohibition order. If, at any time subsequent, it is determined that the national primary standard is being attained in that AQCR, the source would no longer be subject to the regional limitation and necessary primary standard conditions for particulate matter will be prescribed. The source could burn coal in violation of extended SIP particulate matter requirements as soon as such primary standard conditions are met.

Interim requirements which must be met prior to conversion to coal (such as requirements to meet increments contained in compliance schedules for PSCs, RLs, and all extended requirements) may be imposed and enforced by EPA under section 119 of the Clean Air Act even though the source has not yet converted to the use of coal. However, the source will not be excused from compliance with any applicable air pollution requirement until it has fulfilled *all* applicable conditions on the extension (PSCs or RLs) and has actually made the conversion to coal. The "effective date" of the CDE is, therefore, the date on which the conditions are met and compliance with applicable air pollution requirements is excused as provided by the terms of the CDE.

DETERMINING WHETHER A CDE MAY BE GRANTED

Within 90 days after the issuance of a § 2(a) prohibition order, a source eligible for a CDE is required at 40 CFR Part 55 (40 FR 18438, April 28, 1975) to submit specified information necessary to enable the Administrator of EPA either to find that the source can comply with all applicable air pollution requirements without a CDE or to issue a CDE and impose appropriate conditions, limitations, and interim requirements thereon.

Information submitted under 40 CFR Part 55, ambient air quality monitoring data, atmospheric simulation modelling data, and any other relevant information available to the Administrator will form the basis for the Administrator's findings on ability to meet applicable PSCs and RLs, and approvability of plans for compliance.

A. Coal availability. In order to receive a compliance date extension, a source must show that it cannot burn coal which is available to it in compliance with all applicable air pollution requirements without a CDE. This showing should include documentation of efforts to obtain coal of such quality that it can be burned in compliance with applicable requirements. Such documentation might include copies of advertisements for coal of suitable specified quality or within a suitable specified range of characteristics; records of contacts with named suppliers, and relevant correspondence or telephone memoranda.

B. Ability to comply with primary standard conditions and regional limitations. Once EPA has determined the appropriate primary standard conditions necessary to protect NPAAQS throughout the period that applicable requirements are extended, and has determined whether the regional limitation applies, a finding must be made that the source can comply with applicable PSC and RL before a compliance date extension may be granted. Such a finding of ability to meet applicable primary standard conditions and regional limitations may involve several more limited findings. For example, the Administrator may find that a specific source can meet applicable PSC and/or RL by one or more of the following: obtaining through advertisement (or other means) coal with appropriate sulfur and ash content; upgrading pollution control equipment presently in place; installation of new control equipment; or the use of supplementary control systems (only for purposes of meeting primary standard conditions) at isolated powerplants which will assume responsibility for violation of NPAAQS in the area affected by such plant's emissions.

C. Approvable compliance schedules. Before a CDE may be issued, the source must submit and EPA must approve (or modify if necessary) a plan for compliance (based upon continued usage of coal as primary energy source) with the requirements of the applicable SIP (and any applicable New Source Performance Standard or National Emission Standard for Hazardous Pollutants) for which an extension has been granted. Specifically, EPA must require that the source achieve the most stringent degree of emission reduction that such source would have been required to achieve under the applicable implementation plan which was in effect on the date of submittal of such compliance plan under 40 CFR Part 55 (or if no applicable implementation plan was in effect on such

date, under the first applicable implementation plan which takes effect after such date).

Such compliance plans are enforceable by EPA under section 119(g)(2). Once an extension is granted, it will extend the date for compliance with specified air pollution requirements. Such requirements may be those imposed at the State, Federal, or local level, whether or not they are included in the applicable State implementation plan. Where the requirements affected by an extension are not federally enforceable (e.g., State or local requirements which are not part of an EPA approved implementation plan), EPA must, in order to make the appropriate certification to FEA, require submission of a compliance plan for meeting these requirements to determine the date by which the source can comply, but EPA does not have authority to enforce such compliance plans. However, State and local authorities may independently establish, adopt, and enforce appropriate schedules for each of their own requirements so long as the burning of coal by the source is not thereby prohibited prior to January 1, 1979.

D. Reporting and monitoring requirements. Any source subject to a CDE (including those subject to RL) must furnish regular status reports to the Enforcement Division Director of the approyriate EPA regional office at six month intervals dating from the issuance of the CDE, as required by 40 CFR Part 55.04(g). Such status reports will summarize the source's progress towards achieving compliance with all applicable air pollution requirements. Sources are also required, at 40 CFR Part 55.04 (a)(2)(i)(F) or (a)(2)(ii)(F), to notify the appropriate Enforcement Division Director no later than ten days after the date that each incremental step towards final compliance is required is, in fact, completed (or if not, the reason for failure and a schedule for completion).

The Administrator may find that new or additional ambient air quality monitors are needed to monitor ambient air concentrations of pollutants to determine the effect on air quality of a conversion to coal, and in some cases, to determine compliance with PSCs. Where this finding is made, the source will be required, under 40 CFR Part 55.04(f), to install such monitors, and to report on the data produced at those monitors in the source's semiannual report under 40 CFR Part 55.04(g).

Findings Under Section 119

The Administrator of the Environmental Protection Agency, based upon information submitted pursuant to 40 CFR Part 55, and other information available to him, proposes to issue a compliance date extension to *The Kansas Power and Light Company, Lawrence Energy Center, Units 3, 4, and 5, Lake View Road, Lawrence, Kansas* [hereinafter referred to as "the sources"], for *Kansas Air Pollution Emission Control Regulation 28–19–31A* which limits emissions of *particulate matter* based upon these preliminary findings:

(i) The sources are subject to section 2(a) FEA prohibition orders *Nos. 017, 018, and 019*, respectively, and converted (or will convert) after September 15, 1973, to coal as their primary energy source;

(ii) The Administrator, pursuant to section 119(c)(2)(A), finds that the sources cannot burn coal available to them in compliance with *Kansas Air Pollution Emission Control Regulation 28–19–31A;*

(iii) The sources can comply with all conditions in *Kansas Air Pollution Emission Control Regulation 28–19–31C* which limits emissions of sulfur oxides in that:

(a) EPA has determined, after consultation with the State of Kansas Department of Health and Environment, that the sources can burn coal of the sulfur content specified in the existing coal contract with assurance (throughout the period that the compliance date extension will be in effect) that the burning of said coal by such sources will not result in emissions which cause or contribute to concentrations of sulfur oxides in excess of the national primary standard for sulfur oxides; and finds that such coal was available to the sources for burning on January 1, 1975.

(b) the Administrator finds that the compliance plans submitted by the source on September 24, 1975, provide for compliance with *Kansas Air Pollution Emission Control Regulation 28–19–31C* on the basis of coal usage as of January 1, 1975, and that the compliance plans are therefore approvable under section 119(c).

(iv) The sources can comply with all conditions upon which a compliance date extension may be granted for *Kansas Air Pollution Emission Control Regulation 28–19–31A* in that:

(a) The regional limitation for particulate matter is applicable since the NPAAQS for total suspended particulate matter is being exceeded in the AQCR in which the sources are situated; and

(b) The sources can burn coal and comply with *Kansas Air Pollution Emission Control Regulation 28–19–31A* to satisfy the regional limitation requirement by December 31, 1977, for Units 3 and 5, and November 30, 1977, for Unit 4, by the terms of compliance plans submitted by the sources, such compliance is as soon as practicable and the compliance plans are therefore approvable.

Compliance with Conditions Upon Which CDES are Granted

A. Compliance with regional limitations. Final compliance with the regional limitation for *particulate matter* by the sources, will require the addition of an electrostatic precipitator to *Unit 3* which can be achieved by *December 1, 1977*, and modification to the scrubbers on *Units 4 and 5*, which can be achieved by December 1, 1977, for *Unit 5* and November 30, 1977, for *Unit 4*, in accordance with the compliance plan proposed herein.

B. Compliance with primary standard conditions. No Primary Standard Conditions are applicable.

C. Final compliance with extended air pollution requirements. The Administrator has determined that the following dates for achieving full compliance (on the basis of coal usage) with air pollution requirements proposed to be extended by CDEs provide for compliance as soon as practicable, as provided by section 119(c)(2)(C):

Source	Location	Pollutant	Regulation involved	Date of adoption	Effective date of extension	Final compliance date[1]
The Kansas Power & Light Co., Lawrence Energy Center:						
Unit No. 3	Lake View Rd., Lawrence, Kans.	SO,	Kansas Air Pollution Emission Control, 28-19-31C.	Nov. 13, 1970	Not available	(1)
Unit No. 4	do	do	do	do	do	(1)
Unit No. 5	do	do	do	do	do	(1)
Unit No. 3	do	Particulate matter.	Kansas Air Pollution Emission Control, regulation 28-19-31A.	do	Regional limitation applies.	Dec. 31, 1977
Unit No. 4	do	do	do	do	do	Nov. 30, 1977
Unit No. 5	do	do	do	do	do	Dec. 31, 1977

[1] Immediately effective.

Certification to FEA

The Administrator proposes to certify under section 119(d)(1)(B), *December 31, 1977*, to the Administrator of FEA as the earliest date upon which *The Kansas Power and Light Company, Lawrence Energy Center, Units 3 and 5*, can burn coal in compliance with all regional limitations, and *November 30, 1977*, as the earliest date *Unit 4* can burn coal in compliance with all regional limitations. These dates, *December 31, 1977*, and *November 30, 1977*, represent the earliest dates upon which the FEA can, through its Notice of Effectiveness, make its orders *Nos. 017, 018, and 019* effective against these sources.

Public Participation

Interested parties are hereby notified that the public will be afforded an opportunity for oral and written presentations of data, views, and arguments. Information upon which the Administrator basis this proposed rulemaking is available for public inspection during business hours at the Region VII Office of the U.S.E.P.A., 1735 Baltimore, Kansas City, Missouri 64108.

Information available includes: The EPA Regional Office Evaluation Sum-

mary for the action proposed herein (including an evaluation of the expeditiousness of proposed compliance schedules); compliance schedules including increments of progress, providing for final compliance with air pollution requirements extended by the CDE; compliance schedules including increments of progress, providing for meeting RLs; information submitted by *The Kansas Power and Light Company*, under 40 CFR Part 55 (including the source's documentation on the issue of coal availability); air quality data and analyses relevant to the source, including ambient air quality monitoring records for the AQCR in which the source is situated, atmospheric simulation modelling data used to determine applicability of RLs; and copies of the FEA prohibition order.

The Administrator specifically invites the public to comment on the following aspects of the proposed compliance date extension:

(i) The availability of coal for the purpose of meeting air pollution requirements without a CDE;

(ii) The ability of the source to meet all proposed RLs; and

(iii) The expeditiousness of the proposed compliance schedules for meeting State implementation plan requirements on the basis of coal usage.

Comments and requests for public hearing received on or before June 14, 1976 will be considered. All such comments and requests should be directed to:

Shirley Shepard, Regional Hearing Clerk, U.S. Environmental Protection Agency, Region VII, 1735 Baltimore, Kansas City, Missouri 64108.

Requests for public hearing must be accompanied by a statement supporting the need for such a hearing, including an indication of which issues are to be raised and a brief summary of the information to be offered at the hearing.

If the hearing officer finds that there is significant public interest or that there is pertinent and substantial information to be offered, a public hearing will be held no sooner than thirty (30) days from the date of this notice. If such a hearing is deemed appropriate, prominent notice will be published in the AQCR in which the source is situated, identifying the date, time, place, and subject of such a hearing.

Due consideration shall be given to all timely relevant public comment whether submitted as a written comment or adduced at a public hearing, and where appropriate, proposed rulemaking then under consideration will be modified to reflect such comments.

This proposed rulemaking is based upon the authority of sections 119 and 301 of the Clean Air Act of 1970, as amended (42 U.S.C. 1857 et seq.).

Dated: April 22, 1976.

CHARLES V. WRIGHT,
Acting Regional Administrator.

Part 55 of Chapter 1, Title 40 of the Code of Federal Regulations, is amended by adding a new Subpart R as follows:

Subpart R—Kansas

§ 55.870 Compliance Date Extension.

(a) The Administrator issues a Compliance Date Extension to *The Kansas Power and Light Company, Lawrence Energy Center, Units 3 and 5, Lake View Road, Lawrence, Kansas* (the source) upon the following conditions:

(1) *Regional Limitation.* The sources shall comply with Kansas Air Pollution Emission Control Regulation 28–19–31A *by December 31, 1977*, in accordance with the following schedule of compliance.

(i) January 1, 1976—Initiate on-site construction of emission control equipment.

(ii) November 30, 1977—Complete onsite construction of emission control equipment.

(iii) December 31, 1977—Complete shakedown operations and performance tests and achieve compliance with Kansas Regulation 28–19–31A.

(2) Plan for Compliance with *Kansas Air Pollution Emission Control Regulation 28–19–31C.* The sources are in compliance with Kansas Air Pollution Emission Control Regulation 28–19–31C.

(3) Test procedures to determine compliance with (a)(1) above, shall be in accordance with *EPA Test Method 5.*

(4) The sources shall not, until January 1, 1979, be prohibited from burning coal which is available to such sources by reason of the application of any air pollution requirement except as provided in section 119(d)(3) of the Clean Air Act (42 U.S.C. 1857, et seq.).

(b) The Administrator issues a Compliance Date Extension to *The Kansas Power and Light Company, Lawrence Energy Center, Unit 4, Lake View Road, Lawrence, Kansas* (the source), upon the following conditions:

(1) *Regional Limitation.* The source shall comply with Kansas Air Pollution Emission Control Regulation 28–19–31A by *November 30, 1977*, in accordance with the following schedule of compliance.

(i) October 31, 1977—Complete onsite construction of emission control equipment.

(ii) November 30, 1977—Complete shakedown operations and performance tests on system and achieve compliance with Kansas Regulation 28–19–31A.

(2) *Plan for Compliance with Kansas Air Pollution Emission Control Regulation 28–19–31C.* The source is in compliance with Kansas Air Pollution Emission Control Regulation 28–19–31C.

(3) Test procedures to determine compliance with (a)(1) above, shall be in accordance with *EPA Test Method 5.*

(4) The source shall not, until November 30, 1977, be prohibited from burning coal which is available to such source by reason of the application of any air pollution requirement except as provided in section 119(d)(3) of the Clean Air Act (42 U.S.C. 1857, et seq.).

(c) [Reserved]

[FR Doc.76-13817 Filed 5-12-76;8:45 am]

[40 CFR Part 55]

[FRL 542-2]

ENERGY-RELATED AUTHORITY: KANSAS

Proposed Compliance Date Extension

The Administrator of the United States Environmental Protection Agency proposes to amend 40 CFR Part 55 by adding a new § 55.871 to subpart R to provide for the issuance of a compliance date extension to The Kansas Power and Light Company, Tecumseh Station, Units 9 and 10, Tecumseh, Kansas. This proposed rulemaking is based upon the authority granted the Administrator in Sections 119 and 301 of the Clean Air Act, as amended (42 U.S.C. 1857 et seq.), and is in accordance with the procedures provided in 40 CFR Part 55.

BACKGROUND

Congress enacted on June 22, 1974, the Energy Supply and Environmental Coordination Act of 1974 (ESECA) (P.L. 93–319, 88 Stat. 246, 15 U.S.C. § 791) "to provide for a means to assist in meeting the essential needs of the United States for fuels, in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment. * * *"

ESECA authorizes and directs the Administrator of the Federal Energy Administration (FEA) under section 2(a) of ESECA (15 U.S.C. § 792) to prohibit until January 1, 1985, the use of petroleum products or natural gas as the primary energy source at certain powerplants and major fuel burning installations. Section 3 of ESECA (added to the Clean Air Act, 42 U.S.C. 1857c–10, as a new section 119) provides that the Administrator of the Environmental Protection Agency (EPA) must take certain actions in response to the issuance of FEA prohibition orders.

Section 119 requires the Administrator of EPA to take specific steps intended to assure that national primary ambient air quality standards (NPAAOS) are not jeopardized by increased emissions resulting from conversions to coal necessitated by the issuance of FEA prohibition orders. In addition, to treat equitably those ordered sources which must convert to coal and whose primary energy source was, prior to September 15, 1973, oil or natural gas, section 119(c) provides for relief in the form of "compliance date extensions" (CDE). If certain conditions are met, an ordered source, situated in an AQCR in which the NPAAQS for a specific pollutant is being attained, may be issued a compliance date extension which extends the time required to meet specified air pollution control requirements for that pollutant. An ordered source situated in an AQCR in which the NPAAQS for a specified pollutant is not

being attained, will be issued a compliance date extension which provides for meeting currently applicable air pollution requirements for that pollutant as soon as practicable, and FEA cannot make its section 2 ESECA order effective before the date the source should be able to meet these requirements. Since section 119(c) of ESECA and the granting of compliance date extensions constitute new approaches to problems addressed elsewhere in the framework of the Clean Air Act, a brief explanation of that statute is appropriate.

THE CLEAN AIR ACT, AS AMENDED

Under the Clean Air Act, as amended, each state submitted a plan (known as the state implementation plan or SIP) for approval by the EPA Administrator. Each SIP is designed to provide for attainment and maintenance of national primary and secondary ambient air quality standards. The SIP for Kansas was approved by the Administrator on May 31, 1972 (37 F.R. 10842). Under section 110 of the Clean Air Act all NPAAQS are to be met as expeditiously as practicable. The attainment date for NPAAQS for sulfur oxides and particulate matter was July 31, 1975.

National primary standards are established at levels calculated to protect the public from adverse health effects. National secondary standards represent the ambient air concentration levels necessary to protect against adverse effects on property and crops (welfare related), and are generally more stringent than national primary standards. Pollutants for which standards have been promulgated include sulfur oxides, particulate matter, hydrocarbons, carbon monoxide, nitrogen oxides, and photochemical oxidants, but increased coal burning will most significantly result in increased emission of sulfur oxides and particulate matter.

The SIPs now in effect generally provide for meeting national ambient air quality standards by requiring sources of these pollutants not to exceed specified limits on the amounts of pollutants emitted into the ambient air. These emission limitations, the dates by which they must be met, and other applicable air pollution requirements may be the subjects of compliance date extensions under section 119(c).

THE RELATIONSHIP BETWEEN ESECA AND THE CLEAN AIR ACT

Under § 2 (a) and (b) of ESECA, the Administrator of the Federal Energy Administration (FEA) must by order prohibit any powerplant from burning natural gas or petroleum products as its primary energy source if he finds that (1) burning coal at that powerplant is practicable and consistent with the purposes of ESECA; (2) coal and coal transportation facilities will be available during the period the order is in effect; (3) such a prohibition will not impair the reliability of service at that powerplant; and (4) the powerplant, on June 22, 1974, had the capability and necessary plant equipment to burn coal. On June 30, 1975, the Administrator of FEA issued orders under § 2 of ESECA to 74 generating units at 32 powerplants. FEA's authority to issue prohibition orders extends to June 30, 1977, and its authority to enforce these orders will expire on January 1, 1985.

Section 119 of the Clean Air Act Additionally provides that, having received FEA prohibition orders, sources which on or after September 15, 1973, convert to the use of coal at their primary energy source are eligible for "compliance date extensions" (CDE) for applicable air pollution requirements if the Administrator of EPA determines that certain other conditions, provided for in § 119 (c) and (d) are met. In particular, section 119(c) provides that a compliance date extension may be issued only if the EPA Administrator finds that (i) the source cannot burn coal which is available to it in compliance with all applicable air pollution requirements without an extension; (ii) during the period of the extension the source will be able to comply with all applicable primary standard conditions (PSC) and any applicable regional limitations (RL) (described in more detail below); and (iii) the source has submitted and EPA has approved a compliance plan with certain specified features. Upon the grant of a compliance date extension, in accordance with § 119 (d)(1)(B), EPA will certify to the Administrator of FEA the earliest date the source can burn coal and comply with any applicable PSC or RL. This certification date represents the earliest date FEA can make its prohibition order effective against the source.

EFFECT OF A COMPLIANCE DATE EXTENSION

Any compliance date extension will be specific to an individual source and will be issued on a unit-by-unit basis. It may affect requirements for one pollutant only, or for more than one. The determination whether or not the NPAAQS for a pollutant is being attained in the ACQR will dictate which of two possible effects of the grant of a CDE concerning that pollutant to that source will result:

(1) If the NPAAQS for a particular pollutant is being attained in the AQCR in which the source is situated, a compliance date extension may permit, for a specified period of time, the burning of coal resulting in emissions of that pollutant in excess of applicable air pollution requirements, including state implementation plan emission limitations for the pollutant for which the standard is being met, so long as all NPAAQS are maintained. Sources granted such extensions must achieve compliance with state implementation plan requirements as soon as practicable, but no later than December 31, 1978. Meanwhile, the source must enter into an enforceable compliance schedule to assure compliance with air pollution requirements by the time the extension expires.

In addition, when a compliance date extension is issued to a source situated in an AQCR in which the NPAAQS is being attained for the pollutant for which the CDE is granted, "primary standard conditions" (PSC) must be imposed by EPA, in consultation with appropriate states. Primary standard conditions are emission limitations, requirements respecting the pollution characteristics of coal, or other enforceable measures for control of emissions, which the Administrator determines must be met by a converting source in order to assure, throughout the term of the extensions, that the burning of coal by that source will not cause or contribute to concentrations of any air pollutant in excess of any national primary ambient air quality standard. Once the PSC is met, the source may begin coal burning so long as any applicable regional limitations (discussed below) are also met.

(2) If a source is situated in an AQCR in which the NPAAQS is being exceeded for a specific pollutant, an additional condition, the "regional limitation," is imposed in connection with the issuance of a CDE under section 119(c)(2)(D). FEA is precluded from making its prohibition order effective against a source to which an RL applies prior to the date the source should be able to comply with the RL. When the regional limitation is applicable for a given pollutant, the source may not violate any requirement, including emission limitations, under the applicable SIP concerning that pollutant.

For example, a source located in an AQCR in which primary standards for sulfur oxides are being met but standards for particulate matter are not being met may receive a CDE and could exceed applicable SIP emission limitations for sulfur oxides so long as it complies with prescribed primary standards conditions for sulfur oxides. The source, however, would be required to meet the regional limitation (the implementation plan requirements) for particulate matter at all times, even after conversion to coal, and it must be taking steps before conversion to assure that those requirements will be met by the effective date of the FEA's prohibition order. If, at any time subsequent, it is determined that the national primary standard is being attained in that AQCR, the source would no longer be subject to the regional limitation and necessary primary standard conditions for particulate matter will be prescribed. The source could burn coal in violation of extended SIP particulate matter requirements as soon as such primary standard conditions are met.

Interim requirements which must be met prior to conversion to coal (such as requirements to meet increments contained in compliance schedules for PSCs, RLs, and all extended requirements) may be imposed and enforced by EPA under section 119 of the Clean Air Act even though the source has not yet converted to the use of coal. However, the source will not be excused from compliance with any applicable air pollution requirement until it has fulfilled *all* applicable conditions on the extension (PSCs or RLs) and has actually made the conversion to coal. The "effective date" of the CDE is, therefore, the date on which the conditions are met and compliance with applicable

air pollution requirements is excused as provided by the terms of the CDE.

DETERMINING WHETHER A CDE MAY BE GRANTED

Within 90 days after the issuance of a § 2(a) prohibition order, a source eligible for a CDE is required at 40 CFR Part 55 (40 FR 18438, April 28, 1975) to submit specified information necessary to enable the Administrator of EPA either to find that the source can comply with all applicable air pollution requirements without a CDE or to issue a CDE and impose appropriate conditions, limitations, and interim requirements thereon.

Information submitted under 40 CFR Part 55, ambient air quality monitoring data, atmospheric simulation modelling data, and any other relevant information available to the Administrator will form the basis for the Administrator's findings on ability to meet applicable PSCs and RLs, and approvability of plans for compliance.

A. Coal availability. In order to receive a compliance date extension, a source must show that it cannot burn coal which is available to it in compliance with all applicable air pollution requirements without a CDE. This showing should include documentation of efforts to obtain coal of such quality that it can be burned in compliance with applicable requirements. Such documentation might include copies of advertisements for coal of suitable specified quality or within a suitable specified range of characteristics; records of contacts with named suppliers, and relevant correspondence or telephone memoranda.

B. Ability to comply with primary standard conditions and regional limitations. Once EPA has determined the appropriate primary standard conditions necessary to protect NPAAQS throughout the period that applicable requirements are extended, and has determined whether the regional limitation applies, a finding must be made that the source can comply with applicable PSC and RL before a compliance date extension may be granted. Such a finding of ability to meet applicable primary standard conditions and regional limitations may involve several more limited findings. For example, the Administrator may find that a specific source can meet applicable PSC and/or RL by one or more of the following: obtaining through advertisement (or other means) coal with appropriate sulfur and ash content; upgrading pollution control equipment presently in place; installation of new control equipment; or the use of supplementary control systems (only for purposes of meeting primary standard conditions) at isolated powerplants which will assume responsibility for violation of NPAAQS in the area affected by such plant's emissions.

C. Approvable compliance schedules. Before a CDE may be issued, the source must submit and EPA must approve (or modify if necessary) a plan for compliance (based upon continued usage of coal as primary energy source) with the requirements of the applicable SIP (and any applicable New Source Performance Standard or National Emission Standard for Hazardous Pollutants) for which an extension has been granted. Specifically, EPA must require that the source achieve the most stringent degree of emission reduction that the source would have been required to achieve under the applicable implementation plan which was in effect on the date of submittal of such compliance plan under 40 CFR Part 55 (or if no applicable implementation plan was in effect on such date, under the first applicable implementation plan which takes effect after such date).

Such compliance plans are enforceable by EPA under section 119(g)(2). Once an extension is granted, it will extend the date for compliance with specified air pollution requirements. Such requirements may be those imposed at the state, federal, or local level, whether or not they are included in the applicable state implementation plan. Where the requirements affected by an extension are not federally enforceable (e.g., state or local requirements which are not part of an EPA approved implementation plan), EPA must, in order to make the appropriate certification to FEA, require submission of a compliance plan for meeting these requirements to determine the date by which the source can comply, but EPA does not have authority to enforce such compliance plans. However, state and local authorities may independently establish, adopt, and enforce appropriate schedules for each of their own requirements so long as the burning of coal by the source is not thereby prohibited prior to January 1, 1985.

D. Reporting and monitoring requirements. Any source subject to a CDE (including those subject to RL) must furnish regular status reports to the Enforcement Division Director of the appropriate EPA regional office at six month intervals dating from the issuance of the CDE, as required by 40 CFR Part 55.04(g). Such status reports will summarize the source's progress towards achieving compliance with all applicable air pollution requirements. Sources are also required, at 40 CFR Part 55.04(a)(2)(i)(F) or (a)(2)(ii)(F), to notify the appropriate Enforcement Division Director no later than ten days after the date that each incremental step towards final compliance is required is, in fact, completed (or if not, the reason for failure and a schedule for completion).

The Administrator may find that new or additional ambient air quality monitors are needed to monitor ambient air concentrations of pollutants to determine the effect on air quality of a conversion to coal and, in some cases, to determine compliance with PSCs. Where this finding is made, the source will be required, under 40 CFR Part 55.04(f), to install such monitors, and to report on the data produced at those monitors in the source's semi-annual report under 40 CFR Part 55.04(g).

FINDINGS UNDER SECTION 119

The Administrator of the Environmental Protection Agency, based upon information submitted pursuant to 40 CFR Part 55, and other information available to him, proposes to issue a compliance date extension to The Kansas Power and Light Company, Tecumseh Station, Units 9 & 10, Tecumseh, Kansas [hereinafter referred to as "the sources"], for Kansas Air Pollution Emission Control Regulation 28–19–31A, which limits emissions of particulate matter based upon these preliminary findings:

(i) The sources are subject to section 2(a) FEA prohibition orders Nos. 020 and 021, respectively, and converted (or will convert) after September 15, 1973, to coal as their primary energy source;

(ii) The Administrator, pursuant to section 119(c)(2)(A), finds that the sources cannot burn coal available to them in compliance with Kansas Air Pollution Emission Control Regulation 28–19–31A;

(iii) The sources are presently in compliance with Kansas Regulation 28–19–31C, which limits emission of sulfur oxides;

(iv) The sources can comply with all conditions upon which a compliance date extension may be granted for Kansas Air Pollution Emission Control Regulation 28–19–31A, in that:

(a) The regional limitation for particulate matter is applicable since the NPAAQS for total suspended particulate matter is being exceeded in the AQCR in which the sources are situated; and

(b) The sources can burn coal and comply with Kansas Air Pollution Emission Control Regulation 28–19–31A to satisfy the regional limitation requirement by December 31, 1977, by the terms of compliance plans submitted by the sources, such compliance is as soon as practicable and the compliance plans are therefore approvable.

COMPLIANCE WITH CONDITIONS UPON WHICH CDES ARE GRANTED

A. Compliance with regional limitations. Final compliance with the regional limitation for particulate matter by the sources, will require the installation of new electrostatic precipitators at Units 9 and 10, and can be achieved by December 31, 1977, in accordance with the compliance plan proposed herein.

B. Compliance with primary standard conditions. No Primary Standard Conditions are applicable.

C. Final compliance with extended air pollution requirements. The Administrator has determined that the following dates for achieving full compliance (on the basis of coal usage) with air pollution requirements proposed to be extended by CDEs provide for compliance as soon as practicable, as provided by section 119(c)(2)(C):

Source	Location	Pollutant	Regulation involved	Date of adoption	Effective date of extension	Final compliance date [1]
The Kansas Power & Light Co., Tecumseh Station:						
Unit No. 9	Tecumseh, Kans.	Particulate matter.	Kansas Air Pollution Emission Control, regulation 28-19-31A.	Nov. 13, 1970	Regional limitation applies.	Dec. 31, 1977
Unit No. 10	do	do	do	do	do	Do.

[1] Increments of progress, enforceable against the source, to enable final compliance by the proposed date (including the date by which contracts will be entered into, initiation of onsite construction, and completion of onsite construction, etc.) are available for public inspection during business hours at the U.S. Environmental Protection Agency, 1735 Baltimore Ave., Kansas City, Mo. 64108.

CERTIFICATION TO FEA

The Administrator proposes to certify under section 119(d)(2)(B) December 31, 1977, to the Administrator of FEA as the earliest date upon which The Kansas Power and Light Company, Tecumseh Station, Units 9 and 10, can burn coal in compliance with all applicable primary standard conditions and regional limitations. This date, December 31, 1977, represents the earliest date upon which the FEA can, through its Notice of Effectiveness, make its orders Nos. 020 and 021 effective against these sources.

PUBLIC PARTICIPATION

Interested parties are hereby notified that the public will be afforded an opportunity for oral and written presentations of data, views, and arguments. Information upon which the Administrator bases this proposed rulemaking is available for public inspection during business hours (7:15 a.m. to 4:00 p.m.) at the Region VII Office of the U.S.E.P.A., 1735 Baltimore Avenue, Kansas City, Missouri 64108.

Information available includes: The EPA Regional Office Evaluation Summary for the action proposed herein (including an evaluation of the expeditiousness of proposed compliance schedules); compliance schedules including increments of progress, providing for final compliance with air pollution requirements extended by the CDE; compliance schedules including increments of progress, providing for meeting RLs; information submitted by The Kansas Power and Light Company, Tecumseh Station, under 40 CFR Part 55 (including the source's documentation on the issue of coal availability); air quality data and analyses relevant to the source, including ambient air quality monitoring records for the AQCR in which the source is situated, atmospheric simulation modelling data used to determine applicability of RLs; and copies of the FEA prohibition order and supporting background documents.

The Administrator specifically invites the public to comment on the following aspects of the proposed compliance date extension:

(i) The availability of coal for the purpose of meeting air pollution requirements without a CDE;

(ii) The ability of the source to meet all RLs; and

(iii) The expeditiousness of the proposed compliance schedules for meeting state implementation plan requirements on the basis of coal usage.

Comments and requests for public hearing received on or before June 14, 1976 will be considered. All such comments and requests should be directed to:

Shirley Shepard, Regional Hearing Clerk, Region VII, U.S. Environmental Protection Agency, 1735 Baltimore Avenue, Kansas City, Missouri 64108.

Requests for public hearing must be accompanied by a statement supporting the need for such a hearing, including an indication of which issues are to be raised and a brief summary of the information to be offered at the hearing.

If the hearing officer finds that there is significant public interest, or that there is pertinent and substantial information to be offered, a public hearing will be held no sooner than 30 days from this notice. If such a hearing is deemed appropriate, prominent notice will be published in the AQCR in which the source is situated, identifying the date, time, place, and subject of such a hearing.

Due consideration shall be given to all timely relevant public comment whether submitted as a written comment or adduced at a public hearing, and where appropriate, proposed rulemaking then under consideration will be modified to reflect such comments.

This proposed rulemaking is based upon the authority of sections 119 and 301 of the Clean Air Act of 1970, as amended (42 U.S.C. 1857 et seq.).

Dated: April 22, 1976.

CHARLES V. WRIGHT,
Acting Regional Administrator.

It is proposed to amend Part 55 of Chapter 1, Title 40 of the Code of Federal Regulations by adding a new § 55.871 to Subpart R as follows:

Subpart R—Kansas

§ 55.871 Compliance Date Extension.

(a) The Administrator issues a Compliance Date Extension to The Kansas Power and Light Company, Tecumseh Station, Units 9 and 10 Tecumseh, Kansas (the source), upon the following conditions:

(1) *Regional Limitation.* Units 9 and 10 shall comply with Kansas Air Pollution Emission Control Regulation 28-19-31A by December 31, 1977.

(2) Test procedures to determine compliance with (a)(1) above, shall be in accordance with EPA Test Method 5.

(3) The source shall not, until January 1, 1979, be prohibited from burning coal which is available to such source by reason of the application of any air pollution requirement except as provided in section 119(d)(3) of the Clean Air Act (42 U.S.C. 1857, et seq.).

(b) [Reserved]

[FR Doc.76-13818 Filed 5-12-76;8:45 am]

[40 CFR Part 55]

[FRL 542-3]

ENERGY-RELATED AUTHORITY: MISSOURI

Proposed Compliance Date Extension

The Administrator of the United States Environmental Protection Agency proposes to amend 40 CFR Part 55 by adding a new subpart AA to provide for the issuance of a compliance date extension to Kansas City Power & Light Company, Hawthorne Station, Unit 3, Kansas City, Missouri. This proposed rulemaking is based upon the authority granted the Administrator in Sections 119 and 301 of the Clean Air Act, as amended (42 U.S.C. 1857 et seq.), and is in accordance with the procedures provided in 40 CFR Part 55.

BACKGROUND

Congress enacted on June 22, 1974, the Energy Supply and Environmental Coordination Act of 1974 (ESECA) (P.L. 93-319, 88 Stat. 246, 15 U.S.C. § 791) "to provide for a means to assist in meeting the essential needs of the United States for fuels, in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment. * * *"

ESECA authorizes and directs the Administrator of the Federal Energy Administration (FEA) under section 2(a) of ESECA (15 U.S.C. § 792) to prohibit until January 1, 1985, the use of petroleum products or natural gas as the primary energy source at certain powerplants and major fuel burning installations. Section 3 of ESECA (added to the Clean Air Act, 42 U.S.C. 1857c-10, as a new section 119) provides that the Administrator of the Environmental Protection Agency (EPA) must take certain actions in response to the issuance of FEA prohibition orders.

Section 119 requires the Administrator of EPA to take specific steps intended to assure that national primary ambient air quality standards (NPAAQS) are not jeopardized by increased emissions resulting from conversions to coal necessitated by the issuance of FEA prohibition orders. In addition, to treat equitably those ordered sources which must convert to coal and whose primary energy source was, prior to September 15, 1973, oil or natural gas, section 119(c) provides for relief in the form of "compliance date extensions" (CDE). If certain conditions are met, an ordered source, situated in an AQCR in which the NPAAQS for a specific pollutant is being attained, may be issued a compliance date extension which extends the time required to meet specified air pollution control require-

ments for that pollutant. An ordered source situated in an AQCR in which the NPAAQS for a specified pollutant is not being attained, will be issued a compliance date extension which provides for meeting currently applicable air pollution requirements for that pollutant as soon as practicable, and FEA cannot make its section 2 ESECA order effective before the date the source should be able to meet these requirements. Since section 119(c) of ESECA and the granting of compliance date extensions constitute new approaches to problems addressed elsewhere in the framework of the Clean Air Act, a brief explanation of that statute is appropriate.

THE CLEAN AIR ACT, AS AMENDED

Under the Clean Air Act, as amended, each state submitted a plan (known as the State implementation plan or SIP) for approval by the EPA Administrator. Each SIP is designed to provide for attainment and maintenance of national primary and secondary ambient air quality standards. The SIP for Missouri was approved by the Administrator on May 31, 1972 (37 F.R. 10842). Under section 10 of the Clean Air Act all NPAAQS are to be met as expeditiously as practicable. The attainment date for NPAAQS for sulfur oxides and particulate matter in Missouri was July 31, 1975.

National primary standards are established at levels calculated to protect the public from adverse health effects. National secondary standards represent the ambient air concentration levels necessary to protect against adverse effects on property and crops (welfare related), and are generally more stringent than national primary standards. Pollutants for which standards have been promulgated include sulfur oxides, particulate matter, hydrocarbons, carbon monoxide, nitrogen oxides, and photochemical oxidants, but increased coal burning will most significantly result in increased emission of sulfur oxides and particulate matter.

The SIPs now in effect generally provide for meeting national ambient air quality standards by requiring sources of these pollutants not to exceed specified limits on the amounts of pollutants emitted into the ambient air. These emission limitations, the dates by which they must be met, and other applicable air pollution requirements may be the subjects of compliance date extensions under section 119(c).

THE RELATIONSHIP BETWEEN ESECA AND THE CLEAN AIR ACT

Under § 2 (a) and (b) of ESECA, the Administrator of the Federal Energy Administration (FEA) must by order prohibit any powerplant from burning natural gas or petroleum products as its primary energy source if he finds that (1) burning coal at that powerplant is practicable and consistent with the purposes of ESECA; (2) coal and coal transportation facilities will be available during the period the order is in effect; (3) such a prohibition will not impair the reliability of service at that powerplant; and (4) the powerplant, on June 22, 1974, had the capability and necessary plant equipment to burn coal. On June 30, 1975, the Administrator of FEA issued orders under § 2 of ESECA to 74 generating units at 32 powerplants. FEA's authority to issue prohibition orders expired on June 30, 1975, and its authority to enforce these orders will expire on January 1, 1979.

Section 119 of the Clean Air Act additionally provides that, having received FEA prohibition orders, sources which on or after September 15, 1973, convert to the use of coal as their primary energy source are eligible for "compliance date extensions" (CDE) for applicable air pollution requirements if the Administrator of EPA determines that certain other conditions, provided for in § 119 (c) and (d), are met. In particular, section 119(c) provides that a compliance date extension may be issued only if the EPA Administrator finds that (i) the source cannot burn coal which is available to it in compliance with all applicable air pollution requirements without an extension; (ii) during the period of the extension the source will be able to comply with all applicable primary standard conditions (PSC) and any applicable regional limitations (RL) (described in more detail below); and (iii) the source has submitted and EPA has approved a compliance plan with certain specified features. Upon the grant of a compliance date extension, in accordance with § 119 (d)(1)(B), EPA will certify to the Administrator of FEA the earliest date the source can burn coal and comply with any applicable PSC or RL. This certification date represents the earliest date FEA can make its prohibition order effective against the source.

EFFECT OF A COMPLIANCE DATE EXTENSION

Any compliance date extension will be specific to an individual source and will be issued on a unit-by-unit basis. It may affect requirements for one pollutant only, or for more than one. The determination whether or not the NPAAQS for a pollutant is being attained in the AQCR will dictate which of two possible effects of the grant of a CDE concerning that pollutant to that source will result:

(1) If the NPAAQS for a particular pollutant is being attained in the AQCR in which the source is situated, a compliance date extension may permit, for a specified period of time, the burning of coal resulting in emissions of that pollutant in excess of applicable air pollution requirements, including State implementation plan emission limitations for the pollutant for which the standard is being met, so long as all NPAAQS are maintained. Sources granted such extensions must achieve compliance with State implementation plan requirements as soon as practicable, but no later than December 31, 1978. Meanwhile, the source must enter into an enforceable compliance schedule to assure compliance with air pollution requirements by the time the extension expires.

In addition, when a compliance date extension is issued to a source situated in an AQCR in which the NPAAQS is being attained for the pollutant for which the CDE is granted, "primary standard conditions" (PSC) must be imposed by EPA, in consultation with appropriate States. Primary standard conditions are emission limitations, requirements respecting the pollution characteristics of coal, or other enforceable measures for control of emissions, which the Administrator determines must be met by a converting source in order to assure, throughout the term of the extensions, that the burning of coal by that source will not cause or contribute to concentrations of any air pollutant in excess of any national primary ambient air quality standard. Once the PSC is met, the source may begin coal burning so long as any applicable regional limitations (discussed below) are also met.

(2) If a source is situated in an AQCR in which the NPAAQS is being exceeded for a specific pollutant, an additional condition, the "regional limitation," is imposed in connection with the issuance of a CDE under section 119(c)(2)(D). FEA is precluded from making its prohibition order effective against a source to which an RL applies prior to the date the source should be able to comply with the RL. When the regional limitation is applicable for a given pollutant, the source may not violate any requirement, including emission limitations, under the applicable SIP concerning that pollutant.

For example, a source located in an AQCR in which primary standards for sulfur oxides are being met, but standards for particulate matter are not being met, may receive a CDE and could exceed applicable SIP emission limitations for sulfur oxides so long as it complies with prescribed primary standards conditions for sulfur oxides. The source, however, would be required to meet the regional limitation (the implementation plan requirements) for particulate matter at all times, even after conversion to coal, and it must be taking steps before conversion to assure that those requirements will be met by the effective date of the FEA's prohibition order. If, at any time subsequent, it is determined that the national primary standard is being attained in that AQCR, the source would no longer be subject to the regional limitation and necessary primary standard conditions for particulate matter will be prescribed. The source could burn coal in violation of extended SIP particulate matter requirements as soon as such primary standard conditions are met.

Interim requirements which must be met prior to conversion to coal (such as requirements to meet increments contained in compliance schedules for PSCs, RLs, and all extended requirements) may be imposed and enforced by EPA under section 119 of the Clean Air Act even though the source has not yet converted to the use of coal. However, the source will not be excused from compliance with any applicable air pollution requirement until it has fulfilled *all* applicable con-

ditions on the extension (PSCs or RLs) and has actually made the conversion to coal. The "effective date" of the CDE is, therefore, the date on which the conditions are met and compliance with applicable air pollution requirements is excused as provided by the terms of the CDE.

DETERMINING WHETHER A CDE MAY BE GRANTED

Within 90 days after the issuance of § 2(a) prohibition order, a source eligible for a CDE is required at 40 CFR Part 55 (40 FR 18438, April 28, 1975) to submit specified information necessary to enable the Administrator of EPA either to find that the source can comply with all applicable air pollution requirements without a CDE or to issue a CDE and impose appropriate conditions, limitations, and interim requirements thereon.

Information submitted under 40 CFR Part 55, ambient air quality monitoring data, atmospheric simulation modelling data, and any other relevant information available to the Administrator will form the basis for the Administrator's findings on ability to meet applicable PSCs and RLs, and approvability of plans for compliance.

A. Coal availability. In order to receive a compliance date extension, a source must show that it cannot burn coal which is available to it in compliance with all applicable air pollution requirements without a CDE. This showing should include documentation of efforts to obtain coal of such quality that it can be burned in compliance with applicable requirements. Such documentation might include copies of advertisements for coal of suitable specified quality or within a suitable specified range of characteristics; records of contacts with named suppliers, and relevant correspondence or telephone memoranda.

B. Ability to comply with primary standard conditions and regional limitations. Once EPA has determined the appropriate primary standard conditions necessary to protect NPAAQS throughout the period that applicable requirements are extended, and has determined whether the regional limitation applies, a finding must be made that the source can comply with applicable PSC and RL before a compliance date extension may be granted. Such a finding of ability to meet applicable primary standard conditions and regional limitations may involve several more limited findings. For example, the Administrator may find that a specific source can meet applicable PSC and/or RL by one or more of the following: obtaining through advertisement (or other means) coal with appropriate sulfur and ash content; upgrading pollution control equipment presently in place; installation of new control equipment; or the use of supplementary control systems (only for purposes of meeting primary standard conditions) at isolated powerplants which will assume responsibility for violation of NPAAQS in the area affected by such plant's emissions.

C. Approvable compliance schedules. Before a CDE may be issued, the source must submit and EPA must approve (or modify if necessary) a plan for compliance (based upon continued usage of coal as primary energy source) (with the requirements of the applicable SIP and any applicable New Source Performance Standard or National Emission Standard for Hazardous Pollutants) for which an extension has been granted. Specifically, EPA must require that the source achieve the most stringent degree of emission reduction that such source would have been required to achieve under the applicable implementation plan which was in effect on the date of submittal of such compliance plan under 40 CFR Part 55 (or if no applicable implementation plan was in effect on such date, under the first applicable implementation plan which takes effect after such date).

Such compliance plans are enforceable by EPA under section 119(g)(2). Once an extension is granted, it will extend the date for compliance with specified air pollution requirements. Such requirements may be those imposed at the State, Federal, or local level, whether or not they are included in the applicable State implementation plan. Where the requirements affected by an extension are not federally enforceable (e.g., State or local requirements which are not part of an EPA approved implementation plan), EPA must, in order to make the appropriate certification to FEA, require submission of a compliance plan for meeting these requirements to determine the date by which the source can comply, but EPA does not have authority to enforce such compliance plans. However, State and local authorities may independently establish, adopt, and enforce appropriate schedules for each of their own requirements so long as the burning of coal by the source is not thereby prohibited prior to January 1, 1985.

D. Reporting and monitoring requirements. Any source subject to a CDE (including those subject to RL) must furnish regular status reports to the Enforcement Division Director of the appropriate EPA regional office at six month intervals dating from the issuance of the CDE, as required by 40 CFR Part 55.04(g). Such status reports will summarize the source'ss progress towards achieving compliance with all applicable air pollution requirements. Sources are also required, at 40 CFR Part 55.04(a)(2)(i)(F) or (a)(2)(ii)(F), to notify the appropriate Enforcement Division Director no later than ten days after the date that each incremental step towards final compliance is required is, in fact, completed (or if not, the reason for failure and a schedule for completion).

The Administrator may find that new or additional ambient air quality monitors are needed to monitor ambient air concentrations of pollutants to determine the effect on air quality of a conversion to coal and, in some cases, to determine compliance with PSCs. Where this finding is made, the source will be required, under 40 CFR Part 55.04(f), to install such monitors, and to report on the data produced at those monitors in the source's semi-annual report under 40 CFR Part 55.04(g).

FINDINGS UNDER SECTION 119

The Administrator of the Environmental Protection Agency, based upon information submitted pursuant to 40 CFR Part 55, and other information available to him, proposes to issue a compliance date extension to Kansas City Power & Light Company, Hawthorne Station, Unit No. 3, 8700 Hawthorne Road, Kansas City, Missouri [hereinafter referred to as "the source"], for Missouri Air Pollution Control (MAPC) Regulation V, which limits visible emissions of air contaminants, and for MAPC Regulation III, which limits emissions of particulate matter based upon these preliminary findings:

(i) The sources are subject to section 2(a) FEA prohibition order No. 014, and converted (or will convert) after September 15, 1973, to coal as their primary energy source;

(ii) The Administrator, pursuant to section 119(c)(2)(A), finds that the source can burn coal available to it in compliance with Missouri Air Pollution Control Regulation XV, Restriction of Emission of Sulfur Compounds, and that the source cannot burn coal available to it in compliance with Missouri Air Pollution Control Regulations III and V;

(iii) The sources can comply with all conditions upon which a compliance date extension may be granted for MAPC Regulations III and V, in that:

(a) The regional limitations for particulate matter and visible emissions are applicable since the NPAAQS for total suspended particulate matter is being exceeded in the AOCR in which the source is situated; and

(b) The sources can burn coal and comply with MAPC III and V requirements by January 1, 1977, by the terms of compliance plans submitted by the source, such compliance is as soon as practicable and the compliance plans are therefore approvable.

COMPLIANCE WITH CONDITIONS UPON WHICH CDEs ARE GRANTED

A. Compliance with regional limitations. Final compliance with the regional limitation for particulate matter and visible emissions by the source will require the upgrading of existing control equipment presently in place at Unit 3, and can be achieved by January 1, 1977, in accordance with the compliance plan proposed herein.

B. Compliance with primary standard conditions. No primary standard conditions are applicable.

C. Final compliance with extended air pollution requirements. The Administrator has determined that the following dates for achieving full compliance (on the basis of coal usage) with air pollution requirements proposed to be extended by CDEs provide for compliance as soon as practicable, as provided by section 119(c)(2)(C);

Source	Location	Pollutant	Regulation involved	Date of adoption	Effective date of extension	Final compliance date [1]
Kansas City Power & Light Co., Hawthorne Station: Unit No. 3	Kansas City, Mo.	Particulate matter.	Missouri Air Pollution Control, regulation III.	Jan. 5, 1969	Regional limitation applies.	Jan. 1, 1977
Do	do	Visible emissions.	Missouri Air Pollution Control, regulation V.	do	do	Do.

[1] Increments of progress, enforceable against the source, to enable final compliance by the proposed date (including the date by which contracts will be entered into, initiation of onsite construction, and completion of onsite construction, etc.) are available for public inspection during business hours at the U.S. Environmental Protection Agency, 1735 Baltimore Ave., Kansas City, Mo. 64108.

CERTIFICATION TO FEA

The Administrator proposes to certify under section 119(d)(1)(B), *January 1, 1977*, to the Administrator of FEA as the earliest date upon which Kansas City Power & Light Company, Hawthorne Station, Unit 3, can burn coal in compliance with the regional limitations. This date, *January 1, 1977*, represents the earliest date upon which the FEA can, through its Notice of Effectiveness, make its order No. 014 effective against this source.

PUBLIC PARTICIPATION

Interested parties are hereby notified that the public will be afforded an opportunity for oral and written presentations of data, views, and arguments. Information upon which the Administrator bases this proposed rulemaking is available for public inspection during business hours (7:15 a.m. to 4:00 p.m.) at the Region VII Office of the U.S.E.P.A., 1735 Baltimore Avenue, Kansas City, Missouri 64108.

Information available includes: The EPA Regional Office Evaluation summary for the action proposed herein (including an evaluation of the expeditiousness of proposed compliance schedules); compliance schedules including increments of progress, providing for final compliance with air pollution requirements extended by the CDE; compliance schedules including increments of progress, providing for meeting PSCs and RLs; information submitted by Kansas City Power & Light Company under 40 CFR Part 55 (including the source's documentation on the issue of coal availability); air quality data and analyses relevant to the source, including ambient air quality monitoring records for the AQCR in which the source is situated, atmospheric simulation modelling data used to determine PSCs and applicability of RLs; written comments [or a summary of verbal comments, if any] made by the State of Missouri Air Conservation Commission; and copies of the FEA prohibition order and supporting background documents.

The Administrator specifically invites the public to comment on the following aspects of the proposed compliance date extension:

(i) The availability of coal for the purpose of meeting air pollution requirements without a CDE;

(ii) The ability of the source to meet all proposed RLs; and

(iii) The expeditiousness of the proposed compliance schedules for meeting State implementation plan requirements on the basis of coal usage.

Comments and requests for public hearing received on or before June 14, 1976 will be considered. All such comments and requests should be directed to:

Shirley Shepard, Regional Hearing Clerk, Region VII, U.S. Environmental Protection Agency, 1735 Baltimore Avenue, Kansas City, Missouri 64108.

Requests for public hearing must be accompanied by a statement supporting the need for such a hearing, including an indication of which issues are to be raised and a brief summary of the information to be offered at the hearing.

If the hearing officer finds that there is significant public interest or that there is pertinent and substantial information to be offered, a public hearing will be held no sooner than 30 days from this notice. If such a hearing is deemed appropriate, prominent notice will be published in the AQCR in which the source is situated, identifying the date, time, place, and subject of such a hearing, and describing the rules under which the hearing will be conducted.

Due consideration shall be given to all timely relevant public comment whether submitted as a written comment or adduced at a public hearing, and where appropriate, proposed rulemaking then under consideration will be modified to reflect such comments.

This proposed rulemaking is based upon the authority of sections 119 and 301 of the Clean Air Act of 1970, as amended (42 U.S.C. 1857 et seq.).

Dated: April 22, 1976.

CHARLES V. WRIGHT,
Acting Regional Administrator.

It is proposed to amend Part 55 of Chapter 1, Title 40, of the Code of Federal Regulations by adding a new Subpart AA as follows:

Subpart AA—Missouri

§ 55.1320 Compliance Date Extension.

(a) The Administrator issues a Compliance Date Extension to Kansas City Power & Light Company, Hawthorne Station, Unit 3, 8700 Hawthorne Road, Kansas City, Missouri, upon the following conditions:

(1) *Regional Limitation.* The source shall comply with MAPC Regulations III and V by January 1, 1977.

(2) Test procedures to determine compliance with (a)(1) above, shall be in accordance with EPA Test Methods 5 and 9.

(3) The source shall not, until January 1, 1979, be prohibited from burning coal which is available to such source by reason of the application of any air pollution requirement except as provided in section 119(d)(3) of the Clean Air Act [42 U.S.C. 1857, et seq.].

(b) [Reserved]

[FR Doc.76-13819 Filed 5-12-76;8:45 am]

[40 CFR Part 55]

[FRL 542-5]

ENERGY-RELATED AUTHORITY: MISSOURI

Proposed Compliance Date Extension

The Administrator of the United States Environmental Protection Agency proposes to amend 40 CFR Part 55 by adding a new section 55.1321 to subpart AA to provide for the issuance of a compliance date extension to City Utilities of Springfield, James River Station, Units 3 and 4, Springfield, Missouri. This proposed rulemaking is based upon the authority granted the Administrator in Sections 119 and 301 of the Clean Air Act, as amended (42 U.S.C. 1857 et seq.), and is in accordance with the procedures provided in 40 CFR Part 55.

BACKGROUND

Congress enacted on June 22, 1974, the Energy Supply and Environmental Coordination Act of 1974 (ESECA) (P.L. 93-319, 88 Stat. 246, 15 U.S.C. § 791) "to provide for a means to assist in meeting the essential needs of the United States for fuels, in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment. * * *"

ESECA authorizes and directs the Administrator of the Federal Energy Administration (FEA) under section 2(a) of ESECA (15 U.S.C. § 792) to prohibit until January 1, 1985, the use of petroleum products or natural gas as the primary energy source at certain powerplants and major fuel burning installations. Section 3 of ESECA (added to the Clean Air Act, 42 U.S.C. 1857c-10, as a new section 119) provides that the Administrator of the Environmental Protection Agency (EPA) must take certain actions in response to the issuance of FEA prohibition orders.

Section 119 requires the Administrator of EPA to take specific steps intended to assure that national primary ambient air quality standards (NPAAQS) are not jeopardized by increased emissions resulting from conversions to coal necessitated by the issuance of FEA prohibition orders. In addition, to treat equitably those ordered sources which must convert to coal and whose primary energy source was, prior to September 15, 1973, oil or natural gas, section 119(c) provides for relief in the form of "compliance date extensions" (CDE). If certain conditions are met, an ordered source, situated in an AQCR in which the NPAAQS for a

specific pollutant is being attained, may be issued a compliance date extension which extends the time required to meet specified air pollution control requirements for that pollutant. An ordered source situated in an AQCR in which the NPAAQS for a specified pollutant is not being attained, will be issued a compliance date extension which provides for meeting currently applicable air pollution requirements for that pollutant as soon as practicable, and FEA cannot make its section 2 ESECA order effective before the date the source should be able to meet these requirements. Since section 119(c) of ESECA and the granting of compliance date extensions constitute new approaches to problems addressed elsewhere in the framework of the Clean Air Act, a brief explanation of that statute is appropriate.

THE CLEAN AIR ACT, AS AMENDED

Under the Clean Air Act, as amended, each state submitted a plan (known as the state implementation plan, or SIP) for approval by the EPA Administrator. Each SIP is designed to provide for attainment and maintenance of national primary and secondary ambient air quality standards. The SIP for Missouri was approved by the Administrator on May 31, 1972 (37 F.R. 10842). Under section 110 of the Clean Air Act, all NPAAQS are to be met as expeditiously as practicable. The attainment date for NPAAQS for sulfur oxides and particulate matter was July 31, 1975.

National primary standards are established at levels calculated to protect the public from adverse health effects. National secondary standards represent the ambient air concentration levels necessary to protect against adverse effects on property and crops (welfare related), and are generally more stringent than national primary standards. Pollutants for which standards have been promulgated include sulfur oxides, particulate matter, hydrocarbons, carbon monoxide, nitrogen oxides, and photochemical oxidants, but increased coal burning will most significantly result in increased emission of sulfur oxides and particulate matter.

The SIPs now in effect generally provide for meeting national ambient air quality standards by requiring sources of these pollutants not to exceed specified limits on the amounts of pollutants emitted into the ambient air. These emission limitations, the dates by which they must be met, and other applicable air pollution requirements may be the subjects of compliance date extensions under section 119(c).

THE RELATIONSHIP BETWEEN ESECA AND THE CLEAN AIR ACT

Under § 2 (a) and (b) of ESECA, the Administrator of the Federal Energy Administration (FEA) must by order prohibit any powerplant from burning natural gas or petroleum products as its primary energy source if he finds that (1) burning coal at that powerplant is practicable and consistent with the purposes of ESECA; (2) coal and coal transportation facilities will be available during the period the order is in effect; (3) such a prohibition will not impair the reliability of service at that powerplant; and (4) the powerplant, on June 22, 1974, had the capability and necessary plant equipment to burn coal. On June 30, 1975, the Administrator of FEA issued orders under § 2 of ESECA to 74 generating units at 32 powerplants. FEA's authority to issue prohibition orders expired on June 30, 1977, and its authority to enforce these orders will expire on January 1, 1985.

Section 119 of the Clean Air Act additionally provides that, having received FEA prohibition orders, sources which on or after September 15, 1973, convert to the use of coal as their primary energy source are eligible for "compliance date extensions" (CDE) for applicable air pollution requirements if the Administrator of EPA determines that certain other conditions, provided for in § 119 (c) and (d), are met. In particular, section 119(c) provides that a compliance date extension may be issued only if the EPA Administrator finds that (i) the source cannot burn coal which is available to it in compliance with all applicable air pollution requirements without an extension; (ii) during the period of the extension the source will be able to comply with all applicable primary standard conditions (PSC) and any applicable regional limitations (RL) (described in more detail below); and (iii) the source has submitted and EPA has approved a compliance plan with certain specified features. Upon the grant of a compliance date extension, in accordance with § 119 (d) (1) (B), EPA will certify to the Administrator of FEA the earliest date the source can burn coal and comply with any applicable PSC or RL. This certification date represents the earliest date FEA can make its prohibition order effective against the source.

EFFECT OF A COMPLIANCE DATE EXTENSION

Any compliance date extension will be specific to an individual source and will be issued on a unit-by-unit basis. It may affect requirements for one pollutant only, or for more than one. The determination whether or not the NPAAQS for a pollutant is being attained in the AQCR will dictate which of two possible effects of the grant of a CDE concerning that pollutant to that source will result:

(1) If the NPAAQS for a particular pollutant is being attained in the AQCR in which the source is situated, a compliance date extension may permit, for a specified period of time, the burning of coal resulting in emissions of that pollutant in excess of applicable air pollution requirements, including state implementation plan emission limitations for the pollutant for which the standard is being met, so long as all NPAAQS are maintained. Sources granted such extensions must achieve compliance with state implementation plan requirements as soon as practicable, but no later than December 31, 1978. Meanwhile, the source must enter into an enforceable compliance schedule to assure compliance with air pollution requirements by the time the extension expires.

In addition, when a compliance date extension is issued to a source situated in an AQCR in which the NPAAQS is being attained for the pollutant for which the CDE is granted, "primary standard conditions" (PSC) must be imposed by EPA, in consultation with appropriate states. Primary standard conditions are emission limitations, requirements respecting the pollution characteristics of coal, or other enforceable measures for control of emissions, which the Administrator determines must be met by a converting source in order to assure, throughout the term of the extensions, that the burning of coal by that source will not cause or contribute to concentrations of any air pollutant in excess of any national primary ambient air quality standard. Once the PSC is met, the source may begin coal burning so long as any applicable regional limitations (discussed below) are also met.

(2) If a source is situated in an AQCR in which the NPAAQS is being exceeded for a specific pollutant, an additional condition, the "regional limitation," is imposed in connection with the issuance of a CDE under section 119(c) (2) (D). FEA is precluded from making its prohibition order effective against a source to which an RL applies prior to the date the source should be able to comply with the RL. When the regional limitation is applicable for a given pollutant, the source may not violate any requirement, including emission limitations, under the applicable SIP concerning that pollutant.

For example, a source located in an AQCR in which primary standards for sulfur oxides are being met, but standards for particulate matter are not being met, may receive a CDE and could exceed applicable SIP emission limitations for sulfur oxides so long as it complies with prescribed primary standards conditions for sulfur oxides. The source, however, would be required to meet the regional limitation (the implementation plan requirements) for particulate matter at all times, even after conversion to coal, and it must be taking steps before conversion to assure that those requirements will be met by the effective date of the FEA's prohibition order. If, at any time subsequent, it is determined that the national primary standard is being attained in that AQCR, the source would be longer be subject to the regional limitation and necessary primary standard conditions for particulate matter will be prescribed. The source could burn coal in violation of extended SIP particulate matter requirements as soon as such primary standard conditions are met.

Interim requirements which must be met prior to conversion to coal (such as requirements to meet increments contained in compliance schedules for PSCs, RLs, and all extended requirements) may be imposed and enforced by EPA under section 119 of the Clean Air Act even though the source has not yet converted to the use of coal. However, the source will not be excused from compliance with

any applicable air pollution requirement until it has fulfilled all applicable conditions on the extension (PSCs or RLs) and has actually made the conversion to coal. The "effective date" of the CDE is, therefore, the date on which the conditions are met and compliance with applicable air pollution requirements is excused as provided by the terms of the CDE.

DETERMINING WHETHER A CDE MAY BE GRANTED

Within 90 days after the issuance of a § 2(a) prohibition order, a source eligible for a CDE is required at 40 CFR Part 55 (40 FR 18438, April 28, 1975) to submit specified information necessary to enable the Administrator of EPA either to find that the source can comply with all applicable air pollution requirements without a CDE or to issue a CDE and impose appropriate conditions, limitations, and interim requirements thereon.

Information submitted under 40 CFR Part 55, ambient air quality monitoring data, atmospheric simulation modelling data, and any other relevant information available to the Administrator will form the basis for the Administrator's findings on ability to meet applicable PSCs and RLs, and approvability of plans for compliance.

A. Coal availability. In order to receive a compliance date extension, a source must show that it cannot burn coal which is available to it in compliance with all applicable air pollution requirements without a CDE. This showing should include documentation of efforts to obtain coal of such quality that it can be burned in compliance with applicable requirements. Such documentation might include copies of advertisements for coal of suitable specified quality or within a suitable specified range of characteristics; records of contacts with named suppliers, and relevant correspondence or telephone memoranda.

B. Ability to comply with primary standard conditions and regional limitations. Once EPA has determined the appropriate primary standard conditions necessary to protect NPAAQS throughout the period that applicable requirements are extended, and has determined whether the regional limitation applies, a finding must be made that the source can comply with applicable PSC and RL before a compliance date extension may be granted. Such a finding of ability to meet applicable primary standard conditions and regional limitations may involve several more limited findings. For example, the Administrator may find that a specific source can meet applicable PSC and/or RL by one or more of the following: obtaining through advertisement (or other means) coal with appropriate sulfur and ash content; upgrading pollution control equipment presently in place; installation of new control equipment; or the use of supplementary control systems (only for purposes of meeting primary standard conditions) at isolated powerplants which will assume responsibility for violation of NPAAQS in the area affected by such plant's emissions.

C. Approvable compliance schedules. Before a CDE may be issued, the source must submit and EPA must approve (or modify if necessary) a plan for compliance (based upon continued usage of coal as primary energy source) with the requirements of the applicable SIP (and any applicable New Source Performance Standard or National Emission Standard for Hazardous Pollutants) for which an extension has been granted. Specifically, EPA must require that the source achieve the most stringent degree of emission reduction that such source would have been required to achieve under the applicable implementation plan which was in effect on the date of submittal of such compliance plan under 40 CFR Part 55 (or if no applicable implementation plan was in effect on such date, under the first applicable implementation plan which takes effect after such date).

Such compliance plans are enforceable by EPA under section 119(g)(2). Once an extension is granted, it will extend the date for compliance with specified air pollution requirements. Such requirements may be those imposed at the state, federal, or local level, whether or not they are included in the applicable state implementation plan. Where the requirements affected by an extension are not federally enforceable (e.g., state or local requirements which are not part of an EPA approved implementation plan), EPA must, in order to make the appropriate certification to FEA, require submission of a compliance plan for meeting these requirements to determine the date by which the source can comply, but EPA does not have authority to enforce such compliance plans. However, state and local authorities may independently establish, adopt, and enforce appropriate schedules for each of their own requirements so long as the burning of coal by the source is not thereby prohibited prior to January 1, 1985.

D. Reporting and monitoring requirements. Any source subject to a CDE (including those subject to RL) must furnish regular status reports to the Enforcement Division Director of the appropriate EPA regional office at six month intervals dating from the issuance of the CDE, as required by 40 CFR Part 55.04(g). Such status reports will summarize the sources' progress towards achieving compliance with all applicable air pollution requirements. Sources are also required, at 40 CFR Part 55.04(a)(2)(i)(F) or (a)(2)(ii)(F), to notify the appropriate Enforcement Division Director no later than ten days after the date that each incremental step towards final compliance is required is, in fact, completed (or if not, the reason for failure and a schedule for completion).

The Administrator may find that new or additional ambient air quality monitors are needed to monitor ambient air concentrations of pollutants to determine the effect on air quality of a conversion to coal and, in some cases, to determine compliance with PSCs. Where this finding is made, the source will be required, under 40 CFR Part 55.04(f), to install such monitors, and to report on the data produced at those monitors in the sources' semi-annual report under 40 CFR Part 55.04(g).

FINDINGS UNDER SECTION 119

The Administrator of the Environmental Protection Agency, based upon information submitted pursuant to 40 CFR Part 55, and other information available to him, proposes to issue a compliance date extension to City Utilities of Springfield, James River Station, Units 3 and 4, South Fremont Road, Springfield, Missouri (hereinafter referred to as "the sources"), for Missouri Air Pollution Control (MAPC) Regulation III for the Springfield-Greene County Area, which limits emissions of particulate matter based upon these preliminary findings:

(i) The sources are subject to section 2(a) FEA prohibition orders Nos. 024 and 025, respectively, and converted (or will convert) after September 15, 1973, to coal as their primary energy source;

(ii) The Administrator, pursuant to section 119(c)(2)(A), finds that the sources cannot burn coal available to them in compliance with MAPC Regulation III for the Springfield-Greene County Area;

(iii) The sources can comply with all conditions upon which a compliance date extension may be granted for Regulation III in that:

(a) The regional limitation for particulate matter is applicable since the NPAAQS for total suspended particulate matter is being exceeded in the AQCR in which the sources are situated; and

(b) The sources can burn coal and comply with Regulation III by September 30, 1976, for Unit 4, and December 31, 1977, for Unit 3, by the terms of compliance plans, such compliance is as soon as practicable and the compliance plans are therefore approvable.

(iv) There is no sulfur oxide emission limitation in the SIP for the Sprinfield-Greene County Area.

COMPLIANCE WITH CONDITIONS UPON WHICH CDES ARE GRANTED

A. Compliance with regional limitations. Final compliance with the regional limitation for particulate matter by the source will require the installation of a new electrostatic precipitator at Units 3 and 4 by December 31, 1977, and September 30, 1976, respectively in accordance with the compliance plan proposed herein.

B. Compliance with primary standard conditions. No Primary Standard Condition is applicable since the controls necessary to meet a PSC would be the same as controls necessary to meet SIP limitations. Therefore, a date for meeting a PSC would be identical to the final compliance date for meeting SIP limitations.

C. Final compliance with extended air pollution requirements. The Administrator has determined that the following dates for achieving full compliance (on the basis of coal usage) with air pollution requirements proposed to be extended by CDEs provide for compliance as soon as practicable, as provided by section 119(c)(2)(C):

Source	Location	Pollutant	Regulation involved	Date of adoption	Effective date of extension	Final compliance date [1]
City Utilities of Springfield, James River Station:						
Unit No. 3	South Fremont Rd., Springfield, Mo.	Particulate matter.	Missouri Air Pollution, regulation III for the Springfield-Greene County area.	Nov. 27, 1969	SIP applies.	Dec. 31, 1977
Unit No. 4	do	do	do	do	do	Sept. 30, 1976

[1] Increments of progress, enforceable against the source, to enable final compliance by the proposed date (including the date by which contracts will be entered into, initiation of onsite construction, and completion of onsite construction, etc.) are available for public inspection during business hours at the U.S. Environmental Protection Agency, 1735 Baltimore Ave., Kansas City, Mo. 64108.

CERTIFICATION TO FEA

The Administrator proposes to certify under section 119(d)(1)(B), September 30, 1976, for Unit 4 and December 31, 1977, for Unit 3, to the Administrator of FEA as the earliest date upon which City Utilities of Springfield, James River Station, Units 3 and 4, can burn coal in compliance with Regulation III. These dates, September 30, 1976, and December 31, 1977, represent the earliest dates upon which the FEA can, through its Notice of Effectiveness, make its orders Nos. 024 and 025 effective against these sources.

PUBLIC PARTICIPATION

Interested parties are hereby notified that the public will be afforded an opportunity for oral and written presentations of data, views, and arguments. Information upon which the Administrator bases this proposed rulemaking is available for public inspection during business hours (7:15 a.m. to 4:00 p.m.) at the Region VII Office of the U.S.E.P.A., 1735 Baltimore Avenue, Kansas City, Missouri 64108.

Information available includes: the EPA Regional Office Evaluation Summary for the action proposed herein (including an evaluation of the expeditiousness of proposed compliance schedules); compliance schedules including increments of progress, providing for final compliance with air pollution requirements extended by the CDE; compliance schedules including increments of progress, providing for meeting PSCs and RLs; information submitted by City Utilities of Springfield under 40 CFR Part 55 (including the sources' documentation on the issue of coal availability); air quality data and analyses relevant to the source, including ambient air quality monitoring records for the AQCR in which the source is situated, atmospheric simulation modelling data used to determine PSCs and applicability of RLs; written comments (or a summary of verbal comments, if any) made by the State of Missouri Air Conservation Commission; and copies of the FEA prohibition order and supporting background documents.

The Administrator specifically invites the public to comment on the following aspects of the proposed compliance date extension:

(i) The availability of coal for the purpose of meeting air pollution requirements without a CDE; and

(ii) The expeditiousness of the proposed compliance schedules for meeting state implementation plan requirements on the basis of coal usage.

Comments and requests for public hearing received on or before June 14, 1976 will be considered. All such comments and requests should be directed to:

Shirley Shepard, Regional Hearing Clerk, Region VII, U.S. Environmental Protection Agency, 1735 Baltimore Avenue, Kansas City, Missouri 64108.

Requests for public hearing must be accompanied by a statement supporting the need for such a hearing, including an indication of which issues are to be raised and a brief summary of the information to be offered at the hearing.

If the hearing officer finds that there is significant public interest or that there is pertinent and substantial information to be offered, a public hearing will be held no sooner than 30 days from this notice. If such a hearing is deemed appropriate, prominent notice will be published in the AQCR in which the source is situated, identifying the date, time, place, and subject of such a hearing, and describing the rules under which the hearing will be conducted.

Due consideration shall be given to all timely relevant public comment whether submitted as a written comment or adduced at a public hearing, and where appropriate, proposed rulemaking then under consideration will be modified to reflect such comments.

This proposed rulemaking is based upon the authority of sections 119 and 301 of the Clean Air Act of 1970, as amended (42 U.S.C. 1857 et seq.).

Dated: April 22, 1976.

CHARLES V. WRIGHT,
Acting Regional Administrator.

It is proposed to amend Part 55 of Chapter 1, Title 40, of the Code of Federal Regulations by adding a new Section 55.1321 to Subpart AA as follows:

Subpart AA—Missouri

§ 55.1321 Compliance Date Extension.

(a) The Administrator issues a Compliance Date Extension to City Utilities of Springfield, James River Station, Units 3 and 4, South Fremont Road, Springfield, Missouri (the source), upon the following conditions:

(1) The source shall comply with MAPC Regulation III for the Springfield-Greene County Area by September 30, 1976, for Unit 4, and December 31, 1977, for Unit 3.

(2) Test procedures to determine compliance with (a)(1) above, shall be in accordance with ASME PTC 27.

(3) The source shall not, until September 30, 1976, for Unit 4, and December 31, 1977, for Unit 3, be prohibited from burning coal which is available to such source by reason of the application of any air pollution requirement except as provided in section 119(d)(3) of the Clean Air Act (42 U.S.C. 1857, et seq.).

(b) [Reserved]

[FR Doc.76-13820 Filed 5-12-76;8:45 am]

[40 CFR Part 52]

[FRL 539-8]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Proposed Revision of the Virgin Islands Plan

The Virgin Islands submitted to the Region II Office, on January 21, 1976, a proposed revision to the Virgin Islands implementation plan. This revision request was submitted in accordance with all applicable EPA requirements as contained in 40 CFR Part 51, and contained and amended 12 V.I.C. 9:204-26, entitled, "Sulfur Compounds Emissions Control." Technical justifications supporting the regulation were submitted on January 21, 1976 and April 5, 1976.

The proposed revision accomplishes the following:

1. Prohibits emissions of sulfur oxides which result in ground level concentrations above the 3-hour and 24-hour National Ambient Air Quality Standards.

2. Prohibits the sale, use or purchase of residual oil with a sulfur content in excess of 2.0 percent on the islands of St. Thomas and St. John and 1.5 percent on the island of St. Croix. Sources on all islands which have total combined rated heat input capacities less than or equal to 8 million BTU/hr are permitted to use fuel with a sulfur content of 2.0 percent.

3. Prohibits conversion to residual fuel oil from other fuels if such use increases the amount of sulfur oxides emitted by the source.

4. Prohibits sale or purchase of any fuel other than residual oil if such fuel contains in excess of 1.0 percent sulfur, by weight.

The technical justification shows, through the use of appropriate diffusional analysis, that the amended regulation will not cause a contravention of national standards for sulfur oxides on any of the islands. The diffusional analysis was performed for all large users of fuel oil in order to determine the expected impact on air quality of the amended regulation. The technical justifications consisted of the following:

(1) Sulfur oxide analysis for St. Croix;

(2) Sulfur oxide analysis for St. Thomas; and

(3) Administrative order setting operating conditions for the Virgin Islands

Water and Power Authority facility on St. Thomas.

The Regional Office's preliminary analysis of the technical justification has led to the conclusion that the proposed revision will not cause contravention of national standards for sulfur oxides.

It should be noted that the Regional Office has received sulfur oxide ambient air quality data for the island of St. Croix from a private consultant which show that under currently existing conditions there are contraventions of the primary national ambient air quality standards. The Regional Office is currently evaluating the adequacy of these data and will formulate a final decision regarding the approvability of the amended regulation as it applies to St. Croix upon completion of the EPA analysis.

It is EPA's current intention to approve the proposed revision to the Virgin Islands implementation plan insofar as it applies to the Islands of St. Thomas and St. John. It is EPA's further intention to make such approval effective immediately upon publication thereof in the FEDERAL REGISTER. The Agency believes that there is good cause to make such approval immediately effective:

(1) In adopting the proposed revision, the Virgin Islands fully complied with all public notice-public hearing requirements of 40 CFR Part 51;

(2) The EPA evaluation of the air quality data submitted by the Virgin Islands in support of the proposed revision has demonstrated that the amended regulation will not cause or contribute to any contravention of the national ambient air quality standards for sulfur oxides on St. Thomas or on St. John;

(3) The proposed revision will not have any impact on air quality in any other State or air quality control region;

(4) The proposed revision will affect only one major source, namely, an electric generating facility owned and operated by the Virgin Islands Water and Power Authority on St. Thomas.

This notice is issued, as required by Section 110 of the Clean Air Act, to advise the public that comments may be submitted on whether the proposed revision should be approved or disapproved and on whether, if the proposed revision is to be approved insofar as it applies to St. Thomas and St. John, such approval should be immediately effective upon publication thereof in the FEDERAL REGISTER. Only comments received during the 15-day public comment period will be considered. The Administrator's decision to approve or disapprove the proposed plan revision will be based on whether such revision meets the requirements of section 110(a)(2)(A)–(H) and EPA regulations in 40 CFR Part 51.

Copies of the proposed plan revision are available for public inspection during normal business hours at the Air Branch, EPA, Region II, 26 Federal Plaza, New York, New York 10007, and at the Virgin Islands Department of Conservation and Cultural Affairs, Charlotte Amalie, St. Thomas 00801. Additional copies are available for inspection at the Public Information Research Unit, 401 M Street, S.W., Washington, D.C. 20460. All comments should be addressed to the Regional Administrator, Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York 10007. The ambient air quality data submitted by the private consultant is available for public inspection only at the EPA, Region II address.

G. M. HANSLER,
Regional Administrator,
Environmental Protection Agency.

[FR Doc.76-13825 Filed 5-13-76;8:45 am]

ACTION

[45 CFR Part 1224]

PRIVACY ACT OF 1974

Implementation

On Wednesday, August 27, 1975, ACTION published its proposed regulation and implementation under the Privacy Act (40 FR 39434) interested parties were invited to submit written comments or views on such regulations on or before September 26, 1975. Said regulations were made effective by the terms of the notice on September 27, 1975, the effective date of the Privacy Act.

No comments were received within the aforesaid period but on December 11, 1975, the agency did receive comments from an OMB task force which reviewed Privacy Act implementation. The proposed changes here are in response to that review. The reasons for the changes and the proposed rules are set forth below.

1. Section 1224.1–13 is amended to indicate the address and the official to whom requests for information should be made. This section is also amended to eliminate in paragraph (a) the requirement that a representative obtain "notarized" consent from the individual whom he represents. A new paragraph is also added to this section to indicate the time within which compliance with requests will be made.

§ 1224.1–13 Access to records.

(a) Upon request of any individual about whom a record is maintained addressed to the Director of Administrative Services, 806 Connecticut Avenue, NW., Washington, D.C. 20525, in person during regular business hours, or by mail, access to his record or to any information contained therein shall be provided.

(b) If the request is made in person, such individual may, upon his request, be accompanied by a person of his choosing to review the record and shall be provided an opportunity to have a copy made of all or any portion of any record about such individual.

(c) A record may be disclosed to a representative chosen by the individual as to whom a record is maintained upon

(d) Request made in person will be promptly complied with if the records proper written consent or such individual. sought is in the immediate custody of ACTION. Mailed requests or personal requests for documents in storage or otherwise not immediately available, will be acknowledged within ten working days, and the information requested will be promptly provided thereafter.

(e) With regard to any request for disclosure of record the following procedure shall apply:

(1) Medical or psychological records shall be disclosed to an individual unless in the judgment of the agency access to such records might have an adverse effect upon such individual. When such determination has been made, the agency may require that the information be disclosed only to a physician chosen by the requesting individual. Such physician shall have full authority to disclose all or any portion of such record to the requesting individual in the exercise of his professional judgment.

(2) Test material and copies of certificates or other lists of eligibles or any other listing, the disclosure of which would violate the privacy of any other individual, or be otherwise proscribed by the provision of the Privacy Act of 1974 shall be removed from any record before disclosure to any individual to whom the record pertains.

2. Section 1224.1–15, paragraph (b) is amended to eliminate the requirement that mailed requests for any information to be notarized.

§ 1224.1–15 Identification of requestors.

* * * * *

(b) In the event that disclosure is requested by mail, the agency may request such information as may be necessary to reasonably assure that the individual making such request is properly identified. In certain cases, the agency may require that a mailed request be notarized with an indication that the notary received an acknowledgment of identity from the individual making such request.

* * * * *

3. Section 1224.1–16(a) is amended to more clearly indicate the name and address of the official to whom requests for amendment should be sent, and to provide that such official shall furnish appropriate assistance to requesters.

§ 1224.1–16 Amendment of records and appeals with respect thereto.

* * * * *

(a) In the event an individual after examination of his record desires to request an amendment of such record, he may do so by addressing such request to the Director of Administrative Services. The Director of Administrative Services shall provide assistance in preparing any such amendment upon request and a written acknowledgment of receipt of such request within 10 working days from the receipt thereof from the individual who requested the amendment. Such acknowledgment may, if necessary, request any additional information needed to make a determination with respect to such request. If the agency makes a determination to comply with such request within such 10-day period, no written acknowledgment is necessary

provided however that a certification of such change shall be provided to such individual within such period.

* * * * *

4. Section 1224.1–17 is added to provide for internal appeal of any denial of access.

§ 1224.1–17 Denial of access and appeals with respect hereto.

In the event that the agency finds it necessary to deny any individual access to a record about such individual pursuant to provisions of the Privacy Act or of these regulations, a response to the original request shall be made in writing within ten working days from the date of such initial request. The denial shall specify the reasons for such refusal or denial and advise the individual of the reasons therefore, and of his or her right to an appeal within the agency and/or judicial review under the provisions of the Privacy Act.

(a) In the event an individual desires to appeal any denial of access, he may do so in writing by addressing such appeal to the attention of the Deputy Director, ACTION, c/o the Director, AF/Administrative Services, 806 Connecticut Avenue, NW., Washington, D.C. 20525. Although there is no time limit for such appeals, ACTION shall be under no obligation to maintain copies of original requests or responses thereto beyond 180 days from the date of the original request.

(b) The Deputy Director, or his designee, shall review a request from a denial of access and shall make a determination with respect to such appeal within 20 days after receipt thereof. Notice of such determination shall be provided to the individual making the request in writing. If such appeal is denied in whole or in part, such notice shall include notification of the right of the person making such requests to have judicial review of the denial as provided in the Privacy Act (5 U.S.C. 552a).

Any person interested in the proposed regulations as amended herein may submit written comments or views on such regulations by addressing ACTION/Office of the General Counsel, M–607, 806 Connecticut Avenue, NW., Washington, D.C. 20525 on or before June 14, 1976. All written comments received on or before that day will be considered by the agency in formulating final rule changes.

Dated: May 5, 1976.

JOHN L. GANLEY,
Deputy Director, ACTION.

[FR Doc.76–13946 Filed 5–12–76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 157]

[CGD 76–075]

CERTAIN EXISTING TANK VESSELS SEGREGATED BALLAST

Advance Notice of Proposed Rule Making

• *Purpose.* The Coast Guard is considering developing regulatory requirements for a segregated ballast capability for certain existing tank vessels of 70,000 DWT and over. The purpose of this advance notice is to solicit comments from the public on the cost involved in retrofitting existing vessels, the inflationary impact on the economy by requiring this retrofitting, and on technical and other possible problems that could be expected during and as a result of implementing this concept. •

Written comments. Interested persons are invited to participate in this proposed rule making by submitting written views, data, arguments, objections, and comments to the Executive Secretary, Marine Safety Council (G–CMC/81), Room 8117, U.S. Coast Guard, Washington, D.C. 20590. Each person submitting written comments should include his name and address, identify this notice (CGD 76–075), and give reasons for any recommendations. Comments received will be available for examination by interested persons in Room 8117, U.S. Coast Guard Headquarters, Washington, D.C.

Closing date for comments. All communications received before June 30, 1976, will be evaluated before further action is taken.

Background: The International Convention for the Prevention of Pollution from Ships, 1973, requires new tankers of 70,000 DWT and over to have a segregated ballast capability. The concept of segregated ballast is that a tank vessel must have sufficient spaces set aside for carrying ballast water separately so that in all but unusually rough weather conditions, it will not be necessary to introduce ballast water into cargo tank spaces. In the October 14, 1975 issue of the FEDERAL REGISTER (40 FR 48280) this concept was implemented for certain new U.S. tank vessels carrying oil in domestic trade. In the FEDERAL REGISTER (41 FR 15859) of April 15, 1976 the Coast Guard proposed that this concept apply to certain new U.S. tank vessels in foreign trade and certain new foreign tank vessels entering the navigable waters of the United States. New vessels are defined by calendar dates in the regulations and the proposed regulations. Existing vessels are those vessels that are not within the definition of new vessels.

Resolution 3 adopted by the International Conference on Marine Pollution, 1973, recommends that governments undertake concerted efforts to reduce the discharge of oil from ships into the sea with a view to the complete elimination of international pollution as soon as possible but not later than the end of the present decade. Segregated ballast, as stated in the Coast Guard Final Environmental Impact Statement, Regulations for Tank Vessels Engaged in the Carriage of Oil in Domestic Trade, August 1975, is a concept that has gained worldwide acceptance for offering major environmental benefits. The Coast Guard is now considering extending the segregated ballast concept to existing U.S. tank vessels of 70,000 DWT and over and to existing foreign tank vessels of 70,000 DWT and over that enter the navigable waters of the United States.

According to both domestic and international studies available to the Coast Guard, the retrofitting of existing tankers with segregated ballast capability appears feasible because:

(a) There presently exists on a worldwide basis a considerable excess of available tank vessel tonnage capacity, a condition projected to continue for at least the next five years. Because of this excess capacity, and allowing a modest period for necessary shipyard alternation, the requirement should result in minimal disruption of the oil transportation system.

(b) The vessel alterations will not entail major conversions but in most instances would at least require changes to the cargo and ballast piping systems.

(c) Increases in consumer cost of oil and oil products as a result of this contemplated action should have a minimum impact on the present inflationary trend. There will be some small increase in the transportation cost of oil because of this action; however, transportation costs are a relatively small part of the price consumers pay today. Further, this action should reduce the size scale of needed reception facilities at loading ports.

It is recognized by the Coast Guard that segregated ballast alone will not eliminate the need for good operational practice on board tankers. Cargo tanks must be washed in order to remove sludge and before entering shipyards; however, segregated ballast will eliminate the major source of operational pollution, dirty ballast. Emerging techniques for crude oil washing of cargo tanks (under development by industry), in combination with improved methods of stripping cargo tanks and cargo piping systems, hold promise for even further reduction of the amount of oil discharged into the sea from tankers.

The Coast Guard has examined and will continue to examine the feasibility of requiring retrofitting of certain existing tankers with segregated ballast capacity. The purpose of this advance notice is to learn as much as possible from the public and industry as to the costs involved, the expected inflationary impact, and the technical and other possible problems resulting from the contemplated retrofitting of existing vessels.

(R.S. 4417a (3) and (7), as amended (46 U.S.C. 391a (3) and (7); 49 CFR 1.46(n)(4)).)

J. V. CAFFREY,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

MAY 6, 1976.

[FR Doc.76–13764 Filed 5–12–76;8:45 am]

[33 CFR Part 164]

[CGD 76–025]

TUG ASSISTANCE IN CONFINED WATERS

Proposed Minimum Standards

Correction

In FR Doc. 76–13210, appearing in the issue for Thursday, May 6, 1976, on page

18771, in the second column, in paragraph 6, the word "drugs" appearing in the third sentence should read, "tugs".

Also, in paragraph 8, the word "bands" appearing in the fourth sentence should read "bends".

Finally, the word "In" appearing at the beginning of paragraph 10 should read "Is".

[33 CFR Part 164]

[CGD 74-77]

NAVIGATION SAFETY REGULATIONS

Proposed Testing Requirements

Correction

In FR Doc. 76-13209, appearing in the issue for Thursday, May 6, 1976, on page 18767, in the third column, in the fifth line of the last paragraph, the sentence which reads as follows: "The misapplication or reversal orders to * * *." should read as follows: "The misapplication or reversal of orders to * * *."

[33 CFR Part 164]

[COD 76-051]

MINIMUM NET BOTTOM CLEARANCE

Request for Comments

Correction

In FR Doc. 76-13211, appearing on page 18771, in the issue for Thursday, May 6, 1976, in the first line of the authority citation which reads as follows: "* * * 86 Stat. 8662" should appear as follows: "* * * 86 Stat. 862."

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 15698]

MESSERSCHMITT - BOLKOW - BLOHM MODEL BO-105A AND BO-105C HELICOPTERS

Airworthiness Directives; Notice of Proposed Rule Making

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to certain Messerschmitt-Bolkow-Blohm (MBB) Model BO-105A and BO-105C helicopters. There have been reports of cracks occurring in the piston rods of the main rotor hydraulic servo actuators that could result in the failure of an actuator and loss of control of the helicopter. Since this condition is likely to exist or develop in other helicopters of the same type design, the proposed airworthiness directive would require periodic inspections and the replacement of the piston rods in the main rotor hydraulic servo actuators on certain MBB Model BO-105A and BO-105C helicopters.

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 Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue, S.W. Washington, D.C. 20591. All communications received on or before June 14, 1976, 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.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

MESSERSCHMITT - BOLKOW - BLOHM GmbH.(MBB). Applies to Model BO-105A and BO-105C helicopters, certificated in all categories, incorporating Teledyne Hydra-Power hydraulic actuators, P/N 105-45021, with the following serial numbers: 1012, 1014, 1015, 1016, 1017, 1018, 1019, 1021, 1023, 1027, 1028, 1029, 1030, 1032, 1034, 1035, 1037, 1038, 1040, 1041, 1043, 1044, 1045, 1046, 1049, 1056, 1057, 1062, 1064, 1065, 1066, 1069, 1071, 1075, 1091, 1093, 1101, 1104, 1109, 1113, 1119, 1121, 1123, 1126, 1127, 1156, 1160, and 1161 which have piston rods, P/N D133-750.08E, with S/N's 101 through 440.

Compliance is required as indicated, unless already accomplished.

To prevent possible failure of the main rotor hydraulic actuator and loss of control of the helicopter, accomplish the following:

(a) Before the accumulation of 600 hours total helicopter time in service or within the next 25 hours time in service after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed 600 hours time in service from the last inspection until modified in accordance with paragraph (e) of this AD, comply with paragraph (b) of this AD.

(b) Inspect the piston rods, P/N D133-750.08E, in the hydraulic actuators, P/N 105-45021, for cracks, using a dye penetrant method in accordance with Paragraph 2.B. of the "Accomplishment General" section of MBB Service Bulletin No. 40-19, dated June 2, 1975, or an FAA-approved equivalent.

(c) If a crack is found in a piston rod during an inspection specified in paragraph (b) of this AD, before further flight, replace the cracked piston rod with a serviceable part of same part number and continue to inspect in accordance with paragraph (b) of this AD at intervals not to exceed 600 hours time in service until the modification specified in paragraph (e) of this AD is accomplished.

(d) Comply with paragraph (e) of this AD as follows:

(1) For helicopters with less than 1800 hours total time in service on the effective date of this AD and for which it has been less than 4 years since the issuance of its airworthiness certificate, comply with paragraph (e) of thisc AD in accordance with paragraph (i) or (ii), whichever occurs later.

(i) Before the accumulation of 1800 hours total time in service or within four years of the date of issuance of its airworthiness certificate, whichever occurs sooner.

(ii) Within the next 25 hours time in service after the effective date of this AD.

(2) For helicopters with 1800 hours or more total time in service on the effective date of this AD or helicopters for which the effective date of this AD is four years or more after the date of issuance of its airworthiness certificate, comply with paragraph (e) of this AD within the next 25 hours time in service after the effective date of this AD.

(e) Disassemble the Teledyne Hydra-Power actuators, P/N 105-45021, and replace the piston rods, P/N D133-750.08E, which have S/N's 101 through 440 with serviceable parts of the same part number which have serial numbers other than 101 through 440.

Issued in Washington, D.C., on May 6, 1976.

JAMES M. VINES,
Acting Director,
Flight Standards Service.

[FR Doc.76-13766 Filed 5-12-76; 8:45 am]

[14 CFR Part 39]

[Docket No. 75-NE-17]

PRATT & WHITNEY JT9D MODEL ENGINES

Withdrawal of Notice of Proposed Rulemaking

In the April 23, 1975, issue of the FEDERAL REGISTER (40 FR 17852), the Federal Aviation Administration published a Notice of Proposed Rulemaking (Docket No. 75-NE-17) to amend Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to the Pratt & Whitney JT9D turbofan engine. The proposed airworthiness directive required an inspection for residual nickel chloride on the internal air surface of the Tt_2 temperature sensing bellows.

Two comments were received on the proposal. One commentator suggested some changes of an editorial nature, and also sugested that the inspection interval of 600 hours was unnecessarily restrictive in view of service experience. This commentator recommended that the inspection interval be extended to 1000 hours. The other commentator questioned the need for an AD on this subject since actual service experience indicated that there have been no in-flight shutdowns that could be attributed to a corroded sensing bellows. This commentator also recommended that the inspection interval be extended to 1000 hours and that the applicability of the AD be limited.

Since the publication of the NPRM in the FEDERAL REGISTER, additional evidence has become available which indicates that the extent of corrosion is not as severe as originally anticipated and that even the most critical failure of the Tt_2 bellows would not create a significant unsafe condition.

This information, in conjunction with reports that there have been no reported instances of service difficulty caused by a Tt_2 sensor failure, indicate that an AD on the subject is not necessary at this time. Accordingly, the agency has determined that the NPRM should be, and hereby is, withdrawn.

The agency will, of course, continue to monitor the service experience of the Tt_2 temperature sensors and will initiate rulemaking action on this subject should

service experience indicate this action is warranted.

(Section 313(a) of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1345(a)) and Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Burlington, Massachusetts, on April 30, 1976.

QUENTIN S. TAYLOR,
Director, New England Region.

[FR Doc.76-13557 Filed 5-12-76;8:45 am]

[14 CFR Part 39]

[Airworthiness Docket No. 76-SW-28]

AIRWORTHINESS DIRECTIVES

Bell Models 205A-1 and 212 Helicopters

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to Bell Models 205A-1 and 212 helicopters equipped with fixed float landing gear. There has been a recent report of failure of the forward and aft cross tube on two Model 205A-1 helicopters resulting from fatigue cracks in the lower surface of the aft cross tube and from fatigue cracks in the forward cross tube saddle rivet holes. The Bell Model 212 helicopter is equipped with the same fixed float landing gear as the Model 205A-1 and is subject to the same operating conditions and environment. Bell Helicopter Company issued Service Bulletin No. 212-76-3 dated March 5, 1976, and Service Bulletin 205-76-2 dated March 5, 1976, to establish a 500-hour retirement time for certain forward and aft cross tubes and to require removal of certain cross tube friction dampers regardless of their condition for the float landing gear.

Failure of a float landing gear cross tube in flight or during a landing may result in loss of control of the helicopter. Since the noted condition is likely to develop in other helicopters of the same type design, this proposed airworthiness directive would impose a 500-hour retirement time for certain forward and aft float landing gear cross tubes and would require removal of certain cross tube friction dampers regardless of their condition for Bell Models 205A-1 and 212 helicopters.

Amendment 39-1153 (36 F.R. 2864), AD 71-4-1, established a retirement time of 1000 hours for forward cross tubes, P/N 205-050-114-3 or -9, on Bell Models 205A and 205A-1 helicopters that are equipped with float kit installation, P/N 205-706-050-1. The proposed airworthiness directive would supersede this amendment since these two forward cross tubes are included in the proposal and all Model 205A helicopters have been converted to Model 205A-1 helicopters.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or comments as they may desire. Communications should identify the docket number and be submitted in triplicate to the Regional Counsel, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received on or before June 18, 1976, will be considered by the Director 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 Office of Regional Counsel for examination by interested persons.

This amendment is proposed under the authority of Sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

BELL. Applies to Models 205A-1 and 212 helicopters, certificated in all categories equipped with fixed float landing gear, P/N 205-706-050-1 or 205-706-050-7.

Compliance required as indicated.

To prevent possible failure of the forward and aft cross tubes, P/N 205-040-114-1, -3, -5, -7, and -9 and cross tube assemblies, P/N 205-706-050-5 and -9 due to possible fatigue cracks and to possible ineffective dampers, accomplish the following:

a. Within 50 hours' time in service after the effective date of this AD, remove cross tube damper assemblies, P/N 205-050-127-3 and -5 manufactured by Frisby and install serviceable damper assemblies, P/N 205-050-127-5 and -9 manufactured by Lord Manufacturing Company in accordance with Bell Helicopter Company Service Instructions No. 205-24 revised May 3, 1974, or No. 212-14 revised May 15, 1974, or later approved revisions or in accordance with FAA approved equivalent procedures.

b. Remove forward and aft cross tubes, P/N 205-050-114-1, -3, -5, -7, and -9 and cross tube assemblies, P/N 205-706-050-5 and -9 that have attained 450 or more hours' total time in service on the effective date of this AD within 50 hours' time in service.

c. Remove forward and aft cross tubes, P/N 205-050-114-1, -3, -5, -7, and -9 and cross tube assemblies, P/N 205-706-050-5 and -9 with less than 450 hours' total time in service on the effective date of this AD prior to attaining 500 hours' total time in service.

d. The requirements of this AD do not apply to other landing gear cross tubes or cross tube assemblies.

e. Operators not having kept time in service records on individual cross tubes should use float kit hours' time in service for the purpose of paragraphs (b) and (c).

(Bell Helicopter Company Service Bulletins Nos. 205-76-2 and 212-76-3 dated March 5, 1976, pertain to this subject.)

This amendment supersedes Amendment 39-1153 (36 F.R. 2864) AD 71-4-1.

Issued in Forth Worth, Texas, on May 3, 1976.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.76-13952 Filed 5-12-76;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 76-SW-30]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to alter the transition area at San Marcos, Tex.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received within 30 days after publication of this notice in the Federal Register will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Texas. An informal docket will also be available for examination at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

§ 71.181 [Amended]

In § 71.181 (41 F.R. 440), the San Marcos, Tex., transition area is amended to read:

SAN MARCOS, TEX.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the San Marcos Municipal Airport (Latitude 29°53'38" N., longitude 97°51'45" W.) and 2 miles either side of the 138° bearing from the San Marcos, Tex., Gary NDB (29° 54'00" N., 97°52'14" W.), extending from the 6-mile radius to a point 8 miles from the NDB.

The proposed transition area will provide additional controlled airspace for aircraft executing the proposed NDB RWY 30 (Original) instrument approach procedure to the San Marcos Municipal Airport.

This amendment is proposed under the authority of Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348) and of Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Fort Worth, TX., on May 5, 1976.

ALBERT H. THURBURN,
Acting Director,
Southwest Region.

[FR Doc.76-13951 Filed 5-12-76;8:45 am]

Federal Railroad Administration

[49 CFR Part 218]

[Docket No. RSOR-2, Notice 4]

RAILROAD OPERATING RULES

Notice of Extension of Comment Period

In the March 30, 1976 issue of the FEDERAL REGISTER (41 FR 13369), the Federal Railroad Administration (FRA) published a notice of proposed rulemaking (NPRM) that it is considering amendment of Part 218 Railroad Operating Rules (41 FR 10904).

Interested persons were invited to file written comments before May 14, 1976 and to participate in the public hearing to be conducted at 10:00 a.m., Friday, May 14, 1976, in Room 4436-38, 400 Seventh Street, S.W., Washington, D.C.

At the request of the Brotherhood of Locomotive Engineers, the period for filing written comments has been extended to June 14, 1976. However, the public hearing will be held as originally scheduled on May 14, 1976.

Issued in Washington, D.C. on May 10, 1976.

ASAPH H. HALL,
Administrator.

[FR Doc.76-14259 Filed 5-12-76;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF STATE

Agency for International Development

ENGINEERING, ARCHITECTURAL AND CONSTRUCTION INDUSTRY ADVISORY COMMITTEE

Renewal

The Engineering, Architectural and Construction Industry Advisory Committee provides a systematic dialogue between A.I.D. and the engineering, architectural and construction industry in the interest of improving A.I.D. policies and procedures and industry preformance relating to A.I.D.-financed activities. There continues to be a significant need for such a systematic dialogue.

Accordingly, I hereby determine, pursuant to the provisions of section 14(a)(1)(A) of the Federal Advisory Committee Act (Pub. L. 92–463) and Paragraph 7 of OMB Circular A–63 (Revised) that renewal of the Engineering, Architectural and Construction Industry Advisory Committee for a two-year period beginning May 17, 1976, is in the public interest.

DANIEL PARKER,
Administrator.

APRIL 6, 1976.

[FR Doc.76–14016 Filed 5–12–76;8:45 am]

[Public Notice CM–6/57]

ADVISORY COMMITTEE ON TRANSNATIONAL ENTERPRISES

Meeting

The Department of State Advisory Committee on Transnational Enterprises will hold its fifth meeting on Tuesday, June 8 at 2:00 p.m. in Room 1315 of the Department of State, 2201 C Street, N.W., Washington, D.C. The meeting will be open to the public.

The purpose of the meeting will be to review the proposed Organization of Economic Cooperation and Development Declaration and Decisions on International Investment and Multinational Enterprises.

Requests for further information on the meeting should be directed to William Witting, Department of State, 2201 C Street, N.W., Washington, D.C. 20520. He may be reached by telephone on (area code 202) 632–1448.

Members of the public wishing to attend the meeting must contact Mr. Witting's office in order to arrange entrance to the State Department building.

The Chairman will, as time permits, entertain oral comments from members of the public attending the meeting.

Dated: May 6, 1976.

STEPHEN R. BOND,
Executive Secretary.

[FR Doc.76–13856 Filed 5–12–76;8:45 am]

[Public Notice CM–6156]

FINE ARTS COMMITTEE

Meeting

The Fine Arts Committee will hold its spring meeting on Friday, June 18, 1976 at 2:00 p.m. in the John Quincy Adams State Drawing Room in the Diplomatic Reception Rooms, Department of State.

The agenda will include a summary of the work of the Fine Arts Committee since its last meeting, the announcement of gifts and loans since January 1976 and plans for the architectural improvements in the reception rooms.

The meeting is open to the public. The public may take part in the discussion as long as time permits and at the discretion of the Chairman. Because of State Department security requirements, anyone wishing to attend the meeting should telephone the Fine Arts Office before Monday, June 14, 1976, Area Code (202) 632–0298 to make arrangements to enter the building.

Dated: May 4, 1976.

CLEMENT E. CONGER,
Chairman, Fine Arts Committee.

[FR Doc.13858 Filed 5–12–76;8:45 am]

[Public Notice CM–6/55]

STUDY GROUP 7 OF THE U.S. NATIONAL COMMITTEE FOR THE INTERNATIONAL RADIO CONSULTATIVE COMMITTEE (CCIR)

Meeting

The Department of State announces that Study Group 7 of the U.S. National Committee for the International Radio Consultative Committee (CCIR) will meet on June 4, 1976 at the Howard Johnson Motor Inn on Arkansas Avenue, Atlantic City, New Jersey. The meeting will be held in conjunction with the Annual Symposium on Frequency Control at Atlantic City to take advantage of the fact that many of the USSG–7 members will be attending the Symposium. The meeting will begin at 2:00 p.m. (the room number will be available from the Inn's registration desk).

Study Group 7 deals with time-signal services by means of radio-communications. The purpose of the meeting will be a review of work programs of Study Group 7 and report on the results of the Interim Study Group meeting at Geneva, Switzerland in February 1976.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Admittance of public members will be limited to the seating available. Members of the general public who plan to attend the meeting are requested to so inform Mr. Hugh Fosque, Chairman of U.S. Study Group 7, prior to June 2. Mr. Fosque can be contacted at NASA Headquarters, telephone number (202) 755–2434.

Dated: May 4, 1976.

GORDON L. HUFFCUTT,
Chairman, U.S. National Committee.

[FR Doc.76–13857 Filed 5–12–76;8:45 am]

[Public Notice 487]

PUBLIC REFERENCES

Indexes Maintained in the Department of State Public Reading Room

The public reading room of the Department of State, 2201 C Street, N.W., Washington, D.C. 20520, maintains for public reference the following indexes, quarterly publication of which is not feasible or necessary:

(a) A topical index to the Foreign Affairs Manual, which contains the administrative regulations of the Department of State and Foreign Service of the United States.

(b) Copies of the published semiannual index to the *Department of State Bulletin*, which contains important press releases, speeches, press conferences and other foreign relations information.

(c) *Treaties in Force*, which is an annual published listing of treaties and other international agreements to which the United States is a party; multilateral agreements by subject and bilateral agreements by country.

(d) Other indexes in special subject areas.

Copies of published indexes are available from the Superintendent of Documents, U.S. Government Printing Office at prices specified in the listings of that office.

Department publications such as *Background Notes, Newsletters, Current Foreign Policy Issues, Foreign Relations of the United States,* Whiteman's *Digest*

of International Law, Annual Digest of United States Practice of International Law will be listed in the *Department of State Bulletin* which has a published semi-annual index.

In addition, the public reading room maintains for public reference materials describing the organization of the Central Foreign Policy files and authorized decentralized files.

For the Secretary of State.

Dated: April 30, 1976.

LAWRENCE S. EAGLEBURGER,
Deputy Under Secretary for Management.

[FR Doc.76-13853 Filed 5-12-76;8:45 am]

DEPARTMENT OF THE TREASURY

Office of the Secretary

VITAMIN K FROM SPAIN

Preliminary Countervailing Duty Determination

On January 26, 1976, a "Notice of Receipt of Countervailing Duty Petition and Initiation of Investigation" was published in the FEDERAL REGISTER (41 F.R. 3754). The notice stated that a petition had been received alleging that payments or bestowals conferred by the Government of Spain upon the manufacture, production, or exportation of Vitamin K constitute the payment or bestowal of a bounty or grant, directly or indirectly, within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303) (referred to in this notice as "the Act").

On the basis of an investigation conducted pursuant to section 159.47(c) of the Customs Regulations (19 CFR 159.47(c)), it has been determined preliminarily that benefits have been paid or bestowed, directly or indirectly, under various programs maintained by the Spanish Government. These include the tax remission system known as Desgravacion Fiscal, and a loan guarantee program offering preferential interest rates on loans for plant expansion.

Benefits derived from programs such as those which are the subject of this investigation can, in some circumstances, constitute bounties or grants within the meaning of the Act. Since the information thus far made available concerning these programs has not been sufficient to permit a thorough analysis of their nature and effect, it has been determined preliminarily that imports of Vitamin K from Spain benefit from the payment or bestowal of a bounty or grant, directly or indirectly, within the meaning of the Act by reason of the programs mentioned above.

Before a final determination is made, consideration will be given to any relevant data, views or arguments submitted in writing with respect to this preliminary determination. Submissions should be addressed to the Commissioner of Customs, 1301 Constitution Avenue, NW., Washington, D.C. 20229, in time to be received by his office not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER.

This preliminary determination is published pursuant to section 303(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)).

May 7, 1976.

VERNON D. ACREE,
Commissioner of Customs.

Approved:
DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

[FR Doc.76-13844 Filed 5-12-76;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Meeting

MAY 5, 1976.

The USAF Scientific Advisory Board ad hoc Committee on Tactical Electronic Warfare will hold a meeting on July 19 through 30, 1976 from 8:30 a.m. to 3:30 p.m. each day at the Naval Postgraduate School, Monterey, California.

The meeting will consist of classified briefings and classified discussions on the impact of Soviet ECM on tactical air operations. Classified working sessions will be held to draft a report on the Committee's findings and recommendations.

The meeting concerns matters listed in Section 552(b) of Title 5, United States Code, specifically subparagraph (1) thereof, and that accordingly the meeting will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at (202) 697-8845.

JAMES L. ELMER,
Major, USAF Executive, Directorate of Administration.

[FR Doc.76-14013 Filed 5-12-76;8:45 am]

USAF SCIENTIFIC ADVISORY BOARD

Meeting

MAY 5, 1976.

The USAF Scientific Advisory Board ad hoc Committee on Tactical Electronic Warfare will hold meetings in the Pentagon, Room 5C-1040, on June 22, 23, and 24, 1976 from 9:00 a.m. to 5:00 p.m., each day.

The Committee will receive classified briefings and hold classified discussions on current and future ECM/ECCM technology programs. The group will meet in Executive Session to discuss the planned 1976 Summer Study.

The meetings concern matters listed in Section 552(b) of Title 5, United States Code, specifically subparagraph (1) thereof, and that accordingly the meetings will be closed to the public.

For further information contact the Scientific Advisor Board Secretariat at (202) 697-8845.

JAMES L. ELMER,
Major, USAF, Executive, Directorate of Administration.

[FR Doc.76-14010 Filed 5-12-76;8:45 am]

USAF SCIENTIFIC ADVISORY BOARD

Meeting

MAY 6, 1976.

The USAF Scientific Advisory Board Aerospace Vehicles Panel will hold meetings from 8:00 a.m. to 5:00 p.m. on June 28-29, 1976 at Wright-Patterson AFB, Ohio.

The Panel will receive classified informational briefings on Air Force R&D plans and requirements for future weapons systems.

The meetings concern matters listed in Section 552(b) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly the meetings will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at (202) 697-8845.

JAMES L. ELMER,
Major, USAF Executive, Directorate of Administration.

[FR Doc.76-14012 Filed 5-12-76;8:45 am]

USAF SCIENTIFIC ADVISORY BOARD

Meeting

MAY 6, 1976.

The USAF Scientific Advisory Board Electro-Optics Panel will hold meetings on June 24-25, 1976 in the Pentagon, Washington, D.C. from 8:30 a.m. to 5:00 p.m. both days.

The Panel will receive classified informational briefings on terminal guidance technology.

The meetings concern matters listed in Section 552(b) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly the meetings will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at (202) 697-8845.

JAMES L. ELMER,
Major, USAF Executive, Directorate of Administration.

[FR Doc.76-14011 Filed 5-12-76;8:45 am]

USAF SCIENTIFIC ADVISORY BOARD

Meeting

MAY 6, 1976.

The USAF Scientific Advisory Board Ad Hoc Committee on Advanced Composites Technology will hold meetings on June 15-16, 1976 at Wright-Patterson AFB, Ohio.

The Committee will receive unclassified informational briefings on Air Force plans for development of advanced composites on June 15 from 8:00 a.m. to 12:00 n. This session will be open to the public, and interested persons may address the Committee concerning this program.

The Committee will conduct an executive session on June 15 from 1:00 p.m. to 5:00 p.m. and June 16 from 8:00 a.m. to 5:00 p.m., to discuss preliminary findings and write draft inputs for possible inclusion in a final report. This session

will concern matters listed in Section 552 (b) of Title 5, United States Code, specifically subparagraph (5), and accordingly, will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at (202) 697-8845.

JAMES L. ELMER,
Major, USAF Executive,
Directorate of Administration.

Department of the Army

FINANCIAL MANAGEMENT ADVISORY COMMITTEE

Sixty Day Extension of Committee

In accordance with the provisions of Public Law 92-463, Federal Advisory Committee Act, notice was given on January 28, 1976, of the establishment of the Financial Management Advisory Committee, and that the Committee had been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. It is now necessary and in the public interest to extend the Committee for a period of 60 days commencing June 15, 1976. The Office of Management and Budget has also reviewed the justification for an extension of this advisory committee and concurs with its extension.

The nature and purpose of the Financial Management Advisory Committee was and is to advise the Secretary of the Army on the adequacy of corrective actions underway and assist in identifying other actions which may be necessary to improve the organization and procedures for financial management within the Army's procurement accounts. Specifically, it is advising and assisting in the development of a financial management process that:

a. Is responsive to the statutes and implementing Congressional, OMB, and OSD directives.

b. Assures that budget input for reimbursable programs is based on sound and supportable requirements.

c. Allocates funds for approved program based on fund availability as reflected in official reports.

d. Assures that reprograming procedures are adequate.

e. Requires accurate and timely reporting on the Army's financial transactions.

f. Establishes a budget execution process that assures that funds are used for the purpose intended and accounted and reported for in the way they were used.

g. Provides the necessary internal checks and balances that assure the soundness of the Army's overall financial management structure and related accounting and reporting.

The goal of the recommendations of the Committee was and is to provide improved financial management practices, procedures and organization in the Army's procurement accounts; thereby, it was in the public interest that the Committee was established.

The Committee has already met on six occasions and it is anticipated it will meet two to four times during this extension at times convenient to the majority of its members.

To obtain balanced membership, the Committee is composed of seven members selected from government, education and the civilian business community. Members represent a variety of disciplines involved with financial management. Members were selected on the basis of their expressed interest in this project and their qualifications and had initially agreed to serve for a period not to exceed 90 days from the date of its first meeting. These same members have agreed to serve throughuot this extended period of 60 days.

The Financial Management Advisory Committee was originally scheduled to terminate not more than 90 days from the date of its first meeting. However, it is now necessary to extend the life of the Committee for a period of 60 days based upon the unanticipated complexity of the financial matters under consideration by the Committee and of the necessity to review the validity of the improved financial management practices and organization in the Army procurement accounts begun during the initial term of the Committee.

The Financial Management Advisory Committee will operate in complete accordance with P.L. 92-463, the "Federal Advisory Committee Act."

Dated: May 7, 1976.

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

[FR Doc.76-13958 Filed 5-12-76;8:45 am]

Office of the Secretary of Defense

DDR&E HIGH ENERGY LASER REVIEW GROUP HIGH ENERGY LASER ASSESSMENT BOARD

Notice of Closed Meetings

Pursuant to the provisions of Section 10 of Appendix I, Title 5, United States Code, notice is hereby given that closed meetings of the DDR&E High Energy Laser Review Group, High Energy Laser Assessment Board will be held at 0800 on Tuesday, June 8, 1976, at Kirtland Air Force Base, New Mexico. The purpose will be to review matters pertaining to the Department of Defense high energy laser program.

The subject matter of the meeting is classified in accordance with subparagraph (1) of Section 552(b) of Title 5 of the U.S. Code.

Dated: May 7, 1976.

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

[FR Doc.76-13959 Filed 5-12-76;8:45 am]

DEPARTMENT OF JUSTICE

Antitrust Division

UNITED STATES V. BANKAMERICA CORP., ET AL.

Proposed Consent Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)-(h), that a proposed consent judgment and a competitive impact statement has been filed with the United States District Court for the Northern District of California. Civil Action No. 75-2109 RFP, *United States* v. *BankAmerica Corp., et al.* The defendants named in the complaint are BankAmerica Corporation, Bank of America National Trust & Savings Association, Bankers Trust New York Corporation, Bankers Trust Company, The Prudential Insurance Company of America, E. Hornsby Wasson and Paul A. Gorman. The complaint charges that the concurrent service of E. Hornsby Wasson on the board of directors of BankAmerica, its wholly-owned subsidiary Bank of America, and Prudential and of Paul A. Gorman on the board of directors of Bankers Trust, and its wholly-owned subsidiary Bankers Trust Company, and Prudential violates Section 8 of the Clayton Act. The complaint alleges that the aforementioned interlocking directorships violate Section 8 inasmuch as the corporate defendants compete in the extension of various forms of credit, including real estate mortgage loans and consumer loans.

The proposed judgment involves only defendant, E. Hornsby Wasson. The judgment enjoins Mr. Wasson from serving on either the board of directors of BankAmerica or Bank of America as long as he is a director of Prudential. The prosecution of the case against the other defendants continues.

Public comments are invited on or before July 16, 1976. Such comments and responses thereto will be published in the FEDERAL REGISTER and filed with the Court. Comments should be directed to Dwight B. Moore, Antitrust Division, Department of Justice, 1444 United States Court House, 312 North Spring Street, Los Angeles, California 90012.

Dated: May 7, 1976.

THOMAS E. KAUPER,
Assistant Attorney General
Antitrust Division.

Anthony E. Desmond, Jill Nickerson, Crossan R. Andersen, Antitrust Division, Department of Justice, 450 Golden Gate Avenue, San Francisco, California 94102, Telephone: 415-556-6300.

UNITED STATES DISTRICT COURT,
NORTHERN DISTRICT OF CALIFORNIA

[Civil Action No. 75-2109 RFP; Filed: May 7, 1976]

United States of America, plantiff, v. Bankamerica Corporation; Bank of America National Trust & Savings Association; Bankers

Trust New York Corporation; Bankers Trust Company; The Prudential Insurance Company of America; E. Hornsby Wasson; and Paul A. Gorman, defendants.

STIPULATION

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

One: A final judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16, and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed final judgment by serving notice thereof on defendant and by filing that notice with the Court.

Two: In the event plaintiff withdraws its consent or if the proposed final judgment is not entered pursuant to this stipulation, this stipulation shall be of no effect whatever and the making of this stipulation shall be without prejudice to the plaintiff and defendant in this and any other proceeding.

For the plaintiff:

Thomas E. Kauper, Assistant Attorney General; Baddia J. Rashid, Charles F. B. McAleer, Dwight B. Moore, Jill Nickerson, Crossan R. Andersen, Polly L. Frenkel, Attorneys, Department of Justice.

For the defendant:

WILLIAM SIMON,
Attorney for E. Hornsby Wasson.

Anthony E. Desmond, Jill Nickerson, Crossan R. Andersen, Antitrust Division, Department of Justice, 450 Golden Gate Avenue, San Francisco, Califnoria 94102.

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA

[Civil Action No. 75-2109 RFP; Filed: May 7, 1976]

United States of America, plaintiff, v. Bankamerica Corporation; Bank of America National Trust & Savings Association; Bankers Trust New York Corporation; Bankers Trust Company; The Prudential Insurance Company of America; E. Hornsby Wasson; and Paul A. Gorman, defendants.

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on October 6, 1975, and defendant, E. Hornsby Wasson, having appeared by his attorneys, and plaintiff and the aforesaid defendant, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of law or fact herein and without this Final Judgment constituting evidence or admission by any party with respect to any issue of law or fact herein;

Now, therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon the consent of the parties hereto, it is hereby, ordered, adjudged, and decreed:

I. This Court has jurisdiction over the subject matter and the parties consenting hereto. The complaint states a claim upon which relief may be granted under Section 8 of the Act of Congress of October 15, 1914 (15 U.S.C. § 19), as amended, commonly known as the Clayton Act.

II. Defendant, E. Hornsby Wasson, is enjoined and restrained from serving as a director of BankAmerica and Bank of America or any subsidiary thereof, while serving as a director of The Prudential Insurance Company of America or any of its subsidiaries.

III. Upon sixty (60) days written notice to the Attorney General, the defendant may file a petition in this Court for the abatement or modification of this Judgment if, after the date of the entry of this Judgment, an act of Congress or decision of the Supreme Court of the United States provides that director interlocks between banks and non-banks are exempt from the provisions of 15 U.S.C. § 19, reading as follows: "* * * No person at the same time shall be a director in any two or more corporations, any one of which has capital, surplus, and undivided profits aggregating more than $1,000,000 engaged in whole or in part in commerce, other than banks, banking associations, trust companies, and common carriers subject to the Act to regulate commerce, approved February fourth, eighteen hundred and eighty-seven, if such corportions are or shall have been theretofore, by virtue of their business and location of operation, competitors so that the elimination of competition by agreement between them would constitute a violation of any of the provisions of any of the antitrust laws * * *"

IV. Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or modification of any of the provisions thereof, for the enforcement of compliance therewith, and for the punishment of violations thereof. This Final Judgment shall be in full force and effect for a period of twenty (20) years from the date of entry of this Final Judgment and thereafter will have no further force and effect.

V. Entry of this Final Judgment is in the public interest.

Dated:

United States District Judge.

Anthony E. Desmond, Jill Nickerson, Crossan A. Andersen, Antitrust Division, Department of Justice, 450 Golden Gate Avenue, San Francisco, California 94102.

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA

[Civil Action No. 75-2109 RFP; Filed: May 7, 1976]

United States of America, plaintiff, v. Bankamerica Corporation; Bank of America National Trust & Savings Association; Bankers Trust New York Corporation; Bankers Trust Company; The Prudential Insurance Company of America; E. Hornsby Wasson; and Paul A. Gorman, defendants.

COMPETITIVE IMPACT STATEMENT

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 (b)-(h), the United States of America hereby files this Competitive Impact Statement relating to the proposed consent judgment submitted for entry in this civil antitrust proceeding.

I. Nature and purpose of the proceeding

On October 6, 1975, the Department of Justice filed a civil antitrust suit alleging that a director of BankAmerica Corporation ("BankAmerica") and its wholly-owned subsidiary Bank of America National Trust & Savings Association ("Bank of America"), and a director of Bankers Trust New York Corporation ("Bankers") and its wholly-owned subsidiary Bankers Trust Company ("Bankers Trust") were serving concurrently on the board of directors of The Prudential Insurance Company ("Prudential") in violation of Section 8 of the Clayton Act. BankAmerica, Bank of America, Bankers, Bankers Trust, Prudential and E. Hornsby Wasson and Paul A. Gorman were named as defendants in the complaint.

Section 8 of the Clayton Act prohibits an individual from serving at the same time as a director of two or more corporations, one of which has capital holdings of more than one million dollars and is engaged in interstate commerce, if such corporations are "competitors". The term "competitors" is defined in the Act as corporations so situated that the elimination of competition by agreement between them would constitute a violation of any of the antitrust laws. The complaint alleges that BankAmerica, Bank of America, Bankers and Bankers Trust compete with Prudential in offering various forms of credit. Therefore, Mr. Wasson's service as a director of BankAmerica, Bank of America and Prudential and Mr. Gorman's service as a director of Bankers, Bankers Trust and Prudential violate Section 8.

II. Events giving rise to the alleged violations

The Government contends that activities of commercial banks and life insurance companies make them competitors within the meaning of Section 8 of the Clayton Act. Both make real estate mortgage loans which finance the purchase of land and the construction of commercial and industrial buildings, factories, farms, and multiple and single family housing and both make consumer loans.

The complaint alleges that Bank of America, and its parent BankAmerica, and Prudential have competed in making real estate mortgage loans, particularly in the State of California. In 1974 Bank of America was the nation's largest real estate lender, holding real estate mortgage loans of approximately $5 billion, a substantial portion of which were held on California real estate. Prudential for the same period held real estate mortgage loans in excess of $12 billion, of which $1.6 billion were held on California real estate. E. Hornsby Wasson is a director of Prudential and until June 5, 1975, had been a director of BankAmerica and Bank of America. Following notice of the Government's intention to sue, Mr. Wasson resigned from the boards of BankAmerica and Bank of America.

III. Proposed consent judgment

The proposed consent judgment enjoins E. Hornsby Wasson from serving as a director of BankAmerica and Bank of America or any subsidiary thereof, while serving as a director of Prudential or any of its subsidiaries.

IV. Anticipated effects on competition

The evidence in this case did not encompass known restraints of trade but did encompass the probability that such restraints might result from the interlocking directorates involved. Thus, the impact on competition of the proposed consent judgment cannot be measured in terms of specific effects which might release identifiable competitive forces. The sole anticipated effect upon competition is the removal of the danger that anticompetitive effects will result from the interlocking directorates.

V. Remedies available to potential private plaintiffs

Any potential private plaintiffs who might have been damaged by the alleged violations will retain the same right to sue for monetary *damages and any other legal and equitable* remedies which they may have had, were the proposed consent judgment not entered. However, this judgment may not be used as *prima facie* evidence in private litigation pursuant to Section 5(a) of the Clayton Act, as amended, 15 U.S.C. 16(a).

VI. Procedures available for modification of consent judgment

By its terms, the proposed consent judgment provides for retention of jurisdiction of this action in order, among other things, to permit either E. Hornsby Wasson or the United States to apply to the Court for such orders as may be necessary or appropriate for its modification.

As provided by the Antitrust Procedures and Penalties Act, any persons believing that the proposed consent judgment should be modified may submit written comments to Dwight B. Moore, United States Department of Justice, Antitrust Division, 1444 United States Court House, Los Angeles, California 90012. Such comments, together with responses thereto, will be filed with the Court and published in the Federal Register.

VII. Alternatives to proposal actually considered by United States

The principal alternative relief against defendant Wasson considered by the Department of Justice is the relief requested in the complaint. The complaint asks the Court to enjoin Mr. Wasson from serving simultaneously as a director of any two or more competing corporations, any one of which has assets of over $1 million.

The relief provided in the proposed consent judgment achieves one principal objective of the complaint, the elimination of the interlocks between BankAmerica, Bank of America and Prudential. An injunctive provision prohibiting defendant Wasson from again violating Section 8 was considered unnecessary because the Department expects that the filing of the complaint and the successful litigation of the action against the other defendants will cause individual directors and corporations to voluntarily terminate directorates which violate Section 8 of the Clayton Act. Moreover, the Department has the continuing ability to file other suits to attack such violations.

VIII. Determinative documents

There were no materials and documents which the Government considered determinative in formulating this proposed consent judgment. Therefore, none is being filed along with this Competitive Impact Statement.

Dated: May 7, 1976.

JILL NICKERSON,
Attorney, Department of Justice.

[FR Doc.76-14035 Filed 5-12-76;8:45 am]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (P.L. 93-205).

Applicant: Colonel Clarence K. Darling, 141 Fox Run, San Antonio, Texas 78233.

OMB NO. 42-R1670

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
to purchase 2 Pr Palawan Pheasant Peacocks for propagation purposes

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Colonel Clarence K Darling
141 Fox Run
San Antonio Tex 78233
512 655-5160

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING.
☐ MR. ☐ MRS. ☐ MISS ☐ MS.
HEIGHT: 5'9" WEIGHT: 190
DATE OF BIRTH: 2 Dec 1899
COLOR HAIR: White COLOR EYES: Brown
PHONE NUMBER WHERE EMPLOYED: 655-3161 SOCIAL SECURITY NUMBER: 457-76-4391
OCCUPATION: Retired Army Officer
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT: None

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION: NA
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.: NA
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
at my home
141 Fox Run
San Antonio Tex
78233

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT ☑ YES ☐ NO
(If yes, list license or permit number)
Migratory Bird Permit 2-SP-345

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(If yes, list jurisdictions and type of documents)
NA

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF: NA

10. DESIRED EFFECTIVE DATE: 15 March 76

11. DURATION NEEDED: 9 months

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(a)) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
NA.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink): Clarence K Darling
DATE: 6 March 1976

3-200 (6/74)

COLONEL C. K. DARLING,
141 Fox Run,
San Antonio, Texas 78233.

The following information is supplied according to 17.22, Fish and Wildlife Service, Dept. of Interior. Form 3-200 has already been submitted.

(1) Palawan Peacock Pheasants, *Polyplectron Napoleonis* [emphanum]. I want to acquire 2 males and two females 1975 hatch, I intend to use them for propagation purposes.

I want to use fresh blood. I already have 2 pr mature Palawans.

The birds I want to acquire were hatched in captivity.

I do not know from what country or source the original importation was made.

The Palawans I want to buy will be housed in my private aviary located at: 141 Fox Run, San Antonio, Texas 78233.

Pairs stolen in 1975.

I intend to raise the young birds to be disposed of to reliable breeders.

This rearing of mine will increase the numbers of Palawans in captivity.

These birds will be maintained under my personal care and maintenance at my personal and private residence.

I do have a migratory Bird Permit No. 2-SP-345, originally issued in 71. I do report annually the information as required by the permit.

Permit was originally issued by your office in Albuquerque, New Mexico 87103. I intend to purchase these birds from Joseph Kulina, Carmel, New York.

My pens are of 1" mesh wire, each pen 16 ft. long and 8 ft. across, 6 ft. high, and have perches installed. There is cover above and on the North and West sides for protection.

I have had about 20 years experience in raising Peacock Pheasants. Within the past ten or fifteen years I have raised Palawans, some years as many as eleven or twelve.

I am willing to cooperae in a cooperative breeding program and to contribute to any studbook.

The birds will be sent to me by air-freight from New York State in appropriate sized shipping crates or boxes approximately 15 inches long, 8 to 10 inches broad and 10 inches high.

I have had no disease losses. I did have two mature.

Documents and complete information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street, N.W., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. All relevant comments received on or before June 14, 1976 will be considered.

Dated: May 10, 1976.

C. R. BAVIN,
Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service.

[FR Doc.76-13961 Filed 5-12-76;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (P.L. 93-205).

Applicant: Regional Director #2, U.S. Fish & Wildlife Service, 500 Gold Avenue SW, P.O. Box 1306, Albuquerque, New Mexico 87103.

OMB NO. 42-R1670

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
To transport, transplant, study scientifically, propagate and monitor (populations of) the woundfin (Plagopterus argentissimus) by USFWS and the Woundfin Recovery Team under the auspices of the FWS.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Regional Director
U. S. Fish and Wildlife Service
500 Gold Ave. SW - P.O. Box 1306
Albuquerque, NM 87103
8-474-2321

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☐ MS.
HEIGHT | WEIGHT
DATE OF BIRTH | COLOR HAIR | COLOR EYES
PHONE NUMBER WHERE EMPLOYED | SOCIAL SECURITY NUMBER
OCCUPATION

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
Conservation of U. S. fish and wildlife and collection of scientific data.

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC. 8-474-2321
W. O. Nelson, Jr., Regional Director
(IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Utah
Nevada
Arizona

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☐ NO
(If yes, list license or permit numbers)
Various appropriate FWS permits

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(If yes, list jurisdictions and type of documents)
Various appropriate State permits.

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$

10. DESIRED EFFECTIVE DATE: Immediately
11. DURATION NEEDED: Indefinite

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
50 CFR 17:22

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) Jerry L. Stegman
DATE 4/2/76

3-200
16/76

1. Woundfin—*Plagopterus argentissimus*
The permit is to cover scientific research on the woundfin by the U.S. Fish and Wildlife Service and the Woundfin Recovery Team. In addition, the permit will cover transporting and propagating the woundfin. The permit will cover the taking of 100 individuals a year from all native and transplanted populations to determine morphological changes, food habits, and fecundity in the new locations. The permit will cover collecting, measuring and releasing both native and transplanted populations.

2. The only known population of woundfin is in the Virgin River of Utah, Arizona, and Nevada. No other populations are known in captivity or to presently survive at any previous transplant sites.

3. Woundfins will be taken by seines, traps, electro fishing gear, and other appropriate equipment.

4. NA.

5. Appropriate USFWS approved facilities, including the Biology Department, University of Nevada, Las Vegas, Nevada 89157.

6. (i) Woundfin will be held in USFWS approved facilities, including the aquaria at UNLV. The UNLV aquaria are housed in a special room where temperature, lighting, and access are controlled.

(ii) USFWS personnel and persons approved by the Regional Director will care for the woundfin. Dr. James Deacon, University of Nevada, Las Vegas, a recognized authority on the woundfin, has held and reared them in captivity for many years under permit, and will continue to do so under this permit.

(iii) USFWS's objective is to restore the woundfin to non-endangered status. This includes captive breeding with accurate knowledge of the species' genetic background.

(iv) Woundfin will only need to be moved for short distances usually for a time span of less than 6 hours. Regular styrofoam coolers 18" x 12" x 12" are sufficient for moving small numbers of woundfin. For moving larger numbers any of several types of standard fish hauling tanks will be used.

(v) Mortalities have occurred only during scientifically designed experiments reported to the USFWS.

7. No contracts are outstanding on the woundfin at present. Future contracts for studies on the woundfin will be let but these contracts have not been funded or written. Dr. Deacon, the members of the Woundfin Recovery Team and graduate students working under Dr. Deacon will be engaged in work on the woundfin. Dates for the activities in the studies are not now known.

8. The permit will need to cover all the following activities:

(1) sacrificing 100 individuals a year from the Virgin River population and from any transplanted populations to ascertain changes in morphology, food habits, and fecundity, and for laboratory studies.

(2) Transplanting woundfin to suitable sites within their former range.

(3) Transporting woundfin to these sites and to the laboratory for scientific study and artificial propagation, scientific study in the laboratory, and artificial propagation in the laboratory or other facilities.

(ii) The activities listed above will be carried out by standard procedures detailed in the scientific literature. Experience already gained from working with the woundfin in past studies will be invaluable.

(iii) All the activities listed above are directed toward restoring the woundfin to non-endangered species.

(iv) The disposition of all specimens of the woundfin which die in captivity will re-

main the property of the USFWS, to be housed in various approved collections.

Documents and complete information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street, N.W., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. All relevant comments received on or before June 14, 1976 will be considered.

Dated: May 10, 1976.

C. R. BAVIN
Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service.

[FR Doc.76-13962 Filed 5-12-76;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (P.L. 93-205).

Applicant: Gerald R. Poling, 1781 Bennett Road, Madison, Ohio 44057.

OMB NO. 42-R1670

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate by one)
☑ IMPORT OR EXPORT LICENSE ☐ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
Purchase endangered species Palawan Peacock Pheasants (Polyplectron Emphanum) for propagation by same at 1781 Bennett Rd Madison, Ohio 44057

APPLICATI

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Gerald R Poling
1781 Bennett Rd
Madison, Ohio 44057
216-428-4120

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING.
☑ MR. ☐ MRS. ☐ MISS ☐ MS.
HEIGHT 6' WEIGHT 195
DATE OF BIRTH Aug 6, 1930
COLOR HAIR Grey COLOR EYES Hazel
PHONE NUMBER WHERE EMPLOYED 216-428-4120
SOCIAL SECURITY NUMBER 280-24-2849
OCCUPATION Masonry-Contractor
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING.
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Interstate shipment from Carmel, New York to Madison, Ohio

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☑ YES ☐ NO
(If yes, list license or permit numbers)
3-PR-826

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(If yes, list jurisdictions and type of documents)
Not required

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$ 10.00

10. DESIRED EFFECTIVE DATE Feb 15, 1976
11. DURATION NEEDED April 15, 1976

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
50 CFR 17.23 Permits for propagation

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) Gerald R Poling
DATE Jan 9, 1976

3-200 (8/74)
GPO 895-042
INTERIOR-16

MARCH 8, 1976.

DEAR SIR, The following is a description of facilities I have for holding and propagating.

Concrete block building with 20 pens 6' x 16' on brick foundations running full length of building. Building has an automatic heating system to maintain proper temperature during cold weather. Other pens are of 1" chain link 12' x 16' mounted on treated wood foundations covered with 1" vinyl coated wire and having 4' shed in rear of each. All pens have shrubs and trees in them for cover and are kept raked and clean.

Incubating is done with fully automatic incubators.

Thank you,

GERALD R. POLING.

DEAR SIR, I hope the following information is sufficient, Thank you.

1. 2-1 year old male & female Palawan Peacock Pheasants (*Polyplictron Emphanum*) Interstate Commerce New York to Ohio.
2. Born & raised in captivity.
3. Purchase arranged thru ad in Game Breeder Gazette.
4. South Lake Rd RD 3 Carmel, New York 10512.
5. Various bldgs for incubating, rearing sheds, pens and shelters for breeding, raising of young and holding adult birds located at 1781 Bennett Rd, Madison, Ohio 44057.
6. (1) See 5 above and photographs.

(2) I have had numerous pheasants, waterfowl and other types of birds and animals for several years. At present I have Grey Peacock (*Polyplectron Bicalartum*) and Germains Peacock (*Polyplectron Germaini*) and several other pheasant of rarer as well as more common varieties and have propagated these birds for years.

(3) I am willing to cooperate in any breeding program I will contribute to a stud book.

(4) Containers will be hard bond box 12" x 16" x 28" with ventillation, water containers and foam pad on lid.

(5) None.

7. Verbal contract by telephone seller Joe Kulina buyer Gerald R Poling, Sr Feb/76 to Apr /76 or sooner if permit allows.
8. (1) Purchase of 1 pr. Palawan Peacock Pheasants from Joe Kulina, New York.

(2) Pheasants will be picked up by Gerald R Poling Sr in New York upon issuance of permit.

(3) Obtain birds for breeding stock.

(4) Propagate young.

Documents and complete information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street, N.W., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. All relevant comments received on or before June 14, 1976 will be considered.

Dated: May 10, 1976.

C. R. BAVIN,
Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service.

[FR Doc.76-13963 Filed 5-12-76;8:45 am]

ENDANGERED SPECIES PERMIT

Notice of Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (P.L. 93-205).

Applicant: Walter B. Sturgeon, Jr., RFD #1, James Farm, Durham, New Hampshire 03824.

OMB NO. 42-R1670

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
To ship one pair (male & female) captive reared Nene (Hawaiian Goose), Branta sandvicensis from Winston Guest, Berry Hill Rd., Oyster Bay, L.I., N.Y.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Walter B. Sturgeon Jr.
RFD # 1, James Farm, Lee
Durham, New Hampshire 03824
1-603- 659-5442

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☒ MR. ☐ MRS. ☐ MISS ☐ MS.
HEIGHT: 5-9 WEIGHT: 175
DATE OF BIRTH: May 27, 1941 COLOR HAIR: Brown COLOR EYES: Green
PHONE NUMBER WHERE EMPLOYED: 603-669-4000x502 SOCIAL SECURITY NUMBER: 236-62-3826
OCCUPATION: nuclear engineer

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
NA

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Residence:
James Farm, Strafford County
Lee, New Hampshire

Mailing Address:
(above)

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☒ NO
(If yes, list license or permit numbers)
I am applying to Boston for a Waterfowl Sale & Disposal Permit.

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☒ YES ☐ NO
(If yes, list jurisdictions and type of documents)
Propagation License/Game No. 54 under N.H. provisions RSA 212 sections 25 to 33.

9. CERTIFIED CHECK OR MONEY ORDER (If applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$ NA

10. DESIRED EFFECTIVE DATE: 8/1/76

11. DURATION NEEDED: continuing

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
50CFR 17.23

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) Walter B. Sturgeon Jr. DATE 4-16-76

3-200
(5/74)

APRIL 19, 1976.

Mr. LYNN A. GREENWALT, *Director,*
U.S. Fish & Wildlife Service,
Law Enforcement Division,
U.S. Department of the Interior,
Washington, D.C. 20240.

DEAR MR. GREENWALT: I hereby apply for an Endangered Species Permit under Section 10(a) of the Endangered Species Act of 1973. I submit the following information persuant to Sections 13.12 of Volume 39, No. 3 and 17.22 of Volume 40, No. 188 of the FEDERAL REGISTER.

1. Request is for permit to obtain one (1) pair (male & female) of 1976 hatch Nene (Hawaiian Goose) *Branta sandvicensis,* by means of interstate commerce.

2. (iii.) The specimens are captive born.

3. Not applicable.

4. The specimens were hatched and reared at the privately owned waterfowl collection of Mr. Winston Guest, Berry Hill Road, Oyster Bay, L.I., N.Y., U.S.A.

5. The birds will be maintained at my home at the James Farm in Lee, Strafford County, New Hampshire (mailing address—RFD #1, Durham, N.H. 03824). At the present time I am developing this property for the housing of a collection of wild waterfowl for propagation purposes. (See paragraph 6.) (i.) below for a more detailed description.

6. (i.) The birds will be maintained in two areas shown on the attached diagrams and photographs. My facility is presently in the development stage and what is shown on the photographs is the present stage of this development.

Sketch (1.) is a topographical map of the property totaling twelve acres upon which I have drawn the facilities existing at present (in black) and those I intend to complete within the next year (in red). This location was chosen for the express purpose of raising wild waterfowl because of its natural setting and excellent supply of water.

Sketch (2.) shows a plan view of the existing pens and building that I intend to use for a wintering and young bird area. It is in these pens that I will keep the young Nene from the time I receive them until the spring of 1977 when they will go on pond #1. or into the enclosed aviary that will be complete by that time. The pens are predator proof utilizing 1" by 2" mesh hardware cloth on sides and top and a two foot wide apron of 1" by 2" wire is laid on the ground and secured to the bottom boards to prevent animals from digging under. The fence around the pond will be 5 foot high 14 gauge poultry fencing with an electric wire top and bottom to prevent predators from climbing over or digging under. The covered aviary will be constructed of a portable greenhouse frame set on a 3 foot deep concrete foundation to preclude predators and covered completely with 1" by 2" hardware cloth.

(ii.) I will care for these birds myself. My experience includes six years working with a collection of wild waterfowl including approximately 35 species on the farm of John and Al Miner (5-PR-5) in Stonington, Connecticut. While under their tutelage I participated in mating up birds, providing suitable nesting areas, tended incubators, cared for young birds, helped pinion, and administered any necessary medication. I am an active member of the International Wild Waterfowl Association attending the last two annual meetings and have visited some 30 public and private collections across the country in order to see their birds and to observe their practices and facilities. I have maintained a flock of domestic poultry including ducks, geese, and chickens for the past six years. I moved to New Hampshire last September and selected my present location for the express purpose of pursuing the propagation of wild waterfowl.

(iii.) Offspring resulting from successful propagation will be made available to zoological institutions and private collections to help insure future captive populations. I would be willing to participate in a cooperative breeding program, and maintain or contribute data to a studbook.

(iv.) I will pick the birds up myself and transport them to New Hampshire in my van. I will provide a crate similar and equal to International Air Transportation Association, Style "K" (see enclosure) taken from I.A.T.A. Live Animal Regulations, 5th Edition, February 1, 1975, Geneva, Switzerland.

(v.) I have held no previous wildlife of this genus or family.

7. See enclosure. I would take delivery of these birds in August 1976.

8. (i.) The birds will be maintained for propagation purposes in an effort to contribute to increasing the total captive stock of this species.

(ii.) Modern avicultural techniques such as artificial incubation and the utilization of brooding and rearing facilities will be used.

(iii.) I intend to concentrate by propagational efforts on this species and will record and report any information learned about their reproductive behavior. Progeny resulting from this effort will be available to zoological institutions and private collections to insure future captive populations.

(iv.) I have no plans to dispose of the birds covered by this permit and anticipate a continuing effort to propagate this species I will preserve the remains of any deceased specimens covered by the permit in a manner which would allow its use as a scientific specimen.

A completed form 3-200 as well as other documents regarding this request are enclosed. I sincerely hope that I can receive your consideration on my request at your earliest convenience.

Sincerely,

WALTER B. STURGEON, JR.

Documents and complete information submitted in connection with this application are available for public inspection during normal business hours at the

Service's office in Suite 600, 1612 K Street, N.W., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. All relevant comments received on or before June 14, 1976 will be considered.

Dated: May 10, 1976.

C. R. BAVIN,
Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service.

[FR Doc.76-13964 Filed 5-12-76;8:45 am]

Bureau of Land Management
California State Office

CALIFORNIA STATE ADVISORY BOARD AD HOC COMMITTEE ON RECHARTERING

Meeting

Notice is hereby given in accordance with Public Law 92-463 that an ad hoc committee on rechartering of the California State Multiple-Use Advisory Board to the Bureau of Land Management will meet in Room 104 of the Host of Sacramento Airport Hotel, Sacramento Metropolitan Airport, Sacramento, California on June 22, 1976. The committee will review the charter of the California State Multiple-Use Advisory Board and make recommendations concerning Board size, composition, operations and rechartering for 1977-78. The federal representative will be Ed Hastey, California State Director of the Bureau of Land Management, or his authorized representative.

The meeting will begin at 10:30 a.m., Tuesday, June 22, 1976, and will be open to the public. Time will be made available between 11 a.m. and 12 noon for brief statements by members of the public. Such statements must not exceed five minutes and must be limited in content to recommendations concerning size, composition, operations and charter of the California State Advisory Board. Additionally, such statements should be reduced to writing and at least two copies filed with the Chairman. Written statements or requests for time to make oral presentations should be made to Chairman Rob Flournoy, c/o State Director (C-912), Bureau of Land Management, 2800 Cottage Way, Sacramento, CA 95825 by the close of business, Friday, June 18, 1976.

Dated: May 4, 1976.

ED HASTEY,
State Director.

[FR Doc.76-13901 Filed 5-12-76;8:45 am]

IDAHO FALLS DISTRICT MULTIPLE USE ADVISORY BOARD

Meeting

Notice is hereby given in accordance with Public Law 92-463 that a field meeting (inspection) of the Idaho Falls District Advisory Board will be held June 24, 1976 beginning at 9:00 a.m. They will meet at the Bureau of Land Management building, 940 Lincoln Road, Idaho Falls, Idaho.

The Board was established to provide the Idaho Falls District of the Bureau of Land Management with advice and recommendations as to the proper management of the National Resource Lands to produce goods and services for the American people.

The purpose of the field inspection is for the Advisory Board to observe, inspect and provide advice to the District Manager concerning the different field activities including the Desert Land Entry applications area west of St. Anthony, Idaho. During this stop scheduled for 10:00 a.m., the following items will be discussed as it pertains to the area: off-road vehicle use, Fremont County road construction, aquifer recharge project, wildlife habitat, environmental analysis report and soil survey. The field inspection will continue in a northerly direction along Red Road, thence westerly to Dubois, Idaho to observe range condition for both livestock and wildlife. Cooperative land management programs will be discussed including private, state, and National Resource Lands. From Dubois the field inspection will continue in a southerly direction to Table Butte. At the Table Butte stop scheduled for 3:30 p.m., the Carey Act temporary withdrawal will be discussed along with the multiple use values. The field inspection will conclude at Idaho Falls at approximately 5:00 p.m.

During the inspection, current District programs and activities will be discussed along with a report concerning the Draft Environmental Impact Statement on the Development of Phosphate Resources in Southeastern Idaho.

The field meeting is open to the public. Individuals desiring to participate in the meeting other than official participants will arrange for their own transportation and lunch.

There will be a lunch break at the Pantry Restaurant, 119 South Bridge Street, St. Anthony, Idaho where time has been set aside from 1:00 p.m. to 1:30 p.m. for brief statements by the public. Oral statements may be made on agenda items. One written copy of all oral statements identifying the author is desired to provide a record for the minutes. Also, any interested person may file a written statement with the Board for its consideration.

It is expected that five persons will attend the 1:00 p.m. to 1:30 p.m. session in addition to official representatives. Persons wishing to make statements oral and/or written must inform the Official listed below at least five days prior to the inspection.

Further information concerning the field inspection may be obtained from O'dell A. Frandsen, District Manager, Bureau of Land Management, 940 Lincoln Road, Idaho Falls, Idaho 83401., telephone (208) 522-7460. Minutes of the inspection will be available for public information and copying four weeks after the meeting from the District Manager at the address listed above.

Dated: May 5, 1976.

O'DELL A. FRANDSEN,
District Manager.

[FR Doc.76-13851 Filed 5-12-76;8:45 am]

NEVADA STATE MULTIPLE USE ADVISORY BOARD

Notice of Meeting

Notice is hereby given in accordance with Public Law 92-463 that a meeting of the Nevada State Multiple Use Advisory Board will be held June 10 and 11, 1976 in Reno at the Pioneer Inn, 221 South Virginia Street.

The Nevada State Multiple Use Advisory Board was established to advise and counsel the Bureau of Land Management and the Secertary of the Interior on national resource land management.

This will be the second meeting of the newly appointed board under its charter approved by the Secretary of the Interior on August 5, 1975. The purpose of the meeting is to discuss the following topics: previous board minutes and committees' activities, legislation affecting BLM, lands activities, mining, range policies, and public involvement in decision making.

The meeting is open to the public. Time will be made available from 1:00 p.m. to 1:30 p.m. on Thursday, June 10 and 11:30 a.m. to 12:00 noon on Friday, June 11, for brief oral statements by members of the public. Such statements are not to exceed ten minutes and must be germane to the topics under consideration. Additionally, such statements are to be reduced to writing and two copies filed with the board chairperson at the meeting. Anyone wishing to make an oral statement should notify the State Director's office at the address and telephone number listed below before the close of business (4:15 p.m., PDT) on Wednesday, May 26. Also, any interested person or organization may file a written statement with the board for its consideration. Such may be submitted at the meeting or mailed to the State Director. Early mailing of written statements if encouraged to ensure adequate opportunity for board consideration.

Notification for giving oral statements, mailing of written statements, and additional information concerning this meeting many be obtained from the State Director's office (Carl A. Gidlund, Chief, Public Affairs), Bureau of Land Management, Nevada State Office, Room 3008 Federal Building, 300 Booth Street, Reno, Nevada 89509, telephone (702) 784-5459.

Minutes of the meeting will be available for public inspection and copying four weeks after the meeting at the Nevada State Office.

Dated: May 5, 1976.

E. I. ROWLAND,
State Director, Nevada.

[FR Doc.76-14015 Filed 5-12-76;8:45 am]

Geological Survey

OCS ORDER NO. 2, "DRILLING PROCEDURES," PACIFIC AREA

Modification of Order

On May 5, 1976, revised OCS Order No. 2, "Drilling Procedures," for the Pacific Area was published. Paragraph 3.D., Mud Testing Records, and Reports, should be modified to read as follows:

D. Mud Testing, Records, and Reports. Mud testing equipment shall be maintained on the drilling structure at all times. Mud tests shall be conducted in accordance with procedures outlined in API RP 13B, "Recommended Practice for Standard Procedure for Testing Drilling Fluid," Sixth Edition, April 1976, or subsequent revisions as approved by the Supervisor. Such test shall be conducted at least once each tour or more frequently as conditions warrant. All mud test records shall be available to a Geological Survey representative.

W. A. RADLINSKI,
Acting Director.

[FR Doc.76-13841 Filed 5-12-76;8:45 am]

GULF OF MEXICO AREA

Notice is hereby given that the U.S. Geological Survey intends to publish a Notice to Lessees and Operators requiring that safety device failures be reported on a Safety Device Failure and Activity Report form.

This is the second phase of a three-part program designed to obtain information relative to safety devices used in offshore operations.

A copy of the User's Instruction Booklet and form which are referenced in the proposed Notice will be sent to those parties who requested booklets and forms relating to the inventory portion of the program. Other parties may obtain copies of the booklet and form by writing to:

Chief, Conservation Division, U.S. Geological Survey, National Center, Mail Stop 600, 12201 Sunrise Valley Drive, Reston, Virginia 22092.

Comments relative to material contained in the proposed Notice to Lessees and Operators and/or the proposed form are solicited. Interested parties may submit written comments to the Conservation Division at the aforementioned address on or before June 21, 1976.

W. A. RADLINSKI,
Acting Director.

UNITED STATES DEPARTMENT OF THE INTERIOR, GEOLOGICAL SURVEY, GULF OF MEXICO AREA

(Proposed)

NOTICE TO LESSEES AND OPERATORS OF FEDERAL OIL AND GAS LEASES IN THE OUTER CONTINENTAL SHELF (OCS), GULF OF MEXICO AREA

Safety device failure and activity reporting system

As part of its total effort to ensure reduction in the probability of accidents and pollution during oil and gas operations in the OCS, the U.S. Geological Survey is implementing an OCS Safety and Pollution Control Device Failure Reporting and Information Exchange Program. The program consists of three phases: The Safety Device Inventory Reporting System, the Failure and Activity Reporting System, and the generation of statistical reports.

Requirements of the first phase of the program—Safety Device Inventory Reporting System—were the subject of a proposed "Notice to Lessees and Operators," which was published in the FEDERAL REGISTER on April 12, 1976 (Vol. 41, No. 71, Page 15354). This Notice sets forth the requirements for the Operator's input to the Failure and Activity Reporting, or second phase, of the program.

The enclosed "package" contains the OCS Safety Device Failure and Activity Report form and the User's Instruction Booklet. Form completion is required as soon as a failure is observed of any device listed in the "Device Type" column of the form.

This information is being collected under the authority of the safety device information and history requirements of OCS Order Nos. 5 and 8. Submittal as requested will provide a computerized format for the compilation of safety device failure data for all OCS production platforms and will facilitate the maintenance of safety device histories. With this bank of information, computerized output of statistical reports will be possible.

The data which is requested herein is to be provided by the operator on the "Failure and Activity Report" form as completed by field personnel at the time of occurrence. Although a "formal" failure analysis is not required by this Notice, each failed item must undergo sufficient test/disassembly to establish the basic cause(s) of the failure. The completed forms for each platform are to be submitted by the Operator to the U.S. Geological Survey, Oil and Gas Supervisor, Field Operations, on a monthly basis.

By drawing upon the reported experiences of operators of OCS leases, the U.S. Geological Survey will be able to provide regularly scheduled reports on the survivability of common makes and models of safety devices, on the common causes of failures, on problem areas experiencing high failure rates, and other such safety device information for use in improving the quality and service life of these devices. These summaries will be available to the operators, to the equipment manufacturers, and to interested outside parties. In addition, a variety of cumulative device failure history reports will be printed for numerous applications. This data can be utilized to (1) identify failure-prone equipment, (2) inspect installed equipment to determine whether or not conditions exist which have resulted in failure of like items at other locations, (3) improve design of equipment and related testing, operational, and preventive maintenance procedures, and (4) identify the more reliable safety devices.

D. W. SOLANAS,
Oil and Gas Supervisor.

[FR Doc.76-13842 Filed 5-12-76;8:45 am]

Office of Hearings and Appeals

[Docket No. M 76-393]

AFFINITY MINING COMPANY

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), Affinity Mining Company has filed a petition to modify the application of 30 CFR 75.1710 to its Keystone No. 5 Mine, Raleigh County, West Virginia.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with Section 75.1710 is 30 CFR 75.1710-1 which in pertinent part provides:

* * * Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches, and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. * * *

The substance of Petitioner's statement is as follows:

1. The average mining heights in the Keystone No. 5 Mine range from 40 to 42 inches. An average of 4 to 7 inches decrease in the effective average mining height occurs as a result of the installation of supplemental supports and wedges installed in accordance with the approved roof control plan. In addition, the natural undulations and rolls of the coal seam result in ascending and descending grades that further lower the effective mining height. Taken as a whole, these conditions tend to limit and/or prevent the safe use of cabs and canopies on electric face equipment used in the Keystone No. 5 Mine.

2. Petitioner respectfully requests the modification of the application of the mandatory safety standard 30 CFR 75.1710-1(a)(4) with respect to the below listed equipment used or to be used in the Keystone No. 5 Mine for the reason that the application of such standard to such equipment in such mine will result in a diminution of safety to the miners:

(a) Five Jeffrey 120L Continuous Mining Machines;

(b) Ten National Mine Service Shuttle Cars;

(c) Five Fletcher—Single Boom Roof Bolters;
(d) Fletcher—Dual Boom Roof Bolter;
(e) S & S CX2—Coal Haulers (unitracs);
(f) 16 RB Joy Cutting Machines;
(g) 202 Jeffrey Loading Machines.
(h) Fletcher Roof Bolting Machine
(i) Schroeder Face Drills (Coal Drills).

3. Petitioner asserts that technology does not presently exist to enable it to equip its self-propelled electric face equipment with suitable canopies to protect and provide for the safety of the operators of said equipment. Petitioner further asserts that based upon its experience with presently available canopies, the use of such canopies results in a diminution of safety to the miners in said mine.

4. Operators of face equipment, including shuttle car operators, work under approved plans for permanently and/or temporarily supporting the roof at all times. Such roof support is deemed satisfactory for all other personnel in the mine including the helpers on self-propelled electric face equipment and these helpers and other personnel freely move about the mine under the protection of approved roof support.

5. Petitioner's experience indicates the application of the mandatory standard will result in a diminution of safety to miners for the following reasons:

(a) Several instances occurred where canopies became wedged against the roof.

(b) Employees strongly object to operating machinery so equipped and allege a diminution of safety resulting from impaired vision and being required to operate in cramped positions. The impaired vision and cramped positions cause the following hazards and unsafe practices:

(1) Miners attempt to operate the machinery while standing between it and the rib, thus incurring a risk of being crushed should the machine slue.

(2) The combination of impaired vision and cramped positions cause the operator to expose his body and appendages, such as head and feet, to the risk of being crushed between the machine and rib.

(3) Ingress to and egress from the cab is limited and effectively prevents quick escape when mining conditions warrant such escape.

(4) Impaired vision is given as a major cause by machine operators for the damaging or severing of power cables by running over them.

(5) Impaired vision subjects the operator and fellow employees to increased risks of injury because the operator cannot adequately see other employees and/or equipment.[1]

[1] Petitioner attached copies of five photographs to the petition which demonstrate the impairment of vision imposed on equipment operators by cabs and/or canopies. These exhibits are available for inspection at the Hearings Division address provided herein.

6. At present, Petitioner is unaware of any proposed commercially manufactured canopy which could be installed that would provide the same degree of safety to miners as the complete removal of the canopy would provide.

7. Petitioner respectfully requests that the mandatory safety standard not be applied to the Keystone No. 5 Mine until such time as the technology becomes available whereby such standard may be applied to such mine without a concomitant diminution in safety to the miners.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 14, 1976. 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.

Dated: May 4, 1976.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

[FR Doc.76-13859 Filed 5-12-76;8:45 am]

[Docket No. M 76-281]

BAILEY MINING COMPANY

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), Bailey Mining Company has filed a petition to modify the application of 30 CFR 75.1710 to its No. 2 Mine and Mine No. 4, located in Floyd County, Kentucky.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with Section 75.1710 is 30 CFR 75.1710-1 which in pertinent part provides:

* * * Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches; and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. * * *

The substance of Petitioner's statement is as follows:

1. The coal seam height in the No. 2 Mine is 38 inches. In the Mine No. 4, the coal seam height is 42 inches. In both mines, the mine floor and roof are uneven, this causing the height to vary considerably. Cable boards and headers (up to 6 inches) are also used in both mines, thereby further decreasing mining heights.

2. The electric face equipment for which Petitioner seeks modification include the following: cutting machine, loading machine, shuttle cars, roof bolters, coal drill, and a scoop. The abovementioned equipment ranges in height from 28 to 38 inches.

3. Petitioner alleges that if it was possible to adapt cabs or canopies to this equipment, it would be creating a cramped, uncomfortable position in which the operator would be confined. Petitioner alleges that the installation of cabs or canopies in its equipment presents a greater hazard than does the operation of such equipment in the absence of cabs or canopies.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 14, 1976. 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 22023. Copies of the petition are available for inspection at that address.

Dated: May 5, 1976.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

[FR Doc.76-13860 Filed 5-12-76;8:45 am]

[Docket No. M 76-310]

B. B. AND W. COAL COMPANY, INC.

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), B. B. and W. Coal Co., Inc. has filed a petition to modify the application of 30 CFR 75.1710 to its No. 1 Mine located in Pike County, Kentucky.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the

height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with Section 75.1710 is 30 CFR 75.1710–1 which in pertinent part provides:

* * * Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches; and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. * * *

The substance of Petitioner's statement is as follows:

1. This petition is in reference to canopies on one S & S Scoop Model No. UAT74SSA and one Acme D–1 roof bolting machine.

2. Petitioner feels the installation of canopies on this equipment creates a hazard to the equipment operator.

3. The No. 1 Mine is in the Elkhorn No. 2 seam and ranges from 39 to 56 inches in height. The coal seam has consistent ascending and descending grades creating dips in the coalbed. As a result of these dips, the canopies have to be installed in such a manner as to prevent the canopies from striking the roof and possibly destroying roof support. Use of canopies allows only a 24-inch vertical operating compartment thus limiting the vision of the equipment operator and creating a hazard to him as well as the other employees in the mine.

4. The canopy on the roof bolting machine must be mounted in such a manner that the panic bar is inactive and in such a manner that the operator cannot bolt the roof on the left side closer than 5 feet of the rib or 3½ feet of the face. The mounting plate is constantly hitting the operator's legs and Petitioner fears that a serious accident may occur.

5. Petitioner feels that since the equipment operator's vision is limited as is the position in which he must sit to operate the equipment, the installation of canopies could be a contributing factor in any accidents which may arise.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 14, 1976. 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.

Dated: May 5, 1976.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

[FR Doc.76–13861 Filed 5–12–76;8:45 am]

[Docket No. M 76–316]

BENT MOUNTAIN COAL COMPANY

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of sections 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Bent Mountain Coal Company has filed a petition to modify the application of 30 CFR 75.1710 to its No. 6 Mine located in Pike County, Kentucky.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with Section 75.1710 is 30 CFR 75.1710–1 which in pertinent part provides:

* * * Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches; and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. * * *

The substance of Petitioner's statement is as follows:

1. This petition is in reference to canopies on one HD12 Mescher Mining Tractor and one Paul's Mark IV MIVIP roof bolting machine.

2. Petitioner feels that installation of canopies on this equipment creates a hazard to the equipment operators.

3. The No. 6 Mine is in the Winfred seam which varies from 28 to 58 inches in height. The coal seam has consistent ascending and descending grades creating dips in the coalbed. As a result of the dips, the canopies have to be installed in such a manner as to prevent them from striking the roof and possibly destroying roof supports. The canopies allow only a 22-inch vertical operating compartment thus limiting the vision of the equipment operators and creating a hazard to them as well as to the other employees in the mine.

4. Petitioner feels that since the equipment operator's vision is limited and the position that enables the operators to sit in the decks is also limited, that the installation of canopies could be a contributing factor in any accidents which may occur.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 14, 1976. 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.

Dated: May 5, 1976.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

[FR Doc.76–13862 Filed 5–12–76;8:45 am]

[Docket No. M 76–345]

BIG STAR COAL COMPANY AND LITTLE JEWELL COAL COMPANY

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), Big Star Coal Company and Little Jewell Coal Company have filed a petition to modify the application of 30 CFR 75.1710 to each of their No. 1 Underground Mines, located in Wise County, Virginia.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with Section 75.1710 is 30 CFR 75.1710–1 which in pertinent part provides:

* * * Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches; and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. * * *

The substance of Petitioner's statement is as follows:

Petitioner Big Star Coal Company operates two sections, each of which utilizes the following face equipment and associated section haulage equipment of the height shown:

Big Star equipment:	*Height (inches)*
2 Lee-Norse 265 continuous miners	38
4 6L–68 Galis shuttle cars	36½–40½
1 300 Galis roof drill	24
1 TD1 Lee-Norse roof drill	[1] 24
2 Elkhorn scoops	30

[1] With canopy.

Petitioner Little Jewell Coal Company operates one section, utilizing the following face equipment and associated section haulage equipment of the height shown:

Little Jewell equipment:	*(inches) Height*
1 Lee-Norse 245 continuous miner	26¾
2 Joy 6SC shuttle cars	38½
1 Lee-Norse roof bolter, model TD1–24	[1] 36
2 Elkhorn scoops	[1] 30

[1] With canopy.

Compliance with the standard will reduce safety that would otherwise be afforded miners in Petitioners' mines for the following reasons:

(1) Since the coal seam in which Petitioners operate goes down to 28 inches in seam height, Petitioners of necessity must have equipment which can operate in 28-inch coal with the 6-inch clearance required by the Commonwealth of Virginia. The equipment requires a minimum of 4 inches of ground clearance in order that it may be moved during operation. This leaves a maximum of 18 inches of space for the machine and canopy. Equipment of such size does not exist and is not obtainable and even so would be too small to accommodate an operator.

The canopy will raise the height of the equipment by about 4 to 12 inches. Because of low seam height the increased height of the face and haulage equipment will increase the likelihood that the canopy equipped machines will be jammed against the roof. The hazards from roof contact are increased because in Petitioners' mines the seam height varies and there are dips, rolls and other seam variations, all of which will increase the danger that the equipment will be lodged against the roof.

(2) Another hazard which will result from installation of canopies on Petitioners' equipment is that because of the increased equipment height roof bolts will be dislodged or sheared off during operation of such equipment, thereby creating a greater risk of roof falls and injuries to employees than would exist otherwise. Use of canopies equipment will seriously impair the roof control plan in effect at Petitioners' mines.

(3) The installation of canopies will reduce the operator's visibility. Even without a canopy the operator's visibility is obstructed to some extent by the height of the coal seam and the equipment, and by the load, if any, carried by the machine. The canopy will create an additional obstruction to the operator's visibility. Not only will reduced visibility create a new hazard for the operator, but also a greater danger to personnel on foot will be created, whose risk of being caught and crushed against the rib by the machine will be increased. Furthermore, the experience of other employers in use of canopied equipment is that the operator has a tendency to "lean" outside the canopy, which exposes him to the hazard of brushing against moving equipment, roof supports and coal ribs. The design of canopies in coal seams of low height will inevitably require that the operator lean out of the canopy in order to see.

(4) The canopy requires the operator to work in a cramped and awkward position. If the canopy is to extend not only over the operator but also over the controls of the machine, then the visibility of the operator is reduced to a much greater extent, again creating a hazard more dangerous to miners than the danger sought to be eliminated by installation of canopies.

In the event of a roof fall or fire the operator's chance of escaping from a canopied machine would generally be less than his opportunity if there were no canopy.

Petitioners will be unable to modify their existing equipment or to construct or purchase suitable canopies or new canopied equipment, because the manufacturers of such equipment are at present unable to design or produce canopied equipment which can be operated in the seam height at which Petitioners now operate, without producing all the increased hazards listed above.

Petitioners therefore submit that application of the mandatory safety standard set forth in 30 CFR 75.1710–1 will result in a diminution of safety to their personnel.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish coments on or before June 14, 1976. 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.

Dated: May 5, 1976.

JAMES R. RICHARDS,
Director,
Office of Hearings and Appeals.

[FR Doc.76–13863 Filed 5–12–76;8:45 am]

[Docket No. M 76–358]

CALF BRANCH COAL COMPANY, INC.

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), Calf Branch Coal Company, Inc., has filed a petition to modify the application of 30 CFR 75.1710 to its No. 2 Mine, located in Ransom Kentucky.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with Sections 75.1710 is 30 CFR 75.1710–1 which in pertinent part provides:

* * * Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches; and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. * * *

The substance of Petitioner's statement is as follows:

Petitioner alleges that, by having canopies installed on its haulage equipment and face equipment, a hazard to the operators is created.

Petitioner's haulage equipment consists of 2 shuttle cars, and a 6 SC Joy. The cars range in height from 37 to 42 inches. These cars were manufactured in the early sixties and were not designed to have canopies installed, as the new type cars are today.

The No. 2 Mine is in the Alma Seam ranging from 29 to 44 inches in height. In this seam, Petitioner is constantly running into ascending and descending grades, resulting in dips in the coalbed. By installing canopies on the cars the visibility of the operators of the equipment would be limited creating a hazard to them as well as other employees in the mine.

Petitioner alleges that since the shuttle car operator's visibility is limited and due to the position required in order to be seated in the deck of the shuttle car, the installation of canopies could be a contributing factor to accidents that may arise.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 14, 1976. 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.

Dated: May 5, 1976.

JAMES R. RICHARDS,
Director,
Office of Hearings and Appeals.

[FR Doc.76-13864 Filed 5-12-76;8:45 am]

[Docket No. M 76-442]

CARBON FUEL COMPANY

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), Carbon Fuel Company has filed a petition to modify the application of 30 CFR 75.1710 to its No. 46 Mine located in Kanawha County, West Virginia.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with Section 75.1710 is 30 CFR 75.1710-1 which in pertinent part provides:

* * * Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches; and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. * * *

The substance of Petitioner's statement is as follows:

1. Petitioner's No. 46 Mine is located at Carbon, Kanawha County, West Virginia. The mine employs approximately 22 union employees. The union employees are represented by Local Union No. 7626 of District 17 of the United Mine Workers of America. The No. 46 Mine is operating in the Powellton Coal Seam which is approximately 42 inches high but the mining height in such seam may vary. The No. 46 Mine currently produces approximately 160 tons of coal per day on two coal producing shifts with one operating section.

2. The operation of self-propelled electric face equipment with cabs or canopies in Petitioner's No. 46 Mine where the mining height is less than 48 inches is more hazardous to the personnel in such mine than operation of such equipment without cabs or canopies and results in a diminution of safety to the miners in such mine.

3. Personnel who operate the self-propelled electric face equipment in the No. 46 Mine must constantly be on the lookout for other personnel,. Because of the restricted height in the areas in which such equipment operates, if cabs or canopies are provided for such equipment, the visibility of the equipment operators is substantially restricted so that safety hazards to other personnel in No. 46 Mine are increased. In addition to reduced visibility, operators of electric face equipment equipped with cabs or canopies in mining height of less than 48 inches have difficulty reaching the controls of such equipment and cabs or canopies make it difficult for some of the equipment operators to get into and out of the equipment.

4. Employees at No. 46 Mine are of the opinion that the operation of electric face equipment with cabs or canopies where the mining height is less than 48 inches is more hazardous to the personnel in the mine than operation of such equipment without cabs or canopies.

5. Petitioner requests that in lieu of the mandatory safety standard contained in 30 CFR 75.1710-1 that it be permitted to continue to operate self-propelled electric face equipment in the No. 46 Mine without cabs or canopies.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 14, 1976. 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.

Dated: May 5, 1976.

JAMES R. RICHARDS,
Director,
Office of Hearings and Apeals.

[FR Doc.76-13865 Filed 5-12-76;8:45 am]

[Docket No. M 76-167]

CARBON FUEL COMPANY

Amended [1] 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), Carbon Fuel Company has filed an amended petition to modify the application of 30 CFR 75.1710-1 to its Mine No. 31, Mine No. GA-23 Drift and to its Mine No. 43, all located in Kanawha County, West Virignia.

The substance of Petitioner's amendment is as follows:

Since the filing of the original Petition for Modification, Petitioner has determined that compliance with 30 CFR 75.1710-1 for all self-propelled electric face equipment, including shuttle cars anl scoops, at Petitioner's No. 31 Mine, No. 6A-23 Drift Mine and No. 43 Mine will result in a diminution of safety to the miners in each such mine. Consequently, Petitioner amends its petition to include all self-propelled electric face equipment.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 14, 1976. 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.

Dated: May 5, 1976.

JAMES R. RICHARDS,
Director,
Office of Hearings and Appeals.

[FR Doc.76-13866 Filed 5-12-76;8:45 am]

[1] The original petition was published in 41 FR 10111 on Tuesday, March 9, 1976.

[Docket No. M 76-356]

CLEAR CREEK COAL COMPANY, INC.

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), Clear Creek Coal Company, Inc., has filed a petition to modify the application of 30 CFR 75.1710 to its Clear Creek No. 3 Mine, located in Overton County, Tennessee.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with Section 75.1710 is 30 CFR 75.1710-1 which in pertinent part provides:

* * * Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches; and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. * * *

The substance of Petitioner's statement is as follows:

The alternate method will at all times guarantee a standard of protection no less than that which would result from the application of the mandatory standard and, in fact, the mandatory standard will result in a diminution of safety to persons in the area than would be provided through the mandatory standard.

It is to be noted that this mine opened in April of 1975. Drill holes indicate that there is approximately one (1) year expected life in the mine at its current production rate. The coal seam varies in thickness from 28 to 42 inches, with undulations prevalent throughout.

The detailed procedure and safety features employed under the present mining conditions are as follows:

1. The roof bolter operator and his helper walk beside this machine. Technology is not available to install a canopy to protect both workmen while tramming this machine. An approved roof bolting plan is used in the roof bolting procedure.

2. The shuttle car operator rides the machine while tramming from working place to loading point, fully protected under previously installed and tested roof bolts. At the working face, the operator is usually between the eighth and ninth row of roof bolts outby the working face. As the coal is loaded, the operator advances inby, between the seventh and eighth row, and finally between the sixth and seventh row of bolts outby the working face.

3. The continuous miner is operated by means of remote control. The operator and helper are protected by the first and second row of roof bolts outby the working face, at all times.

The detailed procedure and safety features employed in the alternate proposal are as follows:

1. The roof bolter or helper shall test the torque of fifty (50) percent of the roof bolts installed during the normal work cycle by means of an approved and calibrated torque wrench. Such tests shall be made immediately after each bolt to be tested is installed. If the torque on any bolt tested is not within the approved torque range, the reason shall be determined and necessary corrections made immediately. If the required torque cannot be obtained, supplementary supports such as additional roof bolts, longer roof bolts with adequate anchorage, posts or crossbars shall be installed.

2. On a daily basis, spot check on torques shall be made by a qualified person on one roof bolt out of every five on haulageways normally used by all equipment. The results of these tests shall be recorded in the onshift examination book. The record shall show the number of bolts tested and the number above and below the required range as set forth by the approved roof control plan. If the results show that the majority of the bolts are not maintaining the minimum required foot-pounds of torque, or have loaded up to where they exceed the maximum foot-pound of torque, supplementary support shall be installed immediately. No equipment, with the exception of the roof bolter, will be permitted to use this haulageway until supplementary support such as additional roof bolts, longer roof bolts with adequate anchorage, posts, cribs, or crossbars shall be installed. Installation of such supplementary support shall be under the supervision of a qualified person.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 14, 1976. 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.

Dated: May 5, 1976.

JAMES R. RICHARDS,
Director,
Office of Hearings and Appeals.

[FR Doc.76-13867 Filed 5-12-76;8:45 am]

[Docket No. M 76-363]

COAL BRANCH COAL COMPANY, INC.

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), Coal Branch Coal Company, Inc., has filed a petition to modify the application of 30 CFR 75.1710 to its No. 1 Mine located in Pike County, Kentucky.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with Section 75.1710 is 30 CFR 75.1710-1 which in pertinent part provides:

* * * Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches; and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. * * *

The substance of Petitioner's statement is as follows:

1. Petitioner alleges that the installation of canopies on this equipment is creating a hazard to the equipment operator.

2. Petitioner's haulage equipment consist of two S & S Scoops, Model 74A-104, and the roof bolting machine is an Acme D-1.

3. The No. 1 Mine is in the No. 2 Elkhorn seam and ranges from 36 to 42

inches in height. The coal seam has consistent ascending and descending grades creating dips in the coalbed. As a result of these dips, the canopies have to be installed in such a manner as to prevent the canopies from contracting the roof and possibly destroying roof support. Also, canopies would only allow a 23 inch vertical operating compartment thus limiting the visibility of the equipment operator and creating a hazard to them as well as the other employees in the mine.

4. Petitioner alleges that since the equipment operators' visibility is limited and due to the position required in order to be seated in the decks, that the installation of canopies could be a contributing factor in any accidents which may arise.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 14, 1976. 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.

Dated: May 5, 1976.

JAMES R. RICHARDS,
Director,
Office of Hearings and Appeals.

[FR Doc.76-13868 Filed 5-12-76;8:45 am]

[Docket No. M 76-456]

CONSOLIDATION COAL COMPANY

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), Consolidation Coal Company has filed a petition to modify the application of 30 CFR 75.305 to its Westland Mine located in Washington County, Pennsylvania.

30 CFR 75.305 provides:

§ 75.305 Weekly examinations for hazardous conditions.

[Statutory Provisions]

In addition to the preshift and daily examinations required by this Subpart D, examinations for hazardous conditions, including tests for methane, and for compliance with the mandatory health or safety standards, shall be made at least once each week by a certified person designated by the operator in the return of each split of air where it enters the main return, on pillar falls, at seals, in the main return, at least one entry of each intake and return aircourse in its entirety, idle workings, and, insofar as safety considerations permit, abandoned areas. * * *

The substance of Petitioner's statement is as follows:

1. The Westland Mine was opened by the Pittsburgh Coal Company in approximately 1900 and since then the mine has been operating continuously. In 1956, the Consolidation Coal Company bought the Pittsburgh Coal Company and took over the operations of the Westland Mine.

2. The return air courses from the overcast over Eight West Motor Road (Spad Station 2+48.9) to the overcast over One South Motor Road (Spad Station 12+83.0), a distance of approximately 2,000 feet, was mined during the mid-1960's. This return ventilates both splits of Nine West and the right split of Three South, with the exception of a small amount which bleeds through Seven West. This portion of the mine was developed from two directions; from One South Parallels and from Seven West Section. During the course of mining, bad roof was not encountered and no future problems with the roof of this portion of the mine were anticipated.

3. However, since the return air courses from the overcast over Eight West Motor Road to the overcast over One South Motor Road were mined, the roof has fallen in a number of intersections, making the airways virtually impassable and most hazardous to travel and examine. In some places where three entries are used for this return, intersections and connecting crosscuts in all three entries have fallen, making it possible only for air to travel.

4. At least one entry for the main return air course of Three South and Nine West Sections cannot always be examined in its entirety; there is no examination for approximately 1,800 feet of the return.

5. Rehabilitating this section of the main return air course of Three South and Nine West Sections in order to permit hazard-free inspection of this return in its entirety, as required by section 75.305, would be most hazardous, difficult, and costly. No mechanical equipment could be used to aid in the rehabilitation effort and thus all work would have to be performed manually. Large expenditures of both labor and money would be required and miners would be exposed to significant dangers, specifically roof falls.

PETITIONER'S PLANS FOR ALTERNATIVE SYSTEM

1. Despite the roof fall conditions existing in the subject return air course, at certain points along this return air and methane readings can be made to assure the air flow is in its proper course and the required volume and the methane content is not greater than the legal limits.

2. Petitioner proposes to establish two air measuring stations, one located near the Eight West overcast and the other near the One South overcast.

3. On a weekly basis, an employee of the Petitioner, certified by the State of Pennsylvania, will take methane and air readings at these two air measuring stations as required by the regulations.

4. Methane will not be permitted to accumulate in this return air course beyond legal limits.

5. Both access to and the vicinity of the measuring stations will be kept in a travelable and safe condition.

6. A date board will be located at each measuring station and air quantity and methane readings will be taken and recorded by the certified person along with his initials, date and time of the readings.

MEASURE OF PROTECTION

Petitioner contends that the proposed alternate method of satisfying section 75.305 would guarantee the miners at Westland Mine no less than the same measure of protection afforded by the mandatory safety standard itself. The proposed modification will permit the ascertainment of the direction and volume of air as well as its methane content. An additional benefit of this alternative method would be the elimination of the danger to which miners assigned to the rehabilitative work on the return air course would be exposed.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 14, 1976. 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.

Dated: May 5, 1976.

JAMES B. RICHARDS,
Director, Office of
Hearings and Appeals.

[FR Doc.76-13869 Filed 5-12-76;8:45 am]

[Docket No. M 76-232]

DANIELS CONSTRUCTION COMPANY

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), Daniels Construction Company has filed a petition to modify the application of 30 CFR 75.1605(k) to its Pit No. 1 Mine, located in Martin County, Kentucky.

30 CFR 77.1605(k) provides:

Berms or guards shall be provided on the outer bank of elevated roadways.

The substance of Petitioner's statement is as follows:

1. The District Manager has determined and interpreted the above regulation to mean that said berms shall be constructed the height of the bottom of the axle of the largest piece of equipment used on the elevated roadways.

2. The berms presently existing on the haulways are of a height equal to or greater than the bottom of the axle of all equipment using these roadways in elevated areas.

3. The Petitioner has received a notice of violation pursuant to the above regulation. Such violation was based on the fact that the berms were not high enough to reach the bottom of the axle of one piece of equipment operating at the mine. This piece of equipment is a large

truck used for hauling overburden in and around the pit area only. This truck does not use any portion of the elevated roadways at the mine.

4. If the Petitioner is required to increase the height of the berm to the extent of complying with the notice issued, then the width of the haulway will be substantially decreased. To this end, haul trucks will not be able to pass each other in opposite directions, thereby resulting in a diminution of safety to the drivers of the haul trucks.

5. Construction of berms to the height required by the notice of violation will add nothing to the safety of the miners. To the contrary, such construction will in fact diminish the safety of said miners afforded to them by 30 CFR 77.1605(k).

6. Petitioner respectfully requests that the Secretary modify the interpretation and application of 30 CFR 77.1605(k) at the Petitioner's mine by waiving the requirement as interpreted and applied by the inspector pursuant to instructions from the District Manager.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 14, 1976. Such requests or comments must be filed with the Office of Hearings and Apeals, 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.

Dated: May 5, 1976.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

[FR Doc.76-13870 Filed 5-12-76;8:45 am]

[Docket No. M 76-361]

DIXIE FUEL COMPANY

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), Dixie Fuel Company has filed a petition to modify the application of 30 CFR 77.1605(k) to its No. 2 Mine located in Harlan County, Kentucky.

30 CFR 77.1605(K) provides:

Berms or guards shall be provided on the outer bank of elevated roadways.

The substance of Petitioner's statement is as follows:

The access road referred to in this petition is approximately one-half mile in length. The width of the access road is narrow due to a steep slope of the mountains. The outer banks are fill material and will not support guard rails. The use of berms would eliminate many possible passing areas for coal trucks and cars thus creating a hazard from loaded coal trucks. The access road is maintained with graders by pushing mud and snow over outer edge of the road. Through fall, winter and spring, in this area frequent freezes and thaws occur which would be worse with berms trapping and holding runoff water and creating near impossible travel conditions. Access roads without berms can be maintained by use of gravel, salt and grading equipment. This access road cannot be safely maintained with berms.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 14, 1976. 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.

Dated: May 5, 1976.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

[FR Doc.76-13871 Filed 5-12-76;8:45 am]

[Docket No. M 76-340]

DOTSON COAL COMPANY, INC.

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), Dotson Coal Company, Inc., has filed a petition to modify the application of 30 CFR 75.1710 to its No. 2 Mine, located in Martin County, Kentucky.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with Section 75.1710 is 30 CFR 75.1710-1 which in pertinent part provides:

* * * Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in acordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches; and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. * * *

The substance of Petitioner's statement is as follows:

1. The Petitioner avers that the coal height in the subject mine runs from 48 inches to 58 inches and that there are places in the mine where there are hills which cause Petitioner's buggies to hit the top.

2. Petitioner alleges that the height of its equipment is as follows:

Buggies	38
Loader	34
Cutter	36
Coal drill	24
Roof bolter	30

3. Petitioner avers that equipment operators cannot run their equipment without putting their heads out the sides of the equipment and that the equipment operators would be in danger operating the equipment without canopies on it.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 14, 1976. 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.

Dated: May 5, 1976.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

[FR Doc.76-13872 Filed 5-12-76;8:45 am]

[Docket No. M 76-395]

EAGLE COAL COMPANY

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), Eagle Coal Company has filed a petition to modify the application of 30 CFR 75.1710 to its No. 2 Mine, Pike County, Kentucky.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with Section 75.1710 is 30 CFR 75.1710-1 which in pertinent part provides:

* * *Except as provided in paragraph (f) of this section, all self-propelled electric face

equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs; located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches; and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. * * *

The substance of Petitioner's statement is an follows:

1. Petitioner requests modification of the application of the mandatory safety standard 30 CFR 75.1710–1 with respect to the below-listed equipment used in the No. 2 Mine for the reason that the application of such standard to such equipment in such mine will result in a diminution of safety to miners:

(a) Two Elkhorn scoops (AR–4);

(b) One Paul's roof bolter;

(c) One Acme roof bolter (D–1);

(d) One Long Airdox roof bolter (LRR 15–A);

(e) One cutter.

2. The No. 2 Mine is in the Lower Elkhorn seam and ranges from 56 to 65 inches in height. The coal seam has consistent ascending and descending grades creating dips in the coal bed. As a result of these dips, the canopies have to be installed in such a manner as to prevent the canopies from getting against the roof and possibly destroying roof support. The canopies would allow only a 30-inch vertical operating compartment thus limiting the visibility of the equipment operator and creating a hazard to them as well as the other employees in the mine.

3. Petitioner states that since the equipment operators' visibility would be limited and the position required in order to be seated in the equipment would be cramped, that the installation of canopies could be a contributing factor in mine accidents.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 14, 1976. 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.

Dated: May 5, 1976.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

[FR Doc.76–13873 Filed 5–12–76;8:45 am]

[Docket No. M 76–394]

EASTERN ASSOCIATED COAL CORP.

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), Eastern Associated Coal Corporation has filed a petition to modify the application of 30 CFR 75.1710 to its Keystone No. 4 Mine, Raleigh County, West Virginia.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with Section 75.1710 is 30 CFR 75.1770–1 which in pertinent part provides:

* * * Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches; and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. * * *

The substance of Petitioner's statement is as follows:

1. The average mining heights in the 5 Left Section of the Keystone No. 4 mine ranges from 32 inches to 40 inches, averaging 36 inches. An average of 4 inches to 7 inches decrease in the effective mining height occurs as a result of the installation of supplemental supports, such as roof bolts or roof bolts with headers or half-headers, installed in accordance with the approved roof control plan. In addition, the natural undulations and rolls of the coal seam result in ascending and descending grades that further lower the effective mining height. Taken as a whole, these conditions tend to limit and/or prevent the safe use of cabs and canopies on electric face equipment used in the 5 Left Section of the Keystone No. 4 mine.

2. Petitioner respectfully requests modification of the application of the mandatory safety standard 30 CFR 75.1710–(a)(4) with respect to the below listed equipment used or to be used in the 5 Left Section of the Keystone No. 4 mine for the reason that the application of such standard to such equipment in such section of such mine will result in a diminution of safety to the miners:

(a) Two S & S CX2 Coal Haulers (unitracs);

(b) Flexkar National Mine Service Shuttle Cars;

(c) Lee Norse 254 Hustler Continuous Miner; and

(d) Two Galis 300 Roof Bolters.

3. Petitioner asserts that technology does not presently exist to enable it to equip its self-propelled electric face equipment with suitable canopies to protect and provide for the safety of the operators of said equipment. Petitioner further asserts that based upon its experience with presently available canopies, the use of such canopies results in a diminution of safety to the miners in said mine.

4. Operators of face equipment, including shuttle car operators, work under approved plans for permanently and/or temporarily supporting the roof at all times. Such roof support is deemed satisfactory for all other personnel in the mine including the helpers on self-propelled electric face equipment and these helpers and other personnel freely move about the mine under the protection of approved roof support.

5. Petitioner's experience indicates the application of the mandatory standard will result in a diminution of safety to miners for the following reasons:

(a) Several instances occurred where canopies became wedged against the roof and/or against roof bolts, headers and half-headers.

(b) Employees strongly object to operating machinery so equipped and allege a diminution of safety resulting from impaired vision and being required to operate in cramped positions. The impaired vision and cramped positions cause the following hazards and unsafe practices:

(1) Miners attempt to operate the machinery while standing between it and the rib, thus incurring a risk of being crushed should the machine slue.

(2) The combination of impaired vision and cramped positions cause the operator to expose his body and appendages, such as head and feet, to the risk of being crushed between the machine and rib.

(3) Ingress to and egress from the cab is limited and effectively prevents quick

escape when mining conditions warrant such escape.

(4) Impaired vision is given as a major cause by machine operators for the damaging or severing of power cables by running over them.

(5) Impaired vision subjects the operator and fellow employees to increased risks of injury because the operator cannot adequately see other employees and/or equipment.[1]

10. At present, Petitioner is unaware of any proposed commercially manufactured canopy which could be installed that would provide the same degree of safety to miners as the complete removal of the canopy would provide.

11. Petitioner respectfully requests that the mandatory safety standard not be applied to the 5 Left Section of the Keystone No. 4 mine until such time as the technology becomes available whereby such standard may be applied to such mine without a concomitant diminution in safety to the miners.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 14, 1976. 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.

Dated: May 5, 1976.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

[FR Doc.76-13874 Filed 5-12-76;8:45 am]

[Docket No. M 76-292]

ELRO COAL CORP.

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, 40 U.S.C. § 861(c) (1970), Elro Coal Corporation has filed a petition to modify the application of 30 CFR 75.1710 to its Mine No. 1, Wise County, Virginia.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with Section 75.1710 is 30 CFR 75.1710-1 which in pertinent part provides:

* * * Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches, and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. * * *

The substance of Petitioner's statement is as follows:

1. Petitioner states that the coal seam in its Mine No. 1 is, at places, as high as 42-44 inches, and as low as 36 inches; and that there are rolls in the coal seam.

2. Petitioner states that it has purchased canopies and has installed one of them on one of its battery operated tractors. Petitioner states that such tractors are brought into and out of the mine for battery charges, but that they will not clear the top for entry into the mine, when equipped with canopies. Said equipment is not designed for use with canopies.

3. Petitioner states that its employees believe that installation of canopies would be unsafe in these circumstances inasmuch as they might loosen roof bolts and occasion a roof fall in the mine.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 14, 1976. 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.

Dated: May 5, 1976.

[FR Doc.76-13875 Filed 5-12-76;8:45 am]

[Docket No. M 76-293]

HAWKEYE ELKHORN COAL COMPANY, INC.

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), Hawkeye Elkhorn Coal Company, Incorporated has filed a petition to modify the application of 30 CFR 75.1710 to its D-1 Mine, Pike County, Kentucky.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with Section 75.1710 is 30 CFR 75.1710-1 which in pertinent part provides:

* * * Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches, and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. * * *

The substance of Petitioner's statement is as follows:

1. Petitioner's haulage equipment consists of two (2) S&S machines and two (2) CX 1 battery powered scoops. The height of the scoops is 34 inches. Canopies have been purchased and received for this equipment.

2. Petitioner's employees feel that operating said scoops with the canopies installed would be a safety hazard not only to themselves, but to other employees in the mine as well.

3. Petitioner states that its employees complain that the canopies on the scoops hinder visibility to the point that they cannot safely operate the scoops in conditions found in the coal mine.

4. Petitioner states that its employees complain also of cramped seating quarters and of difficulty in entering and leaving the operator's seat.

5. Petitioner states that the canopies installed on its roof bolter and coal drill have been working well, with none of the problems associated with canopies on the scoops.

6. Petitioner's D-1 Mine is in the Broas Seam, which ranges from 48 inches to 58 inches in height. The dips and grades

[1] Petitioner attached copies of 10 photographs to the petition which demonstrate the impairment of vision imposed on equipment operators by cabs and/or canopies. These exhibits are available for inspection at the Hearing Division address provided herein.

in this seam have caused the scoop canopy to knock some roof bolts loose.

7. Petitioner feels that in view of the scoop operator's impaired visibility and the position required in order to be seated in the deck of the scoop, the installation of canopies could be a contributing factor to the occurrence of accidents in the mine.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 14, 1976. 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.

Dated: May 4, 1976.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

[FR Doc.76-13876 Filed 5-12-76;8:45 am]

[Docket No. M 76-313]

HENRY B. COAL COMPANY, INC.

Petition for Modification of Application of Mandatory Safety Standarc

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), Henry B. Coal Company, Inc. has filed a petition to modify the application of 30 CFR 75.1710 to its No. 3 Mine located in Pike County, Kentucky.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with Section 75.1710 is 30 CFR 75.1710–1 which in pertinent part provides:

* * * Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches; and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. * * *

The substance of Petitioner's statement is as follows:

1. This petition is in reference to canopies on two S & S scoops and one Acme roof bolting machine.

2. Petitioner feels that installation of canopies on this equipment creates a hazard to the equipment operators.

3. The No. 3 Mine is in the Elkhorn No. 2 seam which varies from 28 inches to 36 inches in height. The coal seam has consistently ascending and descending grades creating dips in the coal bed. As a result of these dips, the canopies have to be installed in such a manner as to prevent them from striking the roof and possibly destroying roof support. The canopies allow only a 19-inch vertical operating compartment thus limiting the vision of the equipment operators and creating a hazard to them as well as to the other employees in the mine.

4. Petitioner feels that, since the equipment operators' vision is limited and the position that enables the operators to sit in the decks is also limited, the installation of canopies could be a contributing factor in any accidents which may occur.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 4, 1976. Such requests or comments must be filed with the Office or 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.

Dated: May 5, 1976.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

[FR Doc.76-13877 Filed 5-12-76;8:45 am]

[Docket No. M 76-312]

H. AND H. MINING, INC.

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), H. and H. Mining, Inc. has filed a petition to modify the application of 30 CFR 75.1710 to its No. 1 Mine located in Pike County, Kentucky.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with Section 75.1710 is 30 CFR 75.1710–1 which in pertinent part provides:

* * * Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches; and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. * * *

The substance of Petitioner's statement is as follows:

1. Petitioner feels the installation of canopies on its haulage equipment and roof bolting machine creates a hazard to the equipment operators. The haulage equipment consists of two 18SC Joy Shuttle Cars, one 300 Galis Pinner, one 16RB Cutter, one TDF24A Coal Drill and one 14BU10 Loader.

2. The mine is in the Thacker Seam and ranges from 32–48 inches in height. The coal seam has consistent ascending and descending grades creating dips in the coal bed. As a result of these dips, the canopies have to be installed in such a manner as to prevent the canopies from striking the roof and possibly destroying roof support. The canopies allow only a 3-inch vertical operating compartment thus limiting the vision of the equipment operators and creating a hazard to them as well as to the other employees in the mine.

3. Petitioner feels that since the equipment operators' vision is limited and the position that enables the operators to sit in the decks is also limited, the installation of canopies could be a contributing factor in any accidents which may occur.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 14, 1976. 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.

Dated: May 5, 1976.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

[FR Doc.76-13878 Filed 5-12-76;8:45 am]

[Docket No. M 76-354]

HITE PREPARATION COMPANY

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), Hite Preparation Company has filed a petition to modify the application of 30 CFR 75.1710 to its G-15-4 Mine, located in Floyd County, Kentucky.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with Section 75.1710 is 30 CFR 75.1710-1 which in pertinent part provides:

* * * Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches; and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. * * *

The substance of Petitioner's statement is as follows:

The subject mine is a drift mine in a coal seam which has an average height of 40 inches.

The electric face equipment used in the mine and the height of each piece of equipment is as follows:

	inches high
1-DLE-1 scoop	29
1-Mark IV roof bolter	28

In addition to the fact that the seam of coal is low, there are uneven bottom conditions in this area. These conditions make it very hazardous for a man to operate the equipment with a canopy over the deck of the machine. This would require that a man extend his head out the side of the machine to get adequate visibility.

Petitioner believes that the addition of canopies to the machinery actually would result in a diminution of safety to the miners. For these reasons Petitioner requests that the regulation be modified.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 14, 1976. 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.

Dated: May 5, 1976.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

[FR Doc.76-13879 Filed 5-12-76;8:45 am]

[Docket No. M 76-295]

J&IM COAL COMPANY, INC.

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), J&IM Coal Company, Incorporated has filed a petition to modify the application of 30 CFR 75.1710 to its No. 1 Mine, Pike County, Kentucky.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with Section 75.1710 is 30 CFR 75.1710-1 which in pertinent part provides:

* * * Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches, and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. * * *

The substance of Petitioner's statement is as follows:

1. This petition pertains to canopies on haulage equipment and a roof bolting machine at the No. 1 Mine.

2. Petitioner's haulage equipment consists of two (2) 18 SC Joy shuttle cars, one (1) Galix 300 roof bolting machine, one (1) Long Airdox coal drill, one (1) 16 RB Joy cutter, and one (1) Joy 14 BU10 loading machine.

3. Petitioner's No. 1 Mine is in the Thacker coal seam, and ranges from 32 to 48 inches in height. Said coal seam has consistently ascending and descending grades creating dips in the coalbed.

4. Petitioner states that installation of said canopies creates a hazard to the equipment operator.

5. Petitioner states that as a result of dips in the coalbed, canopies must be installed so as to prevent their catching against the roof and damaging roof support.

6. Petitioner maintains that installation of said canopies allows only a 24-inch operating compartment, which limits the visibility of the equipment operator, creating a hazard to him and to other employees in the mine.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 14, 1976. 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.

Dated: May 5, 1976.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

[FR Doc.76-13880 Filed 5-12-76;8:45 am]

[Docket No. M 76-296]

J. H. COAL COMPANY

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), J. H. Coal Company has filed a petition to modify the application of 30 CFR 75.1710 to its No. 11 Mine, Pike County, Kentucky.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with Section 75.1710 is 30 CFR 75.1710–1 which in pertinent part provides:

* * * Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches; and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. * * *

The substance of Petitioner's statement is as follows:

1. Petitioner's haulage equipment consists of four (4) Elkhorn scoops, models DLE–1, and two (2) roof bolting machines, which are manufactured by Wilcox Manufacturing Company.

2. Petitioner maintains that installation of canopies on the foregoing equipment creates a hazard to the equipmeht operators.

3. Petitioner's No. 11 Mine is in the Thacker coal seam. The seam averages 45 inches in height, and Petitioner operates approximately 200 feet underground. According to maps and the character of other mines in this area the Thacker seam sometimes drops to a height of 40 inches. Due to this fact, Peitioner must install lower canopies, a condition which it feels creates a hazard in the mine.

4. On an Elkhorn DLE–1 scoop the operator sits on the back of the machine, positioned to the far left. Petitioner states that when the operator, so situated, is scooping up loose coal next to the rib he will have to extend his neck out past the machine as a result of the canopy, and that this applies also to scooping next to temporary roof supports and other moving equipment.

5. Petitioner states that in view of the fact that it must install lower than normal canopies where the seam drops to 40 inches, the roof bolting operators will avoid operating the controls under the canopies, and will position themselves too far from the machines to operate them safely.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 14, 1976. 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.

Dated: May 4, 1976.

JAMES R. RICHARDS,
Director, Office or Hearings and Appeals.

[FR Doc.76–13881 Filed 5–12–76;8:45 am]

[Docket No. M 76–306]

LANCE HALL COALS, INC.

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), Lance Hall Coals, Inc., has filed a petition to modify the application of 30 CFR 75.1710 to its Mine No. 1, located in Martin County, Kentucky.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with Section 75.1710 is 30 CFR 75.1710–1 which in pertinent part provides:

* * * Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches; and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. * * *

The substance of Petitioner's statement is as follows:

1. Petitioner contends that the installation of cabs or canopies on its equipment would create more of a hazard to the operators of such equipment than would be present in the absence thereof. Although Petitioner agrees that cabs or canopies will prevent injuries due to roof or rib falls, it is also contended that the canopies themselves present hazards in their own right.

2. Petitioner states that due to low roof conditions on its present equipment, the operator is in such a cramped condition while operating the equipment that he is almost totally unable to see how to operate his machine. Thus, the machine operator is forced to lean out the side of the canopy to see how to work. This constitutes an extreme hazard as to collisions with other objects, including working personnel. Petitioner contends that the installation of canopies presents a hazard to the machine operator insofar as he could possibly be pinned against the canopy should the machine he is operating skid in the mud.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 14, 1976. 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.

Dated: May 5, 1976.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

[FR Doc.76–13882 Filed 5–12–76;8:45 am]

[Docket No. M 76–320]

L. AND B. COAL COMPANY

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), L. and B. Coal Company has filed a petition to modify the application of 30 CFR 75.1710 to its No. 13 Mine located in Floyd County, Kentucky.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with Section 75.1710 is 30 CFR 75.1710–1 which in pertinent part provides:

* * * Except as provided in paragraph (f) of this section, all self-propelled electric face

equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches; and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. * * *

The substance of Petitioner's statement is as follows:

1. Petitioner cannot use canopies on its mining equipment at the present time.

2. The height of the coal seam is 44 to 46 inches. The height of equipment averages 32 inches with additional height from the use of half header blocks. The height of canopies is approximately 38 inches.

3. The canopies hit the top of the mine because of rolls in the bottom. The canopies cannot be lowered any more than they have been already. The canopies are hazardous to the employees that operate the equipment.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 14, 1976. 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.

Dated: May 5, 1976.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

[FR Doc.76-13883 Filed 5-12-76;8:45 am]

[Docket No. M 76-317]

LEAH COAL COMPANY

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), Leah Coal Company has filed a petition to modify the application of 30 CFR 75.1710 to its No. 2-A Mine located in Kanawha County, West Virginia.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with Section 75.1710 is 30 CFR 75.1710-1 which in pertinent part provides:

* * * Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches; and

The substance of Petitioner's statement is as follows:

1. Installation of cabs or canopies on the equipment in this mine will result in a diminution of safety to the miners in this mine.

2. Petitioner has been mining coal in this Number 5 Block Coal Seam since 1948. The roof is sandstone. There have been no fatalities, no roof falls, and no major accidents in this mine as of the date of this writing. The height of this coal seam has varied from 30 to 60 inches since the opening of this part of the mine in 1969. This is a faulty area. Petitioner feels that it would be safer to operate the equipment without the use of cabs or canopies since most of the work is done in the narrower area of the coal seam.

3. The life of the mine should be 5 to 10 years. The coal reserves show to be 42 to 48 inches.

4. The mine employs 8 men to produce 50 to 75 tons of coal a day using one 8 SC shuttle car, one 12 BU Walkalong loader, one 12 RB cutting machine, and one 35 L shortwall cutting machine. The shortwall cutting machine is 18 inches high and is used in the low places which measure 20 inches.

5. The variance of the height of the coal seam would make it hazardous to install canopies because the miners have difficulty seeing over the top and around the sides of the equipment in low areas and as a result they lean out to the side of the equipment.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 14, 1976. 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.

Dated: May 5, 1976.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

[FR Doc.76-13884 Filed 5-12-76;8:45 am]

[Docket No. M 76-355]

LIGON PREPARATION COMPANY

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), Ligon Preparation Company has filed a petition to modify the application of 30 CFR 75.1710 to its I-121 Mine, located in Floyd County, Kentucky.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with Section 75.1710 is 30 CFR 75.1710-1 which in pertinent part provides:

* * * Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches; and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. * * *

The substance of Petitioner's statement is as follows:

The subject mine is a drift mine in a coal seam which has an average height of 36 inches.

The electric face equipment used in the mine and the height of each piece of equipment is as follows:

	Inches high
1 scoop, model No. DLE–1	29
2 scoops, model No. AR–4	29
1 coal drill, model No. CDB–2000A	27
1 roof bolter, model No. SPARD–1	27

In addition to the fact that the seam of coal is low, there are uneven bottom conditions in this area. These conditions make it very hazardous for a man to operate the equipment with a canopy over the deck of the machine. This would require that a man extend his head out the side of the machine to get adequate visibility.

Petitioner believes that the addition of canopies to the machinery actually would result in a diminution of safety to the miners. For these reasons Petitioner requests that the regulation be modified.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 14, 1976. 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.

Dated: May 5, 1976.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

[FR Doc.76–13885 Filed 5–12–76;8:45 am]

[Docket No. M 76–276]

MATHEL COAL COMPANY, INC.

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), Mathel Coal Company, Inc. has filed a petition to modify the application of 30 CFR 75.1710 to its No. 1 mine located in Bell County, Kentucky.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with Section 75.1710 is 30 CFR 75.1710–1 which in pertinent part provides:

* * * Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches; and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. * * *

The substance of Petitioner's statement is as follows:

1. The Petitioner operates in the Hance seam which is approximately 38 inches in thickness.

2. The equipment for which Petitioner seeks a modification include the following: 12RB Joy cutting machine, Lee Norse continuous miner, Galis roof drill, Long Airdox roof drill and three S & S mine tractors.

3. Petitioner states that the present form of roof support is full roof bolting, with timbers and crossbars as needed. Petitioner alleges that the dangers created by installing cabs or canopies would be visibility, dislodging timbers and crossbars and damaging roof bolts. Petitioner states that machine operators would not be able to see when traveling and operating the machines. This would force the operators to lean out of the cab when traveling or to walk alongside the machines. Petitioner alleges it would also force the machine operators to operate the machines from a position outside the cab. As a result of poor visibility, Petitioner argues that the machine operators might inadvertently knock timbers and legs from under crossbars. Because of the reduced clearance and uneven top and bottom, Petitioner states it would be almost impossible to prevent the machines from catching on roof bolts and damaging them. Petitioner states this would be the same situation regarding the crossbars.

4. Petitioner has investigated the potential problems which would be created by cabs or canopies. In Petitioner's opinion, the hazards created by such cabs or canopies would be far greater than without them in the seams such as are mined by Petitioner.

5. Petitioner proposes as an alternative that there be strict compliance with their roof control plan and extensive roof examination.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 14, 1976. 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.

Dated: May 5, 1976.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

[FR Doc.76–13887 Filed 5–12–76;8:45 am]

[Docket No. M 76–307]

MITCHELL BRANCH COAL CORP.

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), Mitchell Branch Coal Corporation has filed a petition to modify the application of 30 CFR 75.1710 to its No. 1 mine located in Floyd County, Kentucky.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with Section 75.1710 is 30 CFR 75.1710–1 which in pertinent part provides:

* * * Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 26 inches; and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. * * *

The substance of Petitioner's statement is as follows:

1. Petitioner contends that the installation of cabs and canopies to its mining equipment would present a greater hazard than would be encountered in the absence thereof.

2. Petitioner mines in the Elkhorn No. 3 seam which is very low coal.

3. Petitioner uses half headers and crub blocks over the roof bolts now installed. Petitioner contends that the installation of cabs and canopies would be hazardous because of the fact that working conditions are irregular in the top and bottom of the mine.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 14, 1976. 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.

Dated: May 5, 1976.

JAMES R. RICHARDS,
Director,
Office of Hearings and Appeals.

[FR Doc.76-13888 Filed 5-12-76;8:45 am]

[Docket No. M 76-391]

PERRY COUNTY COAL CORP.

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), Perry County Coal Corporation has filed a petition to modify the application of 30 CFR 75.1710 to its No. 1 Mine, Perry County, Kentucky.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with Section 75.1710 is 30 CFR 75.1710-1 which in pertinent part provides:

* * * Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches; and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. * * *

The substance of Petitioners' statement is as follows:

1. The application of the mandatory safety standard will result in a diminution of safety to miners in the affected mine.

2. The average height of the seam of coal in the affected mine ranges between 37 and 47 inches. The seam height varies over short distances in the mine and frequently rolls.

3. The face equipment currently in use at the mine, with respect to which this modification is sought, includes a 14 CM Continuous Miner, two 18 SC Shuttle Cars, one 16 RB Cutter, and two Galis 300 roof bolters. This equipment was not designed for canopies.

4. The affected face equipment also includes one Lee-Norse TD1-29-LE roof bolter, and one TD2-31-4E Lee-Norse roof bolter. Both roof bolters were bought with canopies, but due to the roll encountered in the mine it was necessary to remove these canopies. The lack of visibility caused by the canopies creates a hazard to miners, especially in light of the roll encountered in the mine.

5. Due to the close confinement caused by the canopies, an operator's head must extend beyond the protection of the canopy in order to observe the front and rear of each piece of machinery, resulting in the danger of being crushed between the canopy and rib.

6. Ingress to and egress from the cab is so limited that the operator might become trapped preventing escape during an emergency. The operator could also become trapped for indefinite periods in case of a machine malfunction or power failure.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 14, 1976. 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.

Dated: May 4, 1976.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

[FR Doc.76-13889 Filed 5-12-76;8:45 am]

[Docket No. M 76-454]

PITTSBURGH COAL COMPANY

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), Pittsburgh Coal Company has filed a petition to modify the application of 30 CFR 75.305 to its Montour No. 4 Mine located in Washington County, Pennsylvania.

30 CFR 75.305 provides:

In addition to the preshift and daily examinations required by this Subpart D, examinations for hazardous conditions, including tests for methane, and for compliance with the mandatory health or safety standards, shall be made at least once each week by a certified person designated by the operator in the return of each split of air where it enters the main return, on pillar falls, at seals, in the main return, at least one entry of each intake and return aircourse in its entirety, idle workings, and, insofar as safety considerations permit, abandoned areas. * * *

The substance of Petitioner's statement is as follows:

Montour No. 4 mine, an extensive deep coal mining operation located in Washington County, Pennsylvania, was opened in 1913 and has been owned and operated by Pittsburgh Coal Company since 1915. Montour No. 4 is located on the Pittsburgh Seam of coal—a seam measuring about 60 inches in thickness under an average of 275 feet of cover. Access to the mine from the surface is through 5 ventilating shafts and 2 slopes. About 405 people are currently employed at the mine, of which 380 make up the underground work force. Eight coal producing units operate on three shifts for an average of 21 machine shifts daily. Montour No. 4 has a projected remaining life of 7 years at the current high extraction rate mining is occurring. Milling-type continuous miners are used in the sections to develop entries on a block system. Retreat mining employs the pocket and fender system. All sections are ventilated using a two-split ventilation system.

Because Montour No. 4 is in the last few years of its life, mining is taking place in areas that were bypassed years ago due to poor roof or bad mining conditions. As a result, the eight coal producing sections are scattered throughout the mine, rather than being concentrated in one locality. A highly developed haulage system having a length of over 28 miles is used to move 6,500 tons of coal daily from the faces to the dump. Enumerable miles of return airways channel air from the active mining faces and bleeder entries to the ventilation shafts.

Throughout the 62 years Montour No. 4 has been in operation, various Federal and Pennsylvania laws have governed the examination of return aircourses in deep coal mines. Under Article V, section 10(e) of the 1946 Federal Mine Safety Code for Bituminous Coal and Lignite

Mines, it was required that each split of air be inspected to determine that the air was traveling in the proper direction. The Federal Mine Safety Code of 1953, like the now effective Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 851 *et seq.*, required tests for hazardous conditions in the entire length of at least one entry of each intake and return entry.

Both the 1953 Federal Mine Safety Code and the 1969 Act were interpreted by enforcement officials to require tests on only one active return from each mining section. These interpretations are consistent with the Pennsylvania Bituminous Coal Mine Act, Act of July 17, 1961, P.L. 659, *as amended*, which requires that the air in each split be inspected to ascertain whether it is traveling in its proper course and volume. While the 1969 Federal Act was being interpreted as stated above, only one active return from each mining section was being inspected at the Montour No. 4 Mine.

Despite the existing above interpretations, the Mining Enforcement and Safety Administration altered its position and began to require operators to examine all return aircourses in the coal mine except where equalizing overcasts made two returns common and one is traveled and inspected. This interpretation necessitated rehabilitating return airways for examination and use as return escapeways. However, in many areas in Montour No. 4, petitioner was unable to rehabilitate old return airways due to extremely poor roof conditions and water problems. In these entries weekly examinations for hazardous conditions are, in themselves, too hazardous to be performed. Two areas in the Montour No. 4 mine fall into this category.

THE AREAS INVOLVED

These two areas are:

1. The return aircourse along the motor road from the Mule Barn Overcast (between Little Bottom and West Butt radius curve), to the Hickman Overcast, a distance of approximately 3.6 miles.

2. The return aircourse from the mouth of 11 Face, 10 Mains, along 10 Mains and 5 North to the Hickman Overcast, a distance of approximately 1.7 miles.

PROBLEMS OF EXAMINATION

The aircourse from the Mule Barn Overcast to the Hickman Overcast contains air mainly from leakages through stoppings along the motor road. The aircourses from the mouth of 11 Face 10 Mains to the Hickman Overcast contains air from the right split of 11 Face 10 Mains and leakage through the stoppings along 10 Mains and 5 North.

Some of the entries in the aircourses from the Mule Barn Overcast to the Hickman Overcast were driven as early as 1916. In some of these early workings, roofbolts were not used as means as support. As a result, high tight falls, flaking roof, spalling ribs and areas of water now hinder travel. These hazardous conditions would make any attempt at rehabilitation in the combined 5.3 miles of return aircourses difficult if not impossible. Years of work requiring great expenditures of both labor and money would be required. No mechanical equipment could be used in the return aircourse to aid in the rehabilitation, so all work would have to be performed by hand, requiring hundreds of man hours of exposure to hazardous conditions. Since the required rehabilitation of the 5.3 miles of return airways is neither practical nor feasible, an alternate method is proposed that would guarantee the miners at the Montour No. 4 Mine no less than the same measure of protection afforded by the mandatory standard. An additional benefit of this alternate method would be the elimination of the hazards presented to the miners who would be involved in the task of rehabilitating the return aircourses, since there will be risks and dangers in this work despite any and all safety precautions.

ALTERNATE METHOD

Despite the conditions existing in the return aircourse, at certain points air and methane readings can be taken to assure methane accumulation has not occurred and to assure that airflow is in its proper course and usual volume. The alternate method being proposed is based on this and would satisfy all criteria outlined in Section 75.305 of the Mandatory Safety Standards.

For the first area from the Mule Barn Overcast to the Hickman Overcast, three measuring stations are proposed. For the second area from 11 Face 10 Mains to the Hickman Overcast, one measuring station is proposed. This air also will go through one of the three stations proposed for the first area. The weekly examinations made at Hahn Fan and Hickman Fan in accordance with 75.306 CFR will supplement the data from the four measuring stations.

Guidelines for Air Measuring Stations Would Be As Follows:

1. Methane and air readings will be made by a certified competent person.

2. Methane will not be permitted to accumulate in the return air course, as determined at the underground measuring stations, beyond legal limits.

3. Both access to and the vicinity of the measuring stations will be kept in travelable and safe conditions.

4. A date board will be located at each measuring station and air quantity and methane readings will be taken and recorded along with the certified person's initials, date and time.

5. Examinations will be made at each measuring station weekly or as required by 75.305 CFR.

6. All employees required to perform measurements at the underground stations will be certified for such work on the basis of state examinations.

MEASURE OF PROTECTION

The proposed measuring stations will satisfy all criteria of Section 75.305 CFR of the Mandatory Safety Standards. Use of the measuring stations would also eliminate all the hazards involved in the rehabilitation of the return air course. The net effect of the proposed measuring stations would be the same as if the returns were capable of being traveled and will provide an accurate and knowledgeable picture of conditions in the return air courses. The proposed alternative will at all times guarantee no less than the same measure of protection afforded the miners at the Montour No. 4 Mine by the Mandatory Standard or the Act.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 14, 1976. 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.

Dated: May 5, 1976.

JAMES R. RICHARDS,
Director,
Office of Hearings and Appeals.

[FR Doc.76-13890 Filed 5-12-76;8:45 am]

[Docket No. M 76-359]

REPUBLIC STEEL CORP.

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), Republic Steel Corporation has filed a petition to modify the application of 30 CFR 75.1710 to its Republic Mine located in Pike County, Kentucky.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with Section 75.1710 is 30 CFR 75.1710-1 which in pertinent part provides:

* * * Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches; and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. * * *

The substance of Petitioner's statement is as follows:

The coal seam height in Morgan Creek Section of Republic Mine ranges from approximately 42 inches to 48 inches and averages 46 inches. Due to this variation in coal seam height in this section, mining of coal with equipment fitted with cabs or canopies is impossible.

Petitioner attempted to install the canopies as required but determined that in so doing additional safety hazards were created. Damage to roof support (bolts) developed as a consequence of the installation of the canopies and the operator's visibility was limited to a 30-inch height maximum in the mining equipment.

Petitioner hereby requests that standard 30 CFR 75.1710–1 be modified as it applies to the following face equipment located in Morgan Creek Section:

2 (two)—21 SC Shuttle Cars
1 (one)—Lee Norse 35Y Continuous Miner
1 (one)—14 BU–10 Joy Loading Machine
1 (one)—Fletcher Roof Bolter—DM

The coal seam height in Lick Creek Section of Republic Mine ranges from 37 inches to 44 inches and averages 42 inches. Due to this variation in coal seam height in this section, mining of coal with equipment fitted with cabs or canopies is impossible.

Petitioner's experience with canopies in Lick Creek Section is similar as resulted from the Morgan Creek Section trial with regard to roof support and operator safety, and therefore, the request is hereby made that standard 30 CFR 75.1710–1 be modified with regard to Republic Mine, Lick Creek Section concerning the following face equipment:

2 (two)—21 SC Joy Shuttle Cars.
1 (one)—Joy 14 CM Continuous Miner.
1 (one)—Lee Norse 285 Continuous Miner.
2 (two)—Fletcher Roof Bolters—Model LTDO—C13.
1 (one) Fletcher Roof Bolter—Model SDME—313.
2 (two)—SS Uni Trac Battery Scoops—Model UAT 74—SSBCA.
1 (one)—SS Uni Trac Battery Scoop—Model BM–UAT—74 BC.

Petitioner asserts that the equipment listed above regarding both Morgan Creek and Lick Creek Sections was ordered or in use prior to the passage of the Federal Coal Mine Health and Safety Act of 1969 or enactment of regulation 30 CFR 75.1710–1 and that new equipment purchased for use in those sections will conform to the provisions of 30 CFR 75–1710–1.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 14, 1976. 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.

Dated: May 5, 1976.

JAMES R. RICHARDS,
Director,
Office of Hearings and Appeals.

[FR Doc.76–13894 Filed 5–12–76;8:45 am]

[Docket No. M 76–226]

RITA COAL COMPANY

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), Rita Coal Company, has filed a petition to modify the application of 30 CFR 75.1710 to its Rita LA–6 Mine, located in Pike County, Kentucky.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with Section 75.1710 is 30 CFR 75.1710–1 which in pertinent part provides:

* * * Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches; and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. * * *

The substance of Petitioner's statement is as follows:

1. The equipment used by the Petitioner for which modification is being sought includes the following: one CX 2 S&S scoop, one Acme bolting machine, one 11 RU cutting machine and 3 K 12 Kersey tractors.

2. The Petitioner installed canopies on the above-mentioned equipment and found such equipment could not be operated safely because of the cramped position and blocked visibility of the operators.

3. The coal height in this mine ranges from 38 to 44 inches, with an irregular bottom.

4. The condition of the coal seam is relatively difficult to mine by itself even with complete visibility and maneuverability of the machine operators.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 14, 1976. 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.

Dated: May 5, 1976.

JAMES R. RICHARDS,
Director,
Office of Hearings and Appeals.

[FR Doc.76–13891 Filed 5–12–76;8:45 am]

[Docket No. M 76–278]

RITA COAL COMPANY

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), Rita Coal Company has filed a petition to modify the application of 30 CFR 75.1710 to its Rita LA–5 and Rita LF–3 Mines located in Pike County, Kentucky.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with Section 75.1710 is 30 CFRR 75.1710–1 which in pertinent part provides:

* * * Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after July 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches; and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. * * *

The substance of Petitioner's statement is as follows:

1. In both the Rita LA–5 and the Rita LF–3 Mines, the coal height ranges from 38 to 44 inches with an irregular bottom.

2. The equipment in the Rita LA–5 Mine for which the Petitioner seeks modification includes the following: one 26 H Lee-Norse miner, two shuttle cars, one Acme roof bolter and one CX 1 Scoop. In the Rita LF–3 Mine, the Petitioner's equipment for which modification is sought includes the following: one Acme roof bolter, one 28 H Lee-Norse miner, and two CX 2 scoops.

3. Petitioner states that canopies were installed on this equipment. Petitioner alleges that the equipment could not be operated safely because of the cramped position and blocked visibility of the operators. Petitioner contends that the installation of canopies presents a greater hazard than is encountered in the absence thereof.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 14, 1976. 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.

Dated: May 5, 1976.

JAMES R. RICHARDS,
Director,
Office of Hearings and Appeals.

[FR Doc.76–13892 Filed 5–12–76;8:45 am]

[Docket No. M 76–202]

ROYAL COAL COMPANY

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), Royal Coal Company has filed a petition to modify the application of 30 CFR 75.1710 to its Royal No. 3, Royal No. 6 and Royal No. 11 mines, located in Raleigh (No. 3) and Fayette (Nos. 6 and 11) Counties, West Virginia.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with Section 75.1710 is 30 CFR 75.1710–1 which in pertinent part provides:

* * * Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches; and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. * * *

The substance of Petitioner's statement is as follows:

The Royal No. 3 and Royal No. 6 Mines have an average mining height of 40 inches. The Royal No. 11 Mine has an average mining height of 32 inches. Due to the limited clearance between equipment and roof support in a seam of this height, the operator must, necessarily, operate under conditions of reduced visibility. The addition of a cab or canopy reduces existing visibility to the point that three hazards are created:

1. Collisions with Roof Support.

a. In order to allow an operator even minimal visibility across the top of his machine, a canopy must add several inches of height to a piece of equipment. In a mining height of less than 48 inches, the dimensions of roof support used to supplement the regular bolting plan become very critical; thus, the strength of supplemental roof support must be limited in lower areas in order to accommodate the enlarged equipment.

b. A canopy obscures an operator's view of overhead roof support; this, along with the accompanying increase in equipment height, substantially increases the probability of roof support being dislodged through an error in judgment by the operator. While a roof fall is not normally the immediate result of such an occurrence, the roof is weakened each time its support is disturbed.

2. Injury to the operator.

a. In mining heights under 48 inches, equipment operators use variations in seam height to great advantage. Whenever possible, switching and maneuvering operations are performed where seam height allows the best visibility. In order for a piece of equipment to be used on a given section, its canopy must be lowered to allow clearance under the lowest conditions on that section. Thus, the advantage of using higher areas for difficult maneuvering and the safety which goes with it are lost. The operator is forced to negotiate the entire section under the limiting conditions of only a part of it.

b. Due to the severely reduced visibility caused by a cab or canopy in mining heights below 48 inches, an operator often must extend his head beyond the side support of the canopy in order to see ahead of his machine. Extending himself to the side of the equipment results in an unnatural operating position for the driver and, thus, reduces his ability to control the equipment. In this position, the operator is vulnerable to injury due to collision with the rib or other obstacles in tight-clearance situations.

3. Injury to other persons.

a. When an operator's vision is restricted by the addition of a cab or canopy, the increased hazard to persons working near the moving equipment is obvious. This hazard is made worse when side clearances are reduced due to the installation of a cab, thereby creating a "pinch-point" for persons who happen to be beside a machine while it is in motion.

At present, technology is not available to allow us to install cabs or canopies on the equipment in use at the Royal No. 3, Royal No. 6 and Royal No. 11 Mines without creating serious safety hazards.

On March 18, 1975, the Board of Mine Operations Appeals ruled that a violation of a mandatory health or safety standard is not established where compliance is impossible due to the unavailability of equipment, materials, or qualified technicians. On this basis, and until such time as equipment is available which meets the standards set forth in Section 75.1710–1 and can be operated safely in the mining of coal at the Royal No. 3, Royal No. 6 and Royal No. 11 Mines, we request that the Secretary modify Section 75.1701–1, paragraph (a) by waiving subparagraphs (5) and (6) which would require the installation and use of cabs or canopies at the Royal No. 3, Royal No. 6 and Royal No. 11 Mines.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 14, 1976. 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.

Dated: May 5, 1976.

JAMES R. RICHARDS,
Director,
Office of Hearings and Appeals

[FR Doc.76–13893 Filed 5–12–76;8:45 am]

[Docket No. M 76-455]

SPRING RIDGE COAL COMPANY

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), Spring Ridge Coal Company has filed a petition to modify the application of 30 CFR 75.1710 to its Mine No. 11 located in Webster County, West Virginia.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with Section 75.1710 is 30 CFR 75.1710–1 which in pertinent part provides:

* * * Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches; and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. * * *

The substance of Petitioner's statement is as follows:

1. The Petitioner is the operator of a small bituminous coal mine near Bolair, Webster County, West Virginia.

2. The coal seam in Mine No. 11 ranges in height from 28 to 84 inches.

3. Equipment subject to the regulation in Mine No. 11 consist of a 12RB Cutting Machine, an Elkhorn Scoop, a Galis 300 Roof Bolting Machine and one Sand's Scoop.

4. Due to the extreme variation in the coal seam there is inadequate clearance between the top of the equipment and the roof to accommodate canopies or cabs.

5. Installation of canopies or cabs would create additional hazards to the equipment operators.

6. There would be insufficient clearance to permit the equipment subject to the regulation to operate without coming into contact with the roof, ribs, haulageways or other equipment.

7. If canopies or cabs were required, it would be more difficult for the equipment operators to get in and out of the machinery in order to make necessary maintenance and mechanical adjustments.

8. Installation of canopies or cabs would partially or totally block the view of the equipment operators; alternatively, the operators would have to protrude their heads from underneath the canopies or cabs to maintain proper visual inspection.

9. No standard canopy or cab now in production meets the requirements of the law while still permitting the satisfactory removal of coal existing in seams with variable and fluctuating heights, such as those found in Mine No. 11.

10. Since the application of the standard encompassed in 30 CFR 75.1710 will result in a diminution of safety and since no technically feasible alternative is presently available to accomplish the desired result of increased safety, Petitioner requests that the Coal Mine Health and Safety Act be modified to permit the uninterrupted production of coal by not requiring the installation of canopies or cabs on electric face equipment used in Mine No. 11.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 14, 1976. 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.

Dated: May 5, 1976.

JAMES R. RICHARDS,
Director,
Office of Hearings and Appeals.

[FR Doc.76-13895 Filed 5-12-76;8:45 am]

[Docket No. M 76-398]

TAB COAL COMPANY

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), Tab Coal Company has filed a petition to modify the application of 30 CFR 75.1710 to its No. P-13 Mine, Pike County, Kentucky.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with Section 75.1710 is 30 CFR 75.1710–1 which in pertinent part provides:

* * * Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches; and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. * * *

The substance of Petitioner's statement is as follows:

1. Petitioner requests modification of the application of the mandatory safety standard 30 CFR 75.1710–1 with respect to one scoop and one pin-up machine used in the No. P–13 Mine for the reason that the application of such standard to such equipment in such mine will result in a diminution of safety to miners.

2. The No. P–13 Mine is in the Alma coal seam and ranges from 29 to 44 inches in height. The coal seam has consistent ascending and descending grades creating dips in the coalbed.

3. Petitioner states that the seam height is so low that the installation of canopies on haulage equipment would create a hazard to the equipment operators. The canopies would limit the visibility of the operators and would be a contributing cause of accidents.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 14, 1976. 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.

Dated: May 5, 1976.

JAMES R. RICHARDS,
Director,
Office of Hearings and Appeals.

[FR Doc.76-13896 Filed 5-12-76;8:45 am]

[Docket No. M 76-205]

TRIPOD COAL COMPANY, INC.

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), Tripod Coal Company Inc., has filed a petition to modify the application of 30 CFR 75.1710 to its No. 2 Mine, located in Pike County, Kentucky.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with Section 75.1710 is 30 CFR 75.1710–1 which in pertinent part provides:

* * * Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches; and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. * * *

The substance of Petitioner's statement is as follows:

1. The use of a canopy would be more dangerous than not to use one because of the cramped position and poor visibility of the operator in low coal.

2. The Petitioner uses scoops at its No. 2 Mine.

3. The coal seam ranges from 32 to 38 inches in height throughout the mine.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 14, 1976. 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.

Dated: May 5, 1976.

JAMES R. RICHARDS,
Director,
Office of Hearings and Appeals.

[FR Doc.76-13897 Filed 5-12-76;8:45 am]

[Docket No. M 76-144]

UNITED POCAHONTAS COAL COMPANY

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), United Pocahontas Coal Company has filed a petition to modify the application of 30 CFR 75.1710 to its No. 6A Mine, McDowell County, West Virginia.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with Section 75.1710 is 30 CFR 75.1710–1 which in pertinent part provides:

* * * Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches, and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. * * *

The substance of Petitioner's statement is as follows:

The United No. 6–A Mine has an average mining height of 45 inches. Due to the limited clearance between equipment and roof support in a seam of this height, the machine operator must operate his equipment under conditions of reduced vision. The addition of a cab or canopy reduces the operator's vision to the point that three hazards are created:

(1) Collisions with roof support—

(a) In order to allow an operator even minimal visibility across the top of his machine, a canopy must add several inches of height to a piece of equipment. In a mining height of less than 48 inches, the dimensions of roof support used to supplement the regular bolting plan becomes very critical; thus, the strength of supplemental roof support must be limited in lower areas in order to accommodate the enlarged equipment.

(b) A canopy obscures an operator's view of overhead roof support; this, along with the accompanying increase in equipment height, substantially increases the probability of roof support being dislodged through an error in judgment by the operator. While a roof fall is not normally the immediate result of such an occurrence, the roof is weakened each time its support is disturbed.

(2) Injury to the operator—

(a) In mining heights under 48 inches, equipment operators use variations in seam height to great advantage. Whenever possible, switching and maneuvering operations are performed where seam height allows the best visibility. In order for a piece of equipment to be used on a given section, its canopy must be lowered to allow clearance under the lowest conditions on that section. Thus, the advantage of using higher areas for difficult maneuvering and the safety which goes with it are lost. The operator is forced to negotiate the entire section under the limiting conditions of only a part of it.

(b) Due to the severely reduced visibility caused by a cab or canopy in mining heights below 48 inches, an operator often must extend his head beyond the side support of the canopy in order to see ahead of his machine. Extending himself to the side of the equipment results in an unnatural operating position for the driver and, thus, reduces his ability to control the equipment. In this position, the operator is vulnerable to injury due to collision with the rib or other obstacles in tight-clearance situations.

(3) Injury to other persons—

(a) When an operator's vision is restricted by the addition of a cab or canopy, the increased hazard to persons working near the moving equipment is obvious. This hazard is made worse when side clearances are reduced due to the installation of a cab, thereby creating a "pinchpoint" for persons who happen to be beside a machine while it is in motion.

At present, technology is not available to allow us to install cabs or canopies on the equipment in use at the United No. 6–A Mine without creating serious safety hazards.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 14, 1976. 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.

Dated: May 5, 1976.

JAMES R. RICHARDS,
Director,
Office of Hearings and Appeals.

[FR Doc.76-13899 Filed 5-12-76;8:45 am]

[Docket No. M 76-351]

WEBSTER COUNTY COAL CORP.

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), Webster County Coal Corporation has filed a petition to modify the application of 30 CFR 75.1710 to its Dotiki Mine located in Webster County, Kentucky, and its Retiki Mine located in Henderson County, Kentucky.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantialy constructed caponies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with Section 75.1710 is 30 CFR 75.1710-1 which in pertinent part provides:

* * * Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches; and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches.

* * *

The substance of Petitioner's statement is as follows:

At the Dotiki Mine, the average height of the coalbed at the north end is 58 inches and at the south end is 54 inches. At the Retiki Mine, the average height of the coalbed is 44 inches. At both mines, a minimum of 12 inches vertical clearance from the roof is required to insure that, during operation, face equipment at all times avoids contact with the roof support systems at the working faces of the mines. Therefore, any vertical distance from the floor of the mine in which any electric face equipment can operate is effectively reduced 12 inches from the height of the coalbed at any given point at the working faces of the mines. In addition, there are irregular tops and irregular bottoms which locally restrict the mining heights in both mines. Sulphur balls or protrusions, which are more prevalent at Dotiki Mine, sometimes extend from the roof a distance of 12 to 18 inches.

Presently, the Petitioner operates the following types of self-propelled electric face equipment at the subject mine:

Joy Loading Machines—14 BU-10-41
Joy Cutting Machines—15 RU MS 19
Schroeder Coal Drills
Galis Model 300 Roof Bolters
Galis Model 320 Roof Bolters

National Mine Service Model 48-S18 36 AL and 40AL Shuttle Cars.
21 S.C. Joy Shuttle Cars

Petitioner alleges that if cabs or canopies were required to be installed on the face equipment in these mines it will result in a diminution of safety to the minors. At both mines, Petitioner has installed certified cabs or canopies on certain face equipment but in each instance experienced difficulties which endangered the safety of the miners. Among the problems that have been recognized in this regard are as follows:

(a) The operator's field of vision is significantly reduced as a result of the close proximity of the cab or canopy to the operator's compartment. The operator leans out in order to see where he is going which increases the chances he may sideswipe the rib, a corner, other equipment, a miner, or some other projecting obstruction and be dragged from the equipment.

(b) The operator's arm and leg movement are more restricted as a result of reduced space in the operator's compartment which affects reaction time when steering or applying the brakes.

(c) Operator fatigue is greatly increased due to reduced operator compartment space.

(d) A majority of the miners who have worked in the mines under the installed cabs or canopies regard them as being unsafe.

(e) In case of loading machines, an additional man who is handling the trailing cable, is exposed to the danger of the swinging boom of the loading machine.

(5) Petitioner further states that it presently is unable to construct itself or to procure from equipment manufacturers, cabs or canopies which if installed on face equipment at Petitioner's mines will eliminate the safety hazards denoted above. Petitioner does, however, propose to develop in cooperation with MESA an orderly plan for the future installation when available of certified canopies on electric self-propelled face equipment at Petitioner's mines in those instances where it will benefit the overall safety of the miners.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 14, 1976. 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.

Dated: May 5, 1976.

JAMES R. RICHARDS,
Director,
Office of Hearings and Appeals.

[FR Doc.76-13900 Filed 5-12-76;8:45 am]

[Docket No. M 76-102]

THE YOUGHIOGHENY AND OHIO COAL COMPANY

Petition for Modification of Application of Mandatory Safety Standards

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), the Youghiogheny and Ohio Coal Company has filed a petition to modify the application of 30 CFR 75.1100-2(b) and 30 CFR 75.1100-2(c) to its Allison Mine located in Belmont County, Ohio.

30 CFR 75.1100-2(b) provides:

In all coal mines, waterlines shall be installed parallel to the entire length of belt conveyors and shall be equipped with firehose outlets with valves at 300-foot intervals along each belt conveyor and at tailpieces. At least 500 feet of firehose with fittings suitable for connection with each belt conveyor waterline system shall be stored at strategic locations along the belt conveyor. Waterlines may be installed in entries adjacent to the conveyor entry belt as long as the outlets project into the belt conveyor entry.

30 CFR 75.1100-2(c) provides:

* * * (1) In mines producing 300 tons of coal or more per shift waterlines shall be installed parallel to all haulage tracks using

mechanized equipment in the track or adjacent entry and shall extend to the loading point of each working section. Waterlines shall be equipped with outlet valves at intervals of not more than 500 feet, and 500 feet of firehose with fittings suitable for connection with such waterlines shall be provided at strategic locations. Two portable water cars, readily available, may be used in lieu of waterlines prescribed under this paragraph.

(2) In mines producing less than 300 tons of coal per shift, there shall be provided at 500-foot intervals in all main and secondary haulage roads:

(i) A tank of water of at least 55-gallon capacity with at least 3 pails of not less than 10-quart capacity; or

(ii) Not less than 240 pounds of bagged rock dust.

PETITIONER'S ALTERNATE METHOD

Petitioner proposes the following alternate method:

1. A 2-inch dry pipe line fire fighting system with fire hose outlets at 300-foot intervals with adequate firehose, installed parallel to the slope belt which will be activated manually by a valve positioned on the surface at the Hoist House adjacent to the slope mouth.

2. The slope belt is equipped with automatic fire sensor system that gives a warning automatically when a fire is detected at or near such belt.

3. The warning signal is audible in the lamp house and/or offices, where a person or persons are on duty at all times when employees are underground. A person upon receiving the warning signal can within 2 minutes manually activate the dry line and the entire line will be activated within 30 seconds. This water line will be supplied from two pumps located at a creek source and by gravity from the preparation plant storage pond.

4. The slope belt is also equipped with limit switches which will shut the belt off in the event the belt is out of alignment eliminating the occurrence of fire due to friction.

5. The slope belt drive is located 150 feet outby the slope mouth, therefore a deluge system is not required at the drive.

6. Petitioner asserts that the most important reason for having a dry pipe system is to keep the system from freezing due to the large volume of air going into the mine. Petitioner also asserts that in a fully charged line, the standing water would have a tendency to corrode the pipe and cause damage. Petitioner contends the dry pipe system can be turned on manually and is as effective as a fully charged line.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 14, 1976. 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.

Dated: May 5, 1976.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

[FR Doc.76-13898 Filed 5-12-76;8:45 am]

National Park Service

PACIFIC NORTHWEST REGIONAL ADVISORY COMMITTEE

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Pacific Northwest Regional Advisory Committee will be held at 9 a.m. on Friday, June 4, 1976, in the Glacier Bay Lodge in Glacier Bay National Monument.

The Committee was established pursuant to Public Law 91-383 to provide for the free exchange of ideals between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on programs and problems pertinent to the Pacific Northwest Region of the National Park Service.

The members of the Committee are as follows:

Mr. Earl J. Davenport (Chairman)
Dr. Robert L. Whitner (Secretary)
Mr. Leo V. Bodine
Mr. J. Allen Jensen
Mr. Roger Mellem
Dr. Richard M. Noyes
Mr. Wesley A. Phillips, Jr.
Mrs. Gwynneth G. Wilson

The matters to be discussed at this meeting include:

1. Gustavus Airport runway rehabilitation.
2. Mining status.
3. Research program in Glacier Bay National Monument.
4. Klondike Gold Rush National Historical Park.
5. Alaska d-2 lands.
6. Completion of utility construction at Bartlett Cove.

The meeting will be open to the public. Any member of the public may file with the Committee a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact Glenn D. Gallison, Associate Regional Director, Planning and Resource Preservation, Pacific Northwest Regional Office, at 206-442-5962. Minutes of the meeting will be available for public inspection for weeks after the meeting at the Pacific Northwest Regional Office, Fourth and Pike Building, Seattle, Washington 98101.

RUSSELL E. DICKENSON,
Regional Director, Pacific Northwest Region.

[FR Doc.76-13909 Filed 5-12-76;8:45 am]

ASSATEAGUE ISLAND NATIONAL SEASHORE

Public Use Restrictions

The Act of September 21, 1965, 79 Stat. 824, 16 U.S.C. 3459f (1970) directs the Secretary of the Interior to administer the national seashore for general purposes of public outdoor recreation, including conservation of natural features contributing to public enjoyment. In its administration, the Secretary is authorized to utilize statutory authorities relating to areas administered and supervised by the Secretary through the National Park Service and such statutory authority otherwise available to him for the conservation and management of natural resources as he deems appropriate to carry out the purposes of the 1965 act. Therefore, pursuant to the Act of September 21, 1965 and the Act of August 25, 1916, 39 Stat. 535, as amended and supplemented, 16 U.S.C. § 1 *et seq.* (1970), notice is given to all persons planning to visit the seashore that local restrictions have been established to control and safeguard swimming on public beaches, public camping, organized or group activities in public use zones, operation of oversand vehicles in roadless areas, and public entry on some tracts where the use has been retained for hunting and residential purposes by former landowners under the seashore's enabling legislation.

In Virginia, the National Park Service operates some public recreational facilities on a limited portion of Chincoteague National Wildlife Refuge. Potential visitors are advised that rules for authorized visitor activities on this portion of the seashore may vary from similar public uses in Maryland. This variation arises from subsection 6(b) of the 1965 act, 79 Stat. 826, 16 U.S.C. § 459f-5(b) (1970), which requires administration of the lands and waters in the Chincoteague National Wildlife Refuge for refuge purposes under laws and regulations applicable to national wildlife refuges.

Persons who are planning to visit the seashore are urged to request copies of free informational materials which describe the seashore's recreational facilities, authorized activities, and public use limits by writing to the Superintendent, Assateague Island National Seashore, Route 2, Box 294, Berlin, Maryland 21811.

THOMAS F. NORRIS, Jr.,
Superintendent, Assateague Island National Seashore.

[FR Doc.76-13910 Filed 5-12-76;8:45 am]

VETERANS ADMINISTRATION

CENTRAL OFFICE EDUCATION AND TRAINING REVIEW PANEL

Meeting

The Veterans Administration gives notice pursuant to Public Law 92–463 that a meeting of the Central Office Education and Training Review Panel, authorized by Section 1790(b), Title 38, United States Code, will be held in Room 119, Veterans Administration Central Office, 810 Vermont Avenue, NW., Washington, DC on June 3, 1976 at 10 a.m. The meeting will be held for the purpose of reviewing the April 15, 1976 decision of the Director, Veterans Administration Regional Office, Indianapolis, Indiana, that benefits to all eligible persons enrolled in United Systems, Incorporated, 1600 W. Oliver Avenue, Indianapolis, Indiana be discontinued, effective April 30, 1976.

The meeting will be open to the public up to the seating capacity of the conference room. Seating capacity is limited, so it will be necessary for those wishing to attend to contact Mr. Halsey A. Dean, Chief, Field Operations (223A), Education and Rehabilitation Service, Veterans Administration Central Office (phone 202–389–2850) prior to May 28, 1976.

Dated: May 6, 1976.

R. L. ROUDEBUSH,
Administrator.

[FR Doc.76–13967 Filed 5–12–76;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Volume 30]

PETITIONS FOR MODIFICATION, INTERPRETATION OR REINSTATEMENT OF OPERATING RIGHTS AUTHORITY

MAY 7, 1976.

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protest shall comply with Special Rule 247(d) of the Commission's General Rules of Practice (49 CFR § 1100.247) [1] and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioner's representative, or petitioner if no representative is named.

No. MC 1768 (Notice of Filing of Petition for Modification of Territorial Description), filed April 23, 1976. Petitioner: INLAND FREIGHTWAYS, INC., 100 John Hay Ave., Kearny, N.J. 07032. Petitioner's representative: A. David Millner, 744 Broad Street, Newark, N.J. 07102. Petitioner holds a motor *common carrier* Certificate in No. MC 1768, issued November 2, 1955, authorizing transportation over irregular routes, of *general commodities* (except those of unusual value, class A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between New York, N.Y., on the one hand, and, on the other, points in New Jersey within 30 miles of New York, N.Y. By the instant petition, petitioner seeks to modify the territorial description so as to read: "Between the New York, N.Y., Commercial Zone, as defined by the Commission, on the one hand, and, on the other, points in New Jersey within 30 miles of New York, N.Y."

No. MC 8948 (Notice of Filing of Petition To Modify a Portion of Certificate), filed April 21, 1976. Petitioner: WESTERN GILLETTE, INC., P.O. Box 58267, Vernon Station, 2550 East 28th St., Los Angeles, Calif. 90058. Petitioner's representative: R. Y. Schureman, 1545 Wilshire Blvd., Los Angeles, Calif. 90017. Petitioner holds a motor *common carrier* Certificate in No. MC 8948, issued December 5, 1973, authorizing transportation, as pertinent, over regular routes, of *general commodities* (except those of unusual value, classes A and B explosives, livestock, commodities in bulk, and commodities requiring special equipment), between Los Angeles Harbor, Calif., and Sacramento, Calif., as follows: From Los Angeles Harbor over U.S. Highway 101 to San Jose, Calif., thence over California Highway 82 to San Francisco, Calif., thence over U.S. Highway 40 to Sacramento, and return over the same route, serving all intermediate points between Santa Maria and San Francisco, Calif., inclusive, on northbound traffic only, and those between San Luis Obispo, Calif., and Los Angeles, inclusive, on southbound traffic only. By the instant petition, petitioner seeks to broaden its intermediate point service to include service at all intermediate points between Los Angeles Harbor and Sacramento, Calif.

No. MC 45656 (Sub-No. 18) (Notice of Filing of Petition to Add an Origin Point) filed April 14, 1976. Petitioner: ANDERSON TRUCK LINE, INC., 531 West Harper, P.O. Drawer 191, Lenoir, N.C. 28645. Petitioner's representative: Theodore Polydoroff, 1250 Connecticut Avenue NW., Washington, D.C. 20036. Petitioner holds a motor *common carrier* Certificate in No. MC 45656 (Sub-No. 18), issued October 8, 1975, authorizing transportation over irregular routes, of *new furniture*, from Bassett, Waynesboro, Staunton, Stanleytown, Roanoke, and Altavista, Va., Conway and Mullins, S.C., and Toccoa, Ga., to the facilities of J. C. Penney Company, Inc., at or near Claremont, N.C. By the instant petition, petitioner seeks to add Appomatox, Va. as an origin point to the above described operations.

No. MC 93944 (Sub-No. 9) (Notice of Filing of Petition To Modify Commodity Description), filed April 9, 1976. Petitioner: DANELLA BROS., INC., 2280 Butler Pike, Plymouth Meeting, Pa. 19462. Petitioner's representative: Theodore Polydoroff, 1250 Connecticut Avenue NW., Washington, D.C. 20036. Petitioner holds a motor *common carrier* Certificate in No. MC 93944 (Sub-No. 9), issued November 25, 1974, authorizing, as petinent, transportation over irregular routes, of (1) *alloys and ores* (except fluospar), (except in tank vehicles), between points in that part of Pennsylvania on and east of U.S. Highway 219 (except Scranton, and Columbia, Pa., and its commercial zone as defined by the Commission, and points in Philadelphia, Montgomery, and Delaware Counties, Pa.), New Jersey (except points in Cumberland, Salem, Gloucester, Cape May, Atlantic, Camden, and Burlington Counties), Delaware and Maryland (except Baltimore), restricted against service between points in New Jersey, and (2) *alloys and ores* (except in tank vehicles), between points in that part of Pennsylvania on and east of U.S. Highway 219 (except Chester, Pa.). By the instant petition, petitioner seeks to modify the commodity descriptions so as to read: *Alloys, ores, and minerals*, in both (1) and (2) above with the named exceptions and territorial descriptions.

No. MC 136032 (Sub-No. 6) (Notice of Filing of Petition To Add an Origin Point), filed April 21, 1976. Petitioner: TEXAS CONTINENTAL EXPRESS, INC., P.O. Box 434, 2603 W. Euless Blvd., Euless, Tex. 76039. Petitioner's representative: K. Edward Wolcott, 1600 First Federal Bldg., Atlanta, Ga. 30303. Petitioner holds a motor *contract carrier* Permit in No. MC 136032 (Sub-No. 6), issued April 5, 1976, authorizing transportation over irregular routes, of *drugs and medicines, nutritional and anticoagulant solutions, distilled water* (plain or saline, in glass or plastic containers), and *commodities* used in the administration of the above-named commodities, in vehicles equipped with mechanical refrigeration, from Milledgeville, Ga., to points in the United States on and east of U.S. Highway 85 (except points in Georgia), under a continuing contract, or contracts with McGaw Laboratories, Division of American Hospital Supply Corp., located at Milledgeville, Ga. By the instant petition, petitioner seeks to add Atlanta, Ga., as an additional origin point in the above authority.

No. FF 434 (Notice of Filing of Petition To Broaden Restriction), filed April 22, 1976. Petitioner: TRANSCONEX, INC., 3000 NW. 74th Ave., P.O. Box 480037, Miami, Fla. 33148. Petitioner's representative: Alan F. Wohlstetter, 1700 K St. NW., Washington, D.C. 20036. Petitioner holds a freight forwarder *contract* Permit in No. FF 434, issued September 18, 1975, authorizing transportation over irregular routes, of *general commodities*

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

(except those of unusual value, classes A and B explosives, household goods, motor vehicles, commodities in bulk, commodities requiring special equipment, and commodities in vehicles equipped with mechanical refrigeration), in containers or van-type trailers, from Atlanta, Ga., and points in Florida, to the Ports of Miami and Jacksonville, Fla., restricted to the transportation of shipments having an immediately subsequent movement by water and destined to a point beyond the United States. By the instant petition, petitioner seeks to broaden the restriction by adding "and air" after the words "by water" so that it reads: "restricted to the transportation of shipments having an immediately subsequent movement by water and air and destined to a point beyond the United States."

MOTOR CARRIER, BROKER, WATER CARRIER, AND FREIGHT FORWARDER, OPERATING RIGHTS APPLICATIONS

Notice

The following applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to reasonably file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 491 (Sub-No. 3), filed April 2, 1976. Applicant: MARSH EXPRESS, INC., P.O. Box 447, Glassboro, N.J. 08028. Applicant's representative: Michael R. Werner, 2 West 45th Street, New York, N.Y. 10036. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, commodities in bulk, and commodities requiring the use of special equipment), (1) between Philadelphia, Pa., and Newfield, N.J., serving all intermediate points: (a) From Philadelphia, over U.S. Highway 76 to junction New Jersey Highway 130, thence over U.S. Highway 130 to junction New Jersey Highway 45, thence over New Jersey Highway 45 to junction New Jersey Highway 77, thence over New Jersey Highway 77 to junction U.S. Highway 40, thence over U.S. Highway 40 to junction unnumbered highway, thence over unnumbered highway to Newfield, and return over the same route; (b) From Philadelphia over U.S. Highway 30 to junction U.S. Highway 130, thence over U.S. Highway 130 to junction New Jersey Highway 45, thence over the route described in (1)(a) to Newfield, and return over the same route; and (c) From Philadelphia over Pennsylvania Highway 73 to junction New Jersey Highway 73, thence over New Jersey Highway 73 to junction U.S. Highway 130, thence over U.S. Highway 130 to junction New Jersey Highway 45, thence over the route described in (1)(a) above to Newfield, and return over the same route; (2) Between Philadelphia, Pa., and Newfield, N.J., serving all intermediate points:

(a) From Philadelphia over U.S. Highway 76 to junction New Jersey Highway 42, thence over New Jersey Highway 42 to junction New Jersey Highway 41, thence over New Jersey Highway 41 to junction New Jersey Highway 47, thence over New Jersey Highway 47 to junction with unnumbered highway, thence over unnumbered highway to Newfield, and return over the same route; (b) From Philadelphia over U.S. Highway 30 to junction U.S. Highway 130, thence over U.S. Highway 130 to junction New Jersey Highway 42, thence over the same route described in (2)(a) above to Newfield, and return over the same route; (c) From Philadelphia over Pennsylvania Highway 73 to junction New Jersey Highway 73, thence over New Jersey Highway 73 to junction U.S. Highway 130, thence over U.S. Highway 130 to junction New Jersey Highway 42, thence over the route described in (2)(a) above to Newfield, and return over the same route; and (d) From Philadelphia over Pennsylvania Highway 73 to junction New Jersey Highway 73, thence over New Jersey Highway 73 to junction County Route 607, thence over County Route 607 to junction County Route 537, thence over County Route 537 to junction County Route 611, thence over County Route 611 to junction New Jersey Highway 41, thence over New Jersey Highway 41 to junction New Jersey Highway 47, thence over the route described in (2)(a) above, and return over the same route; and (3) Between Woodbury, N.J., and Glassboro, N.J., serving all intermediate points and the off-route point of Pitman, N.J.: From Woodbury, N.J., over County Route 553 to Glassboro, N.J., and return over the same route.

NOTE.—The purpose of this application is to convert applicant's presently authorized regular route operations to irregular route operations. If a hearing is deemed necessary, the applicant requests it be held at either New York, N.Y., or Philadelphia, Pa.

No. MC 531 (Sub-No. 335), filed April 12, 1976. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Rd., P.O. Box 14048, Houston, Tex. 77021. Applicant's representative: Wray E. Hughes (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wine*, in bulk, in tank vehicles, from Canandaigua, N.Y., to points in California.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either San Francisco, Calif., or Washington, D.C.

No. MC 4405 (Sub-No. 532), filed April 2, 1976. Applicant: DEALERS TRANSIT, INC., 2200 E. 170th Street, P.O. Box 361, Lansing, Ill. 60438. Applicant's representative: Leonard L. Bennett (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trailers, semitrailers, and trailer chassis* (other than those designated to be drawn by passenger automobiles), in initial movements in truckaway and driveaway service, from Kansas City, Mo., to points in the United States (except Alaska and Hawaii); and (2) *tractors* in secondary movements in driveaway service only when drawing trailers, semitrailers, and trailer chassis moving in initial driveaway service, from Kansas City, Mo., to points in Arizona, Nevada, Oregon, and Vermont.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Kansas City, Mo.

No. MC 5227 (Sub-No. 20), filed April 12, 1976. Applicant: ECONOMY MOVERS, INC., P.O. Box 201, Mead, Nebr. 68041. Applicant's representative: Gailyn L. Larsen, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings, knocked*

down and in sections, building sections, building panels, structural building components, building equipment, and equipment, materials, supplies and accessories, used in construction and completion of buildings, from the facilities of American Buildings Company, located at or near Atlantic, Iowa, and the facilities of Behlen Manufacturing Company, located at or near Columbus, Nebr., to points in Alaska.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Lincoln, Nebr., or Fairbanks, Ark.

No. MC 5470 (Sub-No. 106), filed April 16, 1976. Applicant: TAJON, INC., R.D. 5, P.O. Box 146, Mercer, Pa. 16137. Applicant's representative: Don Cross, 700 World Center Bldg., 918 Sixteenth St. NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Materials and supplies* used in the manufacture of alloys and silvery pig iron, in dump vehicles, from points in Indiana, Illinois, Maryland, Michigan, Missouri, New York, Ohio, Pennsylvania, Tennessee, and West Virginia to Calvert City, Ky.

NOTE.—if a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C., or Buffalo, N.Y.

No. MC 8989 (Sub-No. 223), filed April 19, 1976. Applicant: HOWARD SOBER, INC., 5810 Moeller Road, P.O. Box 216, Fort Wayne, Ind. 46801. Applicant's representative: Gary Geiger, 2200 East 170th St., Lansing, Ill. 60438. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Motor vehicles and motor vehicle chassis,* initial movements in driveaway and truckaway service, and *bodies, cabs, and parts thereof,* from Charlotte, Mich., to points in the United States, including Alaska, but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill., or Washington, D.C.

No. MC 11207 (Sub-No. 364), filed April 5, 1976. Applicant: DEATON, INC., 317 Avenue W., P.O. Box 938, Birmingham, Ala, 35201. Applicant's representative: Maurice F. Bishop, 601–09 Frank Nelson Building, Birmingham, Ala. 35203. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Paper and paper products;* and (2) *materials, equipment, and supplies,* used in the manufacture and distribution thereof (except commodities in bulk and those which because of size or weight require the use of special equipment), between the plantsite, warehouse and storage facilities of The Mead Corporation, located in the northeastern part of Jackson County, Ala., on the one hand, and on the other, points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Texas.

NOTE.—If a hearing is deemed necessary, the applicant does not specify a location.

No. MC 11207 (Sub-No. 366), filed April 7, 1976. Applicant: DEATON, INC., 317 Avenue W., P.O. Box 938, Birmingham, Ala. 35201. Applicant's representative: Kim D. Mann, 702 World Center Building, 918 Sixteenth Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Woodpulp egg cartons, woodpulp plates, woodpulp dishes, and woodpulp trays,* from Natchez, Miss., to points in Arkansas, Louisiana, Oklahoma, and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Birmingham, Ala., or Atlanta, Ga.

No. MC 11207 (Sub-No. 368), filed April 12, 1976. Applicant: DEATON, INC., 317 Ave. W., P.O. Box 938, Birmingham, Ala. 35201. Applicant's representative: Kim D. Mann, 702 World Center Bldg., 918 Sixteenth Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Evaporators, filters, dryers, flakers, boilers, extractors, clarifiers, aerators, separators, pumps, furnaces, parts and accessories,* from Birmingham, Ala., to points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia; and (2) *machinery, equipment, materials and supplies* used in connection with the manufacture, construction, repair or servicing of the commodities described in (1) above, from the above named destinations to the above-named origin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Birmingham, Ala., or Atlanta, Ga.

No. MC 18121 (Sub-No. 17), filed April 8, 1976. Applicant: ADVANCE TRANSPORTATION COMPANY, a Corporation, 2115 South First Street, Milwaukee, Wis. 53207. Applicant's representative: Eugene L. Cohn, One North LaSalle Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (A) *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between points within an area in Illinois bounded by a line commencing at junction Interstate Highway 80 and U.S. Highway 51, thence south along U.S. Highway 51 to Peru, thence east along Business U.S. Highway 51 through LaSalle and south to junction U.S. Highway 51, thence south along U.S. Highway 51 to junction U.S. Highway 66, thence southwest along U.S. Highway 66 through Lincoln to intersection Salt River, thence west along Salt River to intersection Illinois Highway 97, thence northwest along Illinois Highway 97 to junction Illinois Highway 116, thence west along Illinois Highway 116 to junction Illinois Highway 41, thence north along Illinois Highway 41 to junction U.S. Highway 34, thence northeast along U.S. Highway 34 to junction Interstate Highway 80, thence east along Interstate Highway 80 to junction U.S. Highway 51, the point of beginning, including points on the aforesaid highways, on the one hand, and on the other, Milwaukee, Wis., restricted to traffic originating or destined to points in Illinois; and (B) *Meats, meat products, meat byproducts, 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 (except liquid commodities in bulk, in tank vehicles), between the plantsite of Swift & Co. at Rochelle, Ill., on the one hand, and on the other, Milwaukee, Wis., restricted to the plantsite of Swift & Co. at Rochelle, Ill.

NOTE.—The purpose of this application is to eliminate circuitous gateway operations through Chicago, Ill., no new service and no duplicating authority sought. All duplications are to be eliminated. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 25798 (Sub-No. 281), filed April 9, 1976. Applicant: CLAY HYDER TRUCKING LINES, INC., P.O. Box 1186, Auburndale, Fla. 33823. Applicant's representative: Tony G. Russell (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Frozen foods,* between Crozet, Va., and Russellville, Ark., restricted to shipments originating at or destined to the facilities of Morton Frozen Foods-Division of ITT Continental Baking Company, Inc.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Tampa, Fla., or Washington, D.C.

No. MC 25798 (Sub-No. 282), filed April 16, 1976. Applicant: CLAY HYDER TRUCKING LINES, INC., P.O. Box 1186, Auburndale, Fla. 33823. Applicant's representative: Tony G. Russell (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Canned or preserved footstuffs,* from points in Delaware and Maryland, to points in Alabama, Louisiana, and Mississippi.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Tampa, Fla., or Washington, D.C.

No. MC 26396 (Sub-No. 129), filed April 7, 1976. Applicant: POPELKA TRUCKING CO., doing business as THE WAGGONERS, P.O. Box 990, Livingston, Mont. 59047. Applicant's representative: Jeanne H. Charlesworth (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Processed sulphur,* in bags, from ports of entry on the International Boundary line between the United States and Canada, located in Montana and North Dakota, to points in California, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri,

Montana, Nebraska, North Dakota, Ohio, Oregon, South Dakota, Washington, Wisconsin, and Wyoming, restricted to traffic originating at production plant, approximately 15 miles west of Didsbury, Alberta; and from storage and distribution setup.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Billings, Mont., or Washington, D.C.

No. MC 29079 (Sub-No. 88), filed March 25, 1976. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., 1210 South Union, P.O. Box 935, Kokomo, Ind. 46901. Applicant's representative: Richard H. Streeter, 704 Southern Building, 15th & H Sts. NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except liquid commodities in bulk, Classes A and B explosives, household goods as defined by the Commission, and articles of unusual value), between points in Howard County, Ind., on the one hand, and, on the other, points in Indiana, restricted to the transportation of traffic having a prior or subsequent movement by rail, air or water carrier.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Indianapolis, Ind.

No. MC 29886 (Sub-No. 329), filed April 9, 1976. Applicant: DALLAS & West Sample Street, South Bend, Ind. 46619. Applicant's representative: Charles Pieroni (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buses and bus chassis*, in driveaway service, from ports of entry in Texas, and from Woodlawn, Tex., to points in the United States (including Alaska, but excluding Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Dallas or Houston, Tex.

No. MC 29910 (Sub-No. 169), filed April 5, 1976. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th Street, Fort Smith, Ark. 72901. Applicant's representative: Don A. Smith, P.O. Box 43, Fort Smith, Ark. 72901. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except commodities in bulk, Classes A and B explosives, household goods as defined by the Commission, articles of unusual value, and commodities requiring special equipment), between the plantsite of Amoco Chemicals Corporation, located at or near Chocolate Bayou, Tex., on the one hand, and on the other, El Dorado, Ark.: From Chocolate Bayou, Tex., over undesignated highway to junction Texas Highway 35, thence over Texas Highway 35 to junction U.S. Highway 59, thence over U.S. Highway 59 to junction U.S. Highway 79, thence over U.S. Highway 79 to junction Louisiana Highway 9, thence over Louisiana Highway 9 to junction U.S. Highway 167, thence over U.S. Highway 167 to El Dorado, Ark., and return over the same route, serving the intermediate points of Houston, Tex., and Shreveport, La.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Little Rock, Ark., or New Orleans, La.

No. MC 31389 (Sub-No. 214), filed April 9, 1976. Applicant: McLEAN TRUCKING COMPANY, a Corporation, 617 Waughtown Street, Winston-Salem, N.C. 27107. Applicant's representative: David F. Eshelman, P.O. Box 213, Winston-Salem, N.C. 27102. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment): Serving the plantsite and storage facilities of Brown Printing Company, located at or near Waseca, Minn., in conjunction with applicant's regular route operations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Richmond, Va., or Washington, D.C.

No. MC 42487 (Sub-No. 849), filed April 12, 1976. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, Calif. 94025. Applicant's representative: V. R. Oldenburg, P.O. Box 5138, Chicago, Ill. 60680. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, livestock, assembled automobiles, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Springfield, Ill., and Birmingham, Ala., as an alternate route for operating convenience only in connection with carrier's presently authorized regular routes operations serving no intermediate points: From Springfield over Interstate Highway 55 to Memphis, Tenn., thence over Interstate Highway 240 to junction U.S. Highway 78, thence over U.S. Highway 78 to junction U.S. Highway 278 at Hamilton, Ala., thence over U.S. Highway 278 to junction Alabama Highway 5 at or near Natural Bridge, Ala., thence over Alabama Highway 5 to junction U.S. Highway 78 at or near Jasper, Ala., thence over U.S. Highway 78 to Birmingham, and return over the same route.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 45656 (Sub-No. 20), filed April 7, 1976. Applicant: ANDERSON TRUCK LINE, INC., Highway 321 South, P.O. Drawer 191, Lenoir, N.C. 28645. Applicant's representative: Theodore Polydoroff, Suite 600, 1250 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *New furniture and furniture parts*, from points in Alexander, Burke, Caldwell, Catawba, Iredell, Lincoln, and Mitchell Counties, N.C., to points in Georgia, Maryland, South Carolina, Virginia, and the District of Columbia; and (2) *rejected or returned shipments of new furniture and furniture parts*, from the destination points, to the origin points named in (1) above.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Charlotte, N.C., or Atlanta, Ga.

No. MC 51146 (Sub-No. 461), filed April 5, 1976. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, Wis. 54306. Applicant's representative: Maurice F. Bishop, 603 Frank Nelson Building, Birmingham, Ala. 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper products;* and (2) *materials, equipment, and supplies*, used in the manufacture and distribution thereof (except commodities in bulk, and those which because of size or weight require the use of special equipment), between the plantsite, warehouse and storage facilities of Mead Corporation located in the northeastern part of Jackson County, Ala., on the one hand, and, on the other, points in the United States on and east of the western boundaries of Iowa, Minnesota, Mississippi, and Tennessee.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant does not specify a location.

No. MC 51146 (Sub-No. 463), filed April 5, 1976. Applicant: SCHNEIDER TRANSPORT, INC., 2661 South Broadway, Green Bay, Wis. 54304. Applicant's representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, Wis. 54306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter, and materials and supplies* used in the manufacture of printed matter (except commodities in bulk), between Mattoon, Ill., Glasgow, Ky., and Warsaw, Ind., on the one hand, and, on the other, points in Connecticut, Delaware, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 51146 (Sub-No. 464), filed April 12, 1976. Applicant: SCHNEIDER TRANSPORT, INC., 2661 South Broadway, Green Bay, Wis. 54304. Applicant's representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, Wis. 54306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic products*, from Grand Haven, Mich., to points in the United States (except Alaska and Hawaii); and (2) *materials and supplies*, used in the manufacture and distribution of plastic products, from points in

the United States (except Alaska and Hawaii), to Grand Haven, Mich.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 53965 (Sub-No. 116), filed April 12, 1976. Applicant: GRAVES TRUCK LINE, INC., 2130 South Ohio, Salina, Kans. 67401. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment: (1) Between Junction 135W and Lyons, Kans., serving all intermediate points. From the Junction 135W via U.S. Highway 56, to Lyons, Kans., and return over the same route. (2) Serving Stafford, Kans., as an off-route point to present regular route service.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 55822 (Sub-No. 16), filed April 13, 1976. Applicant: VICTORY EXPRESS, INC., 2600 Willowburn Avenue, Trotwood, Ohio 45426. Applicant's representative: Harold G. Hernly, Jr., 118 N. St. Asaph Street, Alexandria, Va. 22314. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper, paper products, plastic articles and materials, equipment and supplies* used or useful in the manufacture of paper, paper products and plastic articles, between the plantsites and other facilities of Hudson Pulp and Paper Corp., located in Florida, Arkansas, North Carolina, New Jersey, New York, and Ohio, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), under a continuing contract with Hudson Pulp and Paper Corp., of Palatka, Fla.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Jacksonville, Fla., or Washington, D.C.

No. MC 59150 (Sub-No. 92), filed April 8, 1976. Applicant: PLOOF TRUCK LINES, INC., 1414 Lindrose Street, Jacksonville, Fla. 32206. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition board and paneling*, from the plantsite and warehouse facility of Plywood Panels, Inc., at New Orleans, La., to points in Alabama, Florida, Georgia, Mississippi, and Tennessee.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New Orleans, La.

No. MC 59367 (Sub-No. 104), filed April 13, 1976. Applicant: DECKER TRUCK LINE, INC., P.O. Box 915, Fort Dodge, Iowa 50501. Applicant's representative: William L. Fairbank, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Algona, Iowa, to Chicago, Ill.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Des Moines, Iowa.

No. MC 59583 (Sub-No. 155), filed April 5, 1976. Applicant: THE MASON AND DIXON LINES, INCORPORATED, Eastman Rd., P.O. Box 969, Kingsport, Tenn. 37662. Applicant's representative: Maurice F. Bishop, 603 Frank Nelson Building, Birmingham, Ala. 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper products;* and (2) *materials, equipment, and supplies*, used in the manufacture and distribution thereof (except commodities in bulk and those which because of size or weight require the use of special equipment), between the plantsite, warehouse, and storage facilities of Mead Corporation, located in Jackson County, Ala., on the one hand, and, on the other, points in Alabama, Connecticut, Delaware, Georgia, Illinois, Indiana, Kentucky, Maryland, Massachusetts, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, the applicant does not specify a location.

No. MC 61231 (Sub-No. 92), filed April 13, 1976. Applicant: ACE LINES, INC., 4143 East 43rd Street, Des Moines, Iowa 50317. Applicant's representative: William L. Fairbank, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials*, from points in Iowa to points in South Dakota.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Des Moines, Iowa.

No. MC 63417 (Sub-No. 89), filed April 14, 1976. Applicant: BLUE RIDGE TRANSFER COMPANY, INCORPORATED, P.O. Box 13447, Roanoke, Va. 24034. Applicant's representative: William E. Bain (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry dog food* (except in bulk), from Red Bay, Ala., and Tupelo, Miss., to points in Alabama, Georgia, North Carolina, South Carolina, Tennessee, Ohio, Kentucky, Pennsylvania, West Virginia, Maryland, Delaware, Virginia, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Birmingham, Ala., Tupelo, Miss., Washington, D.C., or Roanoke, Va.

No. MC 67450 (Sub-No. 56), filed April 14, 1976. Applicant: PETERLIN CARTAGE CO., 9651 South Ewing Avenue, Chicago, Ill. 60617. Applicant's representative: Joseph M. Scanlan, 111 West Washington Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clay and clay products*, from Scott and Stoddard Counties, Mo., to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 69833 (Sub-No. 116), filed April 5, 1976. Applicant: ASSOCIATED TRUCK LINES, INC., Vandenberg Center, Grand Rapids, Mich. 49502. Applicant's representative: Harry Pohlad (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lawn and garden products, viz: fertilizers, manufactured grass seeds, hand type lawn distributors, weed killing compound, insecticide or fungicides, agricultural*, in bags or boxes, from the plantsite and warehouses of O. M. Scott & Sons Company, Inc., located at or near Marysville, Union County, Ohio, to points in Indiana, Lower Peninsula of Michigan, and points in Pennsylvania on and west of U.S. Highway 219.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C., or Columbus, Ohio.

No. MC 73165 (Sub-No. 384), filed April 1, 1976. Applicant: EAGLE MOTOR LINES, INC., 830 North 33rd Street, P.O. Box 11086, Birmingham, Ala. 35202. Applicant's representative: William P. Parker (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials, equipment, machinery, and supplies* used in the manufacturing, processing, and distribution of iron and steel articles, from points in the United States (except Alaska and Hawaii), to the plantsite and facilities of American Cast Iron Pipe Company at Birmingham, Ala.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala.

No. MC 73165 (Sub-No. 385), filed April 19, 1976. Applicant: EAGLE MOTOR LINES, INC., 830 N. 33rd Street, P.O. Box 11086, Birmingham, Ala. 35202. Applicant's representative: William P. Parker (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trailer converter dollies*, in truckaway service, packers, refuse compactors, cargo containers, refuse containers, storage containers, and material handling containers; and (2) *materials, supplies, and parts* (except commodities in bulk) used in manufacture, assembly, and servicing of commodities in (1) above, from Vernon, Ala., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Birmingham, Ala., or Atlanta, Ga.

No. MC 73688 (Sub-No. 67), filed April 15, 1976. Applicant: SOUTHERN TRUCKING CORPORATION, 1500 Orenda Avenue, P.O. Box 7182, Memphis, Tenn. 38107. Applicant's representative: Robert E. Tate, P.O. Box 517, Evergreen, Ala. 36401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pallets*, between Memphis, Tenn., on the one hand, and, on the other, points in Arkansas, Alabama, Kentucky, Mississippi, and Missouri.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Memphis, Tenn., or Atlanta, Ga.

No. MC 76032 (Sub-No. 315), filed April 16, 1976. Applicant: NAVAJO FREIGHT LINES, INC., 1205 South Platte River Drive, Denver, Colo. 80223. Applicant's representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) Between Canton, Ohio, and Springfield, Ohio, as an alternate route for operating convenience only, serving no intermediate points: From Canton over U.S. Highway 30 to junction Interstate Highway 71, thence over Interstate Highway 71 to junction Interstate Highway 70 (U.S. Highway 40) at or near Columbus, Ohio, thence over Interstate Highway 70 (U.S. Highway 40) to Springfield, and return over the same route, restricted against the handling of local and interline traffic moving between Canton, Ohio and Springfield, Ohio.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Denver, Colo., or Chicago, Ill.

No. MC 82841 (Sub-No. 169), filed April 5, 1976. Applicant: HUNT TRANSPORTATION, INC., 10770 "I" Street, Omaha, Nebr. 68127. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefinished and unfinished hardwood flooring, stair parts, and millwork*, from Memphis, Tenn. and Grenada, Miss., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Memphis, Tenn.

No. MC 82841 (Sub-No. 171), filed April 5, 1976. Applicant: HUNT TRANSPORTATION, INC., 10770 "I" Street, Omaha, Nebr. 68127. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Native plywood*, from West Memphis, Ark., to points in Illinois, Indiana, Iowa, Kansas, Kentucky, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New York, North Dakota, Ohio, Oklahoma, Pennsylvania, South Dakota and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn.

No. MC 82841 (Sub-No. 172), filed April 5, 1976. Applicant: HUNT TRANSPORTATION, INC., 10770 "I" Street, Omaha, Nebr. 68127. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum products and articles* including *tubing and couplers*, from Twin Falls County, Idaho, to points in Arizona, California, Colorado, Montana, Nebraska, Nevada, New Mexico, Oregon, Utah, Washington and Wyoming, restricted to traffic originating at the plant site of Alumax, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif.

No. MC 83539 (Sub-No. 428), filed April 19, 1976. Applicant: C & H TRANSPORTATION CO., INC., 2010 W. Commerce St., P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Thomas E. James (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Self-propelled articles* weighing 15,000 pounds or less; and (2) *attachments, parts and accessories* for (1) above, from Longview, Tex., to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Dallas, Tex.

No. MC 84273 (Sub-No. 5), filed April 7, 1976. Applicant: JONES TRUCKING CO., INC., 324 N. Baird Street, Green Bay, Wis. 54302. Applicant's representative: David Schneider (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cheese, cheese products, and materials, equipment, and supplies* used in the manufacture and distribution of cheese products, between the facilities of L. D. Schreiber Cheese Co., Inc. located at Green Bay, Wis., Carthage and Monett, Mo. and Logan, Utah, on the one hand, and, on the other, points in Illinois, Indiana, Iowa, Missouri, Utah, and Wisconsin, under a continuing contract or contracts with L. D. Schreiber Cheese Co.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 85718 (Sub-No. 6), filed April 5, 1976. Applicant: SEWARD MOTOR FREIGHT, INC., 1041 Elm Street, P.O. Box 126, Seward, Nebr. 68434. Applicant's representative: Patrick E. Quinn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Automotive parts and accessories, automotive jacks and cranes* (not self-propelled), *hand, electric and pneumatic tools*, and *advertising materials, premiums, racks, display cases and signs*, from Seward, Nebr., to points in Utah; (2) *commodities* named in (1) above, and *materials, equipment and supplies* used in the manufacture, production and distribution of the commodities named in (1) above, from points in Utah, to Seward, Nebr., restricted in (1) and (2) above to traffic originating at or destined to the plantsite and warehouse facilities of Walker Manufacturing Company of Seward, Nebr. and restricted against commodities in bulk, in tank vehicles, and further restricted against commodities which because of size or weight, require the use of special equipment.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Lincoln or Omaha, Nebr.

No. MC 85934 (Sub-No. 67), filed April 5, 1976. Applicant: MICHIGAN TRANSPORTATION COMPANY, 3601 Wyoming, Dearborn, Mich. 28121. Applicant's representative: Martin J. Leavitt, 22375 Haggerty Rd., Northville, Mich. 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ferrous sulphate*, in bulk, from Tonawanda, N.Y., to the plantsites and facilities of BASF Wyandotte Corp. located at Wyandotte, Mich.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C. or Chicago, Ill.

No. MC 94201 (Sub-No. 137), filed April 5, 1976. Applicant: BOWMAN TRANSPORTATION, INC., P.O. Box 17744, Atlanta, Ga. 30316. Applicant's representative: Maurice F. Bishop, 603 Frank Nelson Building, Birmingham, Ala. 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products, and materials, equipment and supplies* used in the manufacture and distribution thereof (except commodities in bulk and commodities which because of size or weight require the use of special equipment), between the plantsites, warehouses and storage facilities of Mead Corporation located in Jackson County, Ala., on the one hand, and, on the other, points in Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Maryland, Massachusetts, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, the applicant requests a consolidated hearing with five similar applications.

No. MC 99234 (Sub-No. 7), filed April 5, 1976. Applicant: WESTWAY MOTOR FREIGHT, INC., 5231 Monroe St., Denver, Colo. 80216. Applicant's representative: Leslie R. Kehl, Suite 1600 Lincoln

Center Bldg., 1660 Lincoln St., Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages and related advertising materials*, from Jefferson County, Colo., to points in Montana and Washington; and (2) *empty containers and materials* for recycling, from points in Montana, Nevada, New Mexico, Oklahoma, Texas, Utah, Washington, and Wyoming, to Jefferson County, Colo.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Denver, Colo.

No. MC 102616 (Sub-No. 916), filed April 5, 1976. Applicant: COASTAL TANK LINES, INC., P.O. Box 5555, 250 N. Cleveland-Massillon Rd., Akron, Ohio 44313. Applicant's representative: David F. McAllister (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nitrogen fertilizer solution*, in bulk, in tank vehicles, from Smyrna, Del., to points in Denton, Cambridge, Berlin and Pocomoke City, Md., and Capeville (Northampton County), Va.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C. or Columbus, Ohio.

No. MC 102616 (Sub-No. 917), filed April 9, 1976. Applicant: COASTAL TANK LINES, INC., P.O. Box 5555, 250 N. Cleveland-Massillon Rd., Akron, Ohio 44313. Applicant's representative: David F. McAllister (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry caustic soda*, in bulk, in pressure trailers, from the plant site of PPG Industries, Inc. at Natrium, W. Va., to points in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Columbus, Ohio or Washington, D.C.

No. MC 103066 (Sub-No. 31), filed April 7, 1976. Applicant: STONE TRUCKING COMPANY, P.O. Box 2014, 4927 S. Tocoma, Tulsa, Okla. 74101. Applicant's representative: Eugene D. Anderson, 910 Seventeenth Street, N.W., Suite 428, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Air and heat exchangers and pollution control devices, parts and supplies*, from Tulsa, Okla., Longview and Houston, Tex., to points in Arizona, California, Connecticut, Delaware, Indiana, Maryland, Michigan, Missouri, New Mexico, New York, Ohio, Oregon, Pennsylvania and Washington.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 103066 (Sub-No. 32), filed April 7, 1976. Applicant: STONE TRUCKING COMPANY, 4927 S. Tocoma, P.O. Box 2014, Tulsa, Okla. 74101. Applicant's representative: Eugene D. Anderson, 910 Seventeenth Street, N.W., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood products*, from ports of entry on the International Boundary line between the United States and Canada, located at or near Rouses Point, Champlain, Covington, Rooseveltown, N.Y. and Derby Line, Highgate Springs, Vt., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 103066 (Sub-No. 33), filed April 19, 1976. Applicant: STONE TRUCKING COMPANY, 4927 S. Tocoma, P.O. Box 2014, Tulsa, Okla. 74101. Applicant's representative: Eugene D. Anderson, 910 17th St., N.W., Suite 428, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic and wooden articles*, from Tupper Lake, N.Y., to points in Arizona, Arkansas, California, Kansas, Louisiana, Missouri, Oklahoma, Oregon, Tennessee, Texas, Utah and Washington.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 103993 (Sub-No. 866), filed April 12, 1976. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, Ind. 46514. Applicant's representative: James B. Buda (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trailers*, designed to be drawn by passenger automobiles, in initial movements, and (2) *buildings*, from Minnehaha County, S. Dak., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Sioux Falls, S. Dak.

No. MC 104430 (Sub-No. 48), filed April 13, 1976. Applicant: CAPITAL TRANSPORT COMPANY, INC., Highway 24 West, P.O. Box 408, McComb, Miss. 39648. Applicant's representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, Miss. 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Blackstrap molasses*, in bulk, in tank vehilces, from Reserve, La., to points in Mississippi.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either New Orleans, La., or Jackson, Miss.

No. MC 106497 (Sub-No. 130), filed April 15, 1976. Applicant: PARKHILL TRUCK COMPANY, Bus. Rt. I-44 East, P.O. Box 912, Joplin, Mo. 64801. Applicant's representative: A. N. Jacobs, P.O. Box 113, Joplin, Mo. 64801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pre-cut buildings, and materials and supplies*, used in the construction and erection thereof, from the plantsite of Pan-Abode, Inc., located at or near Renton, Wash., to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Portland, Oreg., or Seattle, Wash.

No. MC 106674 (Sub-No. 194), filed April 13, 1976. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, Ind. 47977. Applicant's representative: Jerry L. Johnson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Porcelainized products, frit, and materials and supplies* used in the manufacture, production, and installation of frit and porcelainized products, between the plantsite of Ingram-Richardson, Inc., located in Frankfort, Ind., on the one hand, and, on the other, points in Alabama, Delaware, Georgia, Illinois, Iowa, Kansas, Kentucky, Maryland, Michigan, Minnesota, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill., of Indianapolis, Ind.

No. MC 106674 (Sub-No. 195), filed April 15, 1976. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, Ind. 47977. Applicant's representative: Jerry L. Johnson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Limestone products*, from Luttrell (Union County), Tenn., to points in Delaware, Florida, Iowa, Louisiana, Maryland, Michigan, Minnesota, New Jersey, New York, Pennsylvania, and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill., of Indianapolis, Ind.

No. MC 107295 (Sub-No. 811), filed April 19, 1976. Applicant: PRE-FAB TRANSIT CO., 100 South Main St., Farmer City, Ill. 61842. Applicant's representative: Dale L. Cox (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings, building panels, building parts, and materials, accessories, and supplies* used in the installation, erection and construction of buildings, building panels, and building parts (except commodities in bulk), from the plantsite and storage facilities of Butler Manufacturing Company located at or near Laurinburg, N.C., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Atlanta, Ga. or Washington, D.C.

No. MC 107295 (Sub-No. 812), filed April 16, 1976. Applicant: PRE-FAB

TRANSIT CO., 100 South Main Street, P.O. Box 146, Farmer City, Ill. 61842. Applicant's representative: Dale L. Cox (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic, cellular, expanded or foamed forms or shapes* (except commodities in bulk), from Cincinnati, Ohio, to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either St. Louis, Mo. or Chicago, Ill.

No. MC 107403 (Sub-No. 972), filed April 14, 1976. Applicant: MATLACK, INC., Ten West Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry caustic soda*, in bulk, in pressure trailers, from the plantsite of PPG Industries, Inc., located at Natrium, W. Va., to points in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 107496 (Sub-No. 1027), filed April 15, 1976. Applicant: RUAN TRANSPORT CORPORATION, 3200 Ruan Center, 666 Grand Avenue, Des Moines, Iowa 50309. Applicant's representative: E. Check, P.O. Box 855, Des Moines, Iowa 50304. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Products of corn*, in bulk, in vehicles, from Argo and Pekin, Ill., to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Omaha, Nebr. or Chicago, Ill.

No. MC 107515 (Sub-No. 1006), filed April 13, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 30050. Applicant's representative: Bruce E. Mitchell, 3379 Peachtree Road, N.E., Suite 375, Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in containers, in vehicles equipped with mechanical refrigeration, from the plantsites of The Upjohn Company, located at or near Houston, Tex., to points in California, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Washington and West Virginia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 107541 (Sub-No. 39), filed April 19, 1976. Applicant: WASHINGTON-OREGON LUMBER FREIGHTERS, INC., 2000 East Columbia Way, Bldg. 54, Vancouver, Wash. 98661. Applicant's representative: James H. Gulseth, 3030 Bridgeway, Suite 106, Sausalito, Calif. 94965. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural chemicals* (except in bulk), from Lathrop and Pittsburg, Calif., to points in Idaho, Oregon and Washington.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at San Francisco, Calif.

No. MC 107743 (Sub-No. 41), filed April 5, 1976. Applicant: SYSTEM TRANSPORT, INC., E. 11707 Montgomery, P.O. Box 3456TA, Spokane, Wash. 99220. Applicant's representative: S. J. Cully Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles, and iron and steel articles* when transported with *non-ferrous articles*, (except commodities which because of size and weight require the use of special equipment and except oilfield and pipeline commodities as defined in, Mercer, Extensions,—Oilfield Commodities, 74 MCC 459.), from points in Indiana (except the commercial zone of Chicago, Ill.), Ohio, the Lower Peninsula of Michigan, and Washington, Allegheny, Beaver, Butler, Lawrence and Mercer Counties, Pa., to points in California, Oregon, Washington, Idaho, Montana, and Nevada.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill., or Cleveland, Ohio.

No. MC 107743 (Sub-No. 42), filed April 8, 1976. Applicant: SYSTEM TRANSPORT, INC., E. 11707 Montgomery, P.O. Box 3456TA, Spokane, Wash. 99220. Applicant's representative: S. J. Cully, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles, and iron and steel articles*, when transported together with *non-ferrous articles* (except commodities which because of size and weight require the use of special equipment and oilfield and pipeline commodities as defined in Mercer, Extensions—Oilfield Commodities, 74 MCC 459), from points in Illinois and Missouri, to points in California, Idaho, Oregon, Montana, Nevada, and Washington.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Portland, Oreg. or San Francisco, Calif.

No. MC 107743 (Sub-No. 43), filed April 12, 1976. Applicant: SYSTEM TRANSPORT, INC., E. 11707 Montgomery, P.O. Box 3456TA, Spokane, Wash. 99220. Applicant's representative: J. Michael Alexander, 136 Wynnewood Professional Bldg., Dallas, Tex. 75224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refractories, refractory products, and silica sand*, from Ft. Worth, Tex., to points in Colorado and Utah.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Dallas, Tex.; Seattle, Wash.; or Portland, Oreg.

No. MC 108207 (Sub-No. 441), filed April 5, 1976. Applicant: FROZEN FOOD EXPRESS, INC., 318 Cadiz St., P.O. Box 5888, Dallas, Tex. 75222. Applicant's representative: J. B. Ham (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Human blood plasma*, fresh frozen, from Beaumont, Tex. and Lafayette, La., to Rochester, Mich.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Dallas, Tex.

No. MC 108207 (Sub-No. 442), filed April 5, 1976. Applicant: FROZEN FOOD EXPRESS, INC., 318 Cadiz St., P.O. Box 5888, Dallas, Tex. 75222. Applicant's representative: J. B. Ham (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen animal sera and tissue*, from Rogers, Ark., to points in California.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Dallas, Tex. or Little Rock, Ark.

No. MC 109533 (Sub-No. 76), filed April 12, 1976. Applicant: OVERNITE TRANSPORTATION COMPANY, 1100 Commerce Road, Richmond, Va. 23224. Applicant's representative: E. T. Liipfert, Suite 1100, 1660 L Street, N.W., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Decatur and Huntsville, Ala., as off route points in connection with carrier's authorized regular route operations.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Huntsville, Ala. or Washington, D.C.

No. MC 109540 (Sub-No. 35), filed April 16, 1976. Applicant: YEARY TRANSFER COMPANY, INC., P.O. Box 398, 2171 Christian Rd., Lexington, Ky. 40505. Applicant's representative: George M. Catlett, 703–706 McClure Building, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crushed motor vehicles and scrap metal*, between points in Indiana, Kentucky, Ohio and Tennessee.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Lexington or Louisville, Ky.

No. MC 110420 (Sub-No. 752), filed April 8, 1976. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, Wis. 53158. Applicant's representative: John R. Sims, Jr., 915 Penn-

sylvania Building, 425–13th St., N.W., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printing ink*, in shipper owned vehicles, from Kankakee, Ill., to points in Indiana, Kentucky, Michigan, Ohio, New York, Pennsylvania, and Tennessee.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 110420 (Sub-No. 753), filed April 8, 1976. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, Wis. 53158. Applicant's representative: John R. Sims, Jr., 915 Pennsylvania Building, 425–13th St., N.W., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Caustic soda*, in bulk, in tank vehicles, from Superior, Wis., to points in Michigan, and Minnesota.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Minneapolis, Minn. or Chicago, Ill.

No. MC 110563 (Sub-No. 178), filed April 9, 1976. Applicant: COLDWAY EXPRESS, INC., P.O. Box 747, Ohio Building, Sidney, Ohio 45365. Applicant's representative: Joseph M. Scanlan, 111 W. Washington, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods, and egg compound products*, from the plantsite and storage facilities of Standard Brands, Inc., Frozen Products Division, located at or near St. Louis, Mo., to points in Connecticut, Delaware, Illinois, Indiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, restricted to traffic originating at the named plantsite and storage facilities.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either St. Louis, or Kansas City, Mo.

No. MC 110988 (Sub-No. 333), filed April 8, 1976. Applicant: SCHNEIDER TANK LINES, INC., 200 West Cecil Street, Neenah, Wis. 54956. Applicant's representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, Wis. 54306. Authoity sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hydrofluosilicic acid*, from the Chemtech Industries, Inc. rail siding at Milwaukee, Wis., to points in Illinois and Iowa, restricted to traffic having a prior movement by rail.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 111045 (Sub-No. 129), filed April 15, 1976. Applicant: REDWING CARRIERS, INC., P.O. Box 426, Tampa, Fla. 33601. Applicant's representative: J. V. McCoy (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Ortho - secondary - butyl - phenol*, from Orangeburg, S.C., to Bay Minette, Ala.; and (2) *di-nitro-ortho-secondary-butylphenol*, from Bay Minette, Ala. to Houston, Tex.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Mobile or Montgomery, Ala.

No. MC 111545 (Sub-No. 221), filed April 5, 1976. Applicant: HOME TRANSPORTATION COMPANY, INC., 1425 Franklin Rd., S.E., Marietta, Ga. 30067. Applicant's representative: Robert E. Born, P.O. Box 6426, Station A, Marietta, Ga. 30065. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials, equipment, machiney and supplies*, used in the manufacturing, processing and distribution of iron and steel articles, from points in the United States (except Alaska and Hawaii), to the plantsite and facilities of American Cast Iron Pipe Company located at Birmingham, Ala.

NOTE.—If a hearing is deemed necessary, the applicant requests a consolidated hearing at Birmingham, Ala.

No. MC 111729 (Sub-No. 642), filed April 12, 1976. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Russell S. Bernhard, 1625 K Street, N.W., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Non-fissile radioactive materials* in industrial type A-type B packages, (a) from Houston, Tex., to Mobile, Ala.; Jay, Fla.; Amelia, Houma, Lafayette, Lake Charles, Monroe, Morgan City, New Iberia, New Orleans and Shreveport, La.; Gulfport, Hattiesburg, Laurel Natchez, Ocean Springs, Pascagoula and Wesson, Miss.; and (b) from Houston, Tex., to Fort Myers and Pensacola, Fla.; Houma, Lafayette, Lake Charles, New Iberia, New Orleans and Shreveport, La., Jackson, Miss.; Ducan, Oklahoma City, Tulsa and Woodward, Okla.

NOTE.—Applicant holds contract carrier authority in MC 112750 and subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests it be held at either Houston, Tex., or Washington, D.C.

No. MC 111729 (Sub-No. 643), filed April 12, 1976. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Russell S. Bernhard, 1625 K Street, N.W., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Business papers, records, audit and accounting media of all kinds*, between St. Louis, Mo. on the one hand, and, on the other, points in Illinois, north on State Highway 136; (2) *business papers, records, audit and accounting media of all kinds;* and (3) *emergency repair and replacement parts for coal mining equipment* (a) between Chicago, Ill., and Taylorville, Ill., (b) between St. Louis, Mo. and Benton, Ill.; and (c) between Charleston, W. Va., on the one hand, and, on the other, Gate City, Norton, and Wise, Va., restricted in (2) above to the transportation of traffic having an immediately prior or subsequent movement by air, and further restricted in (3) above against the transportation of packages or articles weighing in excess of 50 pounds per package, and 100 pounds in the aggregate, from one consignor to one consignee on any one day. Applicant holds contract carrier authority in MC 112750 and subs thereunder, therefor dual operations may be involved. Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 111729 (Sub-No. 644), filed April 15, 1976. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Russell S. Bernhard, 1625 K Street, N.W., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Business papers, records, audit and accounting media of all kinds*, between Indianapolis, Ind., on the one hand, and, on the other, Ironton, Ohio and Parkersburg, W. Va.

NOTE.—Applicant holds contract carrier authority in MC 112750 and subs thereto, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 112391 (Sub-No. 38), filed April 19, 1976. Applicant: HADLEY AUTO TRANSPORT, a Corporation, P.O. Box 96, Pico Rivera, Calif. 90660. Applicant's representative: Edward T. Lyons, Jr., 1600 Lincoln Center Bldg., 1660 Lincoln Street, Denver, Colo. 80203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Automobiles, trucks, buses and chassis*, in secondary movements, in truckaway and driveaway service and *farm-type tractors*, (1) From Denver, Colo., to points in Missouri; and (2) from Belen, N. Mex., to points in Missouri and those points in Kansas and Oklahoma east of U.S. Highway 81, under a continuing contract or contracts with Ford Motor Company.

NOTE.—If a hearing is deemed necessary, the applicant does not specify a location.

No. MC 112801 (Sub-No. 184), filed April 8, 1976. Applicant: TRANSPORT SERVICE, CO., a Corporation, 2 Salt Creek Lane, Hinsdale, Ill. 60521. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Products of corn, cane and beets, and blends of said commodities*, in bulk, in tank vehicles, from Decatur, Ala., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 112822 (Sub-No. 403), filed April 19, 1976. Applicant: BRAY LINES INCORPORATED, 1401 N. Little St., P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Charles D. Midkiff (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sakrete*, in bags (except commodities in bulk), from the plantsite and facilities of Texas Industries, Inc. located at or near Hurst, Tex., to points in Oklahoma.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Dallas, Tex. or Oklahoma City, Okla.

No. MC 112822 (Sub-No. 404), filed April 15, 1976. Applicant: BRAY LINES INCORPORATED, 1401 N. Little Street, P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Charles D. Midkiff (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sugar*, in packages and bags, from Houma, La., to points in Kansas, Missouri, Oklahoma and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either New Orleans, La. or Dallas, Tex.

No. MC 113267 (Sub-No. 334), filed April 15, 1976. Applicant: CENTRAL & SOUTHERN TRUCK LINES, INC., 3215 Tulane Rd., Memphis, Tenn. 38130. Applicant's representative: Lawrence A. Fischer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the plantsite storage facilities used by Standard Brands Incorporated at or near Vinita Park, Mo. to points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee, restricted to traffic originating at the named origins and destined to the named destination states.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Kansas City or St. Louis, Mo.

No. MC 113495 (Sub-No. 77), filed April 7, 1976. Applicant GREGORY HEAVY HAULERS, INC., 51 Oldham Street, P.O. Box 60628, Nashville, Tenn. 37206. Applicant's representative: Wilmer B. Hill, 805 McLachlen Bank Building, 666 Eleventh Street, N.W., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Street sweepers, tractors, dump wagons, tractor treads and assemblies*, and *parts, implements, attachments, accessories and supplies* therefor, from the facilities of Athey Products Corporation, located at or near Wake Forest, N.C., to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests a consolidated record with (3) three other similar applications at either Raleigh, N.C. or Washington, D.C.

No. MC 113855 (Sub-No. 346), filed April 12, 1976. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE, Rochester, Minn. 55901. Applicant's representative: Thomas J. Van Osdel, 502 First National Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: (1) *Precast stone;* and (2) *materials and supplies* used in the installation of precast stone, from points in Napa County, Calif., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at San Francisco, Calif.

No. MC 113908 (Sub-No. 372), filed April 5, 1976. Applicant: ERICKSON TRANSPORT CORPORATION, 2105 East Dale Street, P.O. Box 3180 G.S.S., Springfield, Mo. 65804. Applicant's representative: B. B. Whitehead (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Brandy, rum, beverages, beverage spirits, liquors, liquers, cordial wine, wine products, distilled spirits, neutral spirits and alcohol*, in bulk, from Atlanta and Roberta, Ga. and their Commercial Zones, to points in the United States (except Alaska and Hawaii); and (B) *materials, supplies and ingridients* used in the manufacturing fermentation, distilling, blending, aging, fortifying and processing of the commodities named in (A) above, in bulk, from points in the United States (except Alaska and Hawaii), to Atlanta and Roberta, Ga., and their Commercial Zones, restricted in (B) above against transportation of (1) alcoholic liquors, moving in foreign commerce, (a) from the United States-Republic of Mexico ports of entry located in California, Arizona, New Mexico and Texas, to Atlanta and Roberta, Ga., (b) from the United States-Canada port of entry at Blaine, Wash., to Atlanta, Ga.; (2) wine, brandy, champaign and vermouth, from points in California, to Atlanta, Ga.; (3) alcohol and alcohol products, from Baton Rouge and New Orlean, La., to Atlanta and Roberta, Ga.

NOTE.—Applicant states that the authority applied for herein to the extent that it duplicates any authority heretofore granted to or now held by carrier shall not be construed as conferring more than a single operating right. If a hearing is deemed necessary, the applicant requeests it be held at either Kansas City, Mo., Chicago, Ill., or Washington, D.C.

No. MC 113908 (Sub-No. 374), filed April 19, 1976. Applicant: ERICKSON TRANSPORT CORP., 2105 East Dale Street, P.O. Box 3180 G.S.S., Springfield, Mo. 65804. Applicant's representative: B. B. Whitehead (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic liquors*, in bulk, From Bardstown and Owensboro, Ky., Atchison, Kans., and Muscatine, Iowa to Long Prairie, Minn.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Kansas City, Mo., Chicago, Ill. or Washington, D.C.

No. MC 114194 (Sub-No. 186), filed April 19, 1976. Applicant: KREIDER TRUCK SERVICE, INC., 8003 Collinsville Road, East St. Louis, Ill. 62201. Applicant's representative: Ernest A. Brooks, II, 1301–02 Ambassador Bldg., St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry commodities*, in bulk, and *liquid commodities* (other than petroleum products), in bulk, between Southwind Maritime Centre, located at Mt. Vernon, Ind., on the one hand, and, on the other, points in Illinois, Indiana and Kentucky.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill., or St. Louis, Mo.

No. MC 114273 (Sub-No. 248), filed April 7, 1976. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Robert E. Konchar, Suite 315 Commerce Exchange Building, 2720 First Avenue N.E., P.O. Box 1943, Cedar Rapids, Iowa 52406. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Zinc oxide*, from Josephtown, Pa., to points in Indiana, Kentucky, Minnesota and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 114273 (Sub-No. 249), filed April 7, 1976. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Robert E. Konchar, Suite 315 Commerce Exchange Building, 2720 First Avenue N.E., P.O. Box 1943, Cedar Rapids, Iowa 52406. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Enzymes, and products of corn, and products of soybeans*, in ocean containers, between ocean ports of entry in New Jersey, New York, Baltimore, Md., Philadelphia, Pa., Boston, Mass. and Norfolk, Va., on the one hand, and, on the other, Cedar Rapids, Iowa and Decatur, Ill.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 114273 (Sub-No. 250), filed April 12, 1976. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Robert E. Konchar, Suite 315 Commerce Exchange Bldg., 2720 First Ave., N.E., P.O. Box 1943, Cedar Rapids, Iowa 52406. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ferro alloys*, (1) From Alloy, W. Va., and Ashtabula, Marietta, and Mansfield, Ohio, to St. Paul, Minn.; and (2) from Pittsburgh, Pa., to Milwaukee, Wis. and St. Paul, Minn.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 114457 (Sub-No. 258), filed April 15, 1976. Applicant: DART TRANSIT COMPANY, 2102 University Avenue, St. Paul, Minn. 55114. Applicant's representative: James C. Hardman, 33 North

LaSalle Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Prepared animal food* (except in bulk), from the facilities of Landon Company, Inc., near Delavan, Wis., to points in Arkansas, Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, North Dakota, Rhode Island, South Dakota, Vermont, Virginia, West Virginia, and the District of Columbia; and (2) *materials and supplies* (except in bulk) used in the manufacture of prepared animal food, from points in Arkansas, Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, North Dakota, New Hampshire, Rhode Island, South Dakota, Vermont, Virginia, West Virginia, and the District of Columbia, to the facilities of Landon Company, Inc., near Delavan, Wis.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Minneapolis-St. Paul, Minn. or Chicago, Ill.

No. MC 114457 (Sub-No. 259), filed April 13, 1976. Applicant: DART TRANSIT COMPANY, a Corporation, 2102 University Avenue, St. Paul, Minn. 55114. Applicant's representative: James C. Hardman, 33 North LaSalle Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Beverage preparations*, and when moving therewith, *commodities*, exempt from economic regulation under the Interstate Commerce Act (except commodities in bulk), from Manawa, Wisc., and Minneapolis, Minn., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill., or St. Paul, Minn.

No. MC 114552 (Sub-No. 111), filed April 6, 1976. Applicant: SENN TRUCKING COMPANY, P.O. Drawer 220, Newberry, S.C. 29108. Applicant's representative: William P. Jackson, Jr., 3426 North Washington, Boulevard, P.O. Box 267, Arlington, Va. 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products and composition board*, from the facilities of Louisiana-Pacific Corporation located at or near Clayton, Ala., to points in Connecticut, Delaware, Florida, Georgia, Kentucky, Maine, Maryland, Massachusetts, Michigan (lower peninsula), Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Birmingham, Ala., or Washington, D.C.

No. MC 114552 (Sub-No. 112), filed April 6, 1976. Applicant: SENN TRUCKING COMPANY, a Corporation, P.O. Drawer 220, Newberry, S.C. 29108. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Blvd., P.O. Box 267, Arlington, Va. 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crossties*, (1) from points in Alabama, to points in Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, Tennessee, and Texas; and (2) from points in Mississippi, to points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Tennessee, and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Birmingham, Ala.

No. MC 114569 (Sub-No. 138), filed April 12, 1976. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, Pa. 17072. Applicant's representative: N. L. Cummins (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Candy and/or confectionery and related products* (except in bulk); and (2) *advertising matter, premium and display materials* when shipped in the same vehicle with commodities described in (1) above, in vehicles equipped with mechanical refrigeration, from the plantsite and storage facilities of M&M/Mars, a division of Mars, Inc. located at or near Waco, Tex., to points in Alabama, Connecticut, Delaware, Georgia, Iowa, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New York, New Jersey, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, West Virginia, Wisconsin, and the District of Columbia, restricted to traffic originating at the above origins and destined to the above named destination points.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either New York City, N.Y. or Washington, D.C.

No. MC 114896 (Sub-No. 36), filed April 13, 1976. Applicant: PUROLATOR SECURITY, INC., 1111 West Mockingbird Lane, Suite 1401, Dallas, Tex. 75222. Applicant's representative: John M. Delany, 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Articles of unusual value*, between Los Angeles, Calif.; Douglas, Colo.; New Haven, Conn.; New Castle and Sussex, Del.; La Salle, Ill.; Lake, Ind.; Jefferson, Ky.; St. John the Baptist, La.; Baltimore, Md.; Norfolk, Mass.; Camden, Middlesex, Essex, Gloucester and Salem, N.J.; Monroe, Niagara, Queens and Westchester, N.Y.; Davidson and Transylvania, N.C.; Lucas, Ohio; Cumberland, Delaware, Erie, Philadelphia and York, Pa.; Providence, R.I.; Kershaw, S.C.; Hamilton, Humphreys, Shelby and Sumer, Tenn.; Jefferson, Harris, Orange and Victoria, Tex.; Pierce, Wash. and Kanawha, W. Va., under a continuing contract with E. I. du Pont de Nemours & Co.

NOTE.—Applicant holds common carrier authority in MC 140345 therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 114897 (Sub-No. 121), filed April 12, 1976. Applicant: WHITFIELD TANK LINES, INC., 821 East Pasadena St., P.O. Box 7676, Phoenix, Ariz. 85011. Applicant's representative: J. P. Rose (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulphuric acid*, in bulk, in tank vehicles, (1) from El Paso, Tex., to points in Colorado; (2) from points in Arizona, to points in Colorado, New Mexico and Utah; and (3) from points in New Mexico, to points in Colorado, Utah and Nevada.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either El Paso, Tex. or Albuquerque, N. Mex.

No. MC 115162 (Sub-No. 322), filed April 5, 1976. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, Ala. 36401. Applicant's representative: Robert E. Tate (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dried leaves, dried flowers, dried grasses, dried decorative arrangements, plants, pine cones, fir OT green, cereal stalks dried, trees, urns, topiaries, room dividers and planters, agricultural and horticultural commodities;* and *accessories* including plastic material, expanded forms and tubular form film sheet not to exceed 10% of the total shipment, from points in Conecuh County, Ala., to points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma and Texas; and (2) *materials and supplies* used in the growing, manufacture, marketing and shipping of the commodities named in (1) above, from points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma and Texas, to points in Conecuh County, Ala.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Mobile, Ala. or Atlanta, Ga.

No. MC 115331 (Sub-No. 408), filed April 19, 1976. Applicant: TRUCK TRANSPORT INCORPORATED, 29 Clayton Hills Lane, St. Louis, Mo. 63131. Applicant's representative: J. R. Ferris, 230 St. Clair Avenue, East St. Louis, Ill. 62201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sugar, products of corn and blends thereof* in bulk, from the Kansas City, Mo.-Kansas City, Kans. commercial zone to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either St. Louis, Mo. or Chicago, Ill.

No. MC 115654 (Sub-No. 49), filed April 16, 1976. Applicant: TENNESSEE CARTAGE COMPANY, INC., P.O. Box

23193, Candy Lane, Nashville, Tenn. 37202. Applicant's representative: Walter Harwood, P.O. Box 15214, Nashville, Tenn. 37215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, packinghouse products, dairy products and foodstuffs*, from the plantsite and warehouse facilities of Princeton Meat Products, Inc. located at or near Princeton, Ky., to points in Alabama, Arkansas, Florida, Georgia, Kentucky, Illinois, Indiana, Mississippi, Missouri, Ohio, Louisiana, and Tennessee.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Nashville, Tenn.

No. MC 115730 (Sub-No. 12), filed April 5, 1976. Applicant: THE MICKOW CORPORATION, P.O. Box 1774, Des Moines, Iowa 50306. Applicant's representative: Cecil L. Goettsch, 1100 Des Moines Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Metal buildings, wire mesh, furniture racks, grain tanks, grain crop dryers and hydraulic presses, and component parts thereof*, and (2) *equipment, materials and supplies* used in the manufacture of the commodities named in (1) above, between the plantsite and storage facilities of Behlen Manufacturing Company, located at or near Columbus, Nebr., on the one hand, and, on the other, points in the United States (except Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Omaha, Nebr. or Washington, D.C.

No. MC 115841 (Sub-No. 519), filed April 19, 1976. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., Suite 200, 105 Vulcan Rd., P.O. Box 10327, Birmingham, Ala. 35202. Applicant's representative: C. E. Wesley (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, and articles distributed by meat packinghouses* (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, from Fort Wayne, Ind., to points in Alabama, Florida, Georgia, Iowa, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Fort Wayne or Indianapolis, Ind.

No. MC 115931 (Sub-No. 38), filed April 19, 1976. Applicant: BEE LINE TRANSPORTATION, INC., Box 925, Baker, Mont. 59313. Applicant's representative: Gene P. Johnson, 425 Gate City Bldg., Fargo, N. Dak 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Knocked down metal building and wrought iron or steel conduit and conduit fittings*, from Parkersburg, W. Va., to points in California, Idaho, Nevada and Oregon.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C., or Pittsburgh, Pa.

No. MC 116200 (Sub-No. 7), filed March 29, 1976. Applicant: UNITED PARCEL SERVICE, INC., 643 West 43rd Street, Room 810, New York, N.Y. 10036. Applicant's representative: J. Robert Peterson, 51 Weaver Street, Greenwich Office Park 5, Greenwich, Conn. 06830. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, restricted (a) to packages originating at, or destined, to, the premises of Marshall Field and Company, at Chicago, Ill., having an immediate prior or subsequent movement by United Parcel Service, Inc. (an Ohio Corporation); (b) no service shall be rendered in the transportation of any package or article weighing more than 50 pounds or exceeding 108 inches in length and girth combined, and each package or article shall be considered as a separate and distinct shipment; and (c) no service shall be provided in the transportation of packages or articles weighing in the aggregate more than 100 pounds from one consignor at one location to one consignee at one location on any one day.

NOTE.—Applicant holds contract carrier authority in MC 63063 and Sub 4 thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 116273 (Sub-No. 203), filed April 16, 1976. Applicant: D & L TRANSPORT, INC., 3800 South Laramie Avenue, Cicero, Ill. 60650. Applicant's representative: William R. Lavery (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry plastcis*, in bulk, in tank vehicles, from points in Vanderburg County, Ind., to points in Michigan, Missouri, New York, Ohio, and Pennsylvania.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 116763 (Sub-No. 341), filed April 5, 1976. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, Ohio 45380. Applicant's representative: H. M. Richters (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irrgular routes, transporting: *Such commodities* as are dealt in by wholesale and retail food chains and grocery houses (except commodities in bulk), from points in the United States (except Alaska and Hawaii), to Norfolk, Va., Raleigh, N.C., Columbia, S.C., and Atlanta and Thomasville, Ga., restricted to the transportation of traffic originating at the named origins and destined to the warehouse or other facilities utilized by Colonial Stores, at the named destinations.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Atlanta, Ga.

No. MC 117119 (Sub-No. 579), filed April 19, 1976. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: L. M. McLean (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pet supplies*, including but not limited to vitamins, shampoos, collars, chains, and leashes (except in bulk), from Cranbury, N.J., to Nashville, Knoxville and Memphis, Tenn. and points in California.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Philadelphia, Pa. or Washington, D.C.

No. MC 117815 (Sub-No. 248), filed April 15, 1976. Applicant: PULLEY FREIGHT LINES, INC., 405 S. E. 20th Street, Des Moines, Iowa 50317. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Washing, cleaning and scouring compounds, bath salts, bubble bath, textile softeners, soda ash, drugs and medicines*, from Rockwood, Mich., to points in Illinois, Indiana, Iowa, Kansas, Missouri, Minnesota, Nebraska and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Detroit, Mich., or Chicago, Ill.

No. MC 117940 (Sub-No. 177), filed April 7, 1976. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, Minn. 55359. Applicant's representative: Allan L. Timmerman (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Salt*, in packages; (2) *pepper*, in packages, in mixed loads with salt in packages; and (3) *materials and supplies*, used in the agricultural, water treatment, food processing, wholesale grocery, and institutional supply industries, in mixed loads with salt in packages, from the facilities of Morton Salt Company, Division of Morton Norwich Products, Inc., located at or near Silver Springs (Wyoming County), N.Y., to points in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont, restricted to the transportation of traffic originating at the above named origin point and destined to points in the above named destinations.

NOTE.—Applicant holds contract carrier authority in MC 114789 and subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant

requests it be held at New York, N.Y., or Philadelphia, Pa.

No. MC 118142 (Sub-No. 124), filed April 14, 1976. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, Kans. 67219. Applicant's representative: Eugene W. Hiatt, 308 Cassion Bldg., 603 Topeka Avenue, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products and articles used and distributed by meat packinghouses*, moving in vehicles equipped with mechanical refrigeration equipment (except commodities in bulk, hides, animal feed and animal feed ingredients), from Lincoln, Nebr., to Philadelphia, Pa., restricted to traffic originating at or destined to the facilities of American Markets, Incorporated, Philadelphia, Pa., or its subsidiary American Stores Packing Co., Lincoln, Nebr.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Wichita or Topeka, Kans.; Kansas City, Mo.; or Lincoln, Nebr.

No. MC 118468 (Sub-No. 46), filed April 5, 1976. Applicant: UMTHUN TRUCKING CO., a Corporation, 910 South Jackson Street, P.O. Box 166, Eagle Grove, Iowa 50533. Applicant's representative: Patrick E. Quinn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, and building materials* (except iron and steel and iron and steel products, and commodities in bulk), (a) from points in Wisconsin, to points in Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, and South Dakota; (b) from points in Minnesota, to points in Illinois, Indiana, Iowa, Kansas Kentucky, Michigan, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin; (c) from points in Iowa, to points in Illinois, Indiana, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin; and (d) from points in Illinois, to points in Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin, restricted to a transportation service to be performed under a continuing contract or contracts with Emmer Bros., Inc.

NOTE.—Applicant holds common carrier authority in MC 124813 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 118535 (Sub-No. 80), filed April 5, 1976. Applicant: TIONA TRUCK LINE, INC., 111 South Prospect, Butler, Mo. 64730. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Building, 3535 N.W. 58th, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fly ash*, (1) from Kansas City, Mo., and facilities of Kansas City Power and Light Company located at or near Clinton, Mo.; and (2) from the facilities of Kansas City Power and Light Company located at or near La Cygne, Kans., to points in Colorado, New Mexico, Texas, Louisiana, and and Mississippi.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Kansas City, Mo.

No. MC 118922 (Sub-No. 16), filed April 8, 1976. Applicant: CARTER TRUCKING CO., INC., P.O. Box 126, Locust Grove, Ga. 30248. Applicant's representative: John P. Tucker, Jr., 1400 Candler Building, Atlanta, Ga. 30303. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lawn mowers, snow throwers, tillers and compost shredder-grinders;* (2) *parts* for the commodities named in (1) above; and (3) *materials and supplies* used in the manufacture and distribution of the commodities described in (1) and (2) above (except commodities in bulk), in containers from the facilities of McDonough Power Equipment, Inc., at or near McDonough, Ga., to the Port of Savannah and the Port of Brunswick, Ga., restricted to traffic having an immediately or subsequent movement by water under a continuing contract or contracts with McDonough Power Equipment, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 119641 (Sub-No. 133), filed April 5, 1976. Applicant: RINGLE EXPRESS, INC., 450 East 9th Street, Fowler, Ind. 47944. Applicant's representative: Robert C. Smith, P.O. Box 2278, Colee Station, Ft. Lauderdale, Fla. 33303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* as described in Appendix V to the report in *Description in Motor Carrier Certificates*, 61, M.C.C. 29 and 767 from Darlington, S.C., to points in Illinois, Indiana, Kentucky, and Ohio, restricted to shipments originating at the plantsite and warehouse facilities of Nucor Steel Corp., located at or near Darlington, S.C.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill. or Washington, D.C.

No. MC 119741 (Sub-No. 56), filed April 12, 1976, Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 3235 Fifth Ave. South, P.O. Box 1235, Fort Dodge, Iowa 50501. Applicant's representative: D. L. Robson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), between points in Indiana, Illinois, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, Ohio, and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn.

No. MC 119974 (Sub-No. 54), filed April 8, 1976. Aplicant: L. C. L. TRANSIT COMPANY, a Corporation, 949 Advance St., Green Bay, Wis. 54304. Applicant's representative: L. F. Abel, P.O. Box 949, Green Bay, Wis. 54305. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn products and blends containing corn products*, in bulk, in tank vehicles, from the facilities of A. E. Staley Manufacturing Company, at or near Lafayette, Ind., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Chicago, Ill. or Washington, D.C.

No. MC 120761 (Sub-No. 8), filed March 26, 1976. Applicant: NEWMAN BROS. TRUCKING COMPANY, P.O. Box 13302, 6559 Midway Road, Fort Worth, Tex. 76118. Applicant's representative: Clint Oldham, 1108 Continental Life Building, Fort Worth, Tex. 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap iron, scrap steel and crushed motor vehicle bodies*, from points in Arkansas, Colorado, Kansas, Louisiana, Mississippi, New Mexico, Oklahoma, Tennessee, and Wyoming to points in Ellis County, Tex.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Fort Worth and/or Dallas, Tex., or Denver, Colo.

No. MC 121658 (Sub-No. 8), filed April 1, 1976. Applicant: STEVE D. THOMPSON, P.O. Drawer 149, 1205 Percy Street, Winnsboro, La. 71295. Applicant's representative: Steve D. Thompson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment), serving Natchitoches, La. as an off-route point in connection with applicant's presently authorized regular route operations.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Baton Rouge, La.

No. MC 123255 (Sub-No. 71), filed April 5, 1976. Applicant: B & L MOTOR FREIGHT, INC., 140 Everett Ave., Newark, Ohio 43055. Applicant's representative: C. F. Schnee, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pulpboard boxes* (except corrugated), from Cleveland, Tenn., to points in California, Georgia, Illinois, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Missouri, New York, North Carolina, Ohio, Pennsylvania, and Texas; and (2) *materials, supplies and equipment* used in the manufacture and distribution of pulpboard

boxes (except corrugated) from points in Georgia, Kentucky, North Carolina, and Virginia, to Cleveland, Tenn.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Columbus, Ohio.

No. MC 123387 (Sub-No. 5), filed April 8, 1976. Applicant: E. E. HENRY, 1923 Sparrow Road, Chesapeake, Va. 23320. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 267, Arlington, Va. 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages and related advertising material*, from Trenton, N.J., to points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, West Virginia, and the District of Columbia; and (2) *empty malt beverage containers*, from points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, West Virginia, and the District of Columbia, to Trenton, N.J.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Norfolk, Va.

No. MC 123407 (Sub-No. 297), filed April 16, 1976. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: Stephen H. Loeb (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic siding and materials and supplies* used in the installation thereof (except commodities in bulk), from South Bend, Ind., to points in West Virginia and South Dakota.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill. or Valparaiso, Ind.

No. MC 123872 (Sub-No. 49), filed April 12, 1976. Applicant: W & L MOTOR LINES, INC., State Road 1148, P.O. Drawer 2607, Hickory, N.C. 28601. Applicant's representative: Theodore Polydoroff, Suite 600, 1250 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture and furniture parts*, from points in North Carolina, to points in Idaho, Montana, Oregon and Washington.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Charlotte or Hickory, N.C.

No. MC 124174 (Sub-No. 104), filed March 29, 1976. Applicant: MOMSEN TRUCKING CO., a Corporation, 2405 Hiway Blvd., Spencer, Iowa 51301. Applicant's representative: Marshall D. Becker, 530 Univac Bldg., 7100 W. Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wheels, rims, hubs, spindles, axles, and component parts*, used in the assembly and sale thereof, from the plantsite or warehouse facilities of Armstrong Rim & Wheel, at or near Armstrong, Iowa, to points in the United States (except Alaska and Hawaii); and (2) *materials, equipment, and supplies*, used in the manufacture of commodities described in (1) above, from points in the United States (except Alaska and Hawaii), to the plantsite or warehouse facilities of Armstrong Rim & Wheel, at or near Armstrong, Iowa.

NOTE.—Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr. or Minneapolis, Minn.

No. MC 124211 (Sub-No. 275), filed April 1, 1976. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, Nebr. 68101. Applicant's representative: Thomas L. Hilt (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic beverages, and such commodities* as are dealt in and used by distributors and producers of beverages (except commodities in bulk), between points in Minnesota, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests a consolidated hearing at St. Paul, Minn.

No. MC 124221 (Sub-No. 54), filed April 19, 1976. Applicant: HOWARD BAER, P.O. Box 27, Morton, Ill. 61550. Applicant's representative: Robert W. Loser II, 1009 Chamber of Commerce Bldg., Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bakery products*, from the plantsite and warehouse facilities of the Tennessee Doughnut Corporation located in Davidson County, Tenn., to points in Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Texas, Virginia, West Virginia, Wisconsin, and the District of Columbia, under a continuing contract, or contracts with Tennessee Doughnut Corporation located at Nashville, Tenn.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C.; Chicago, Ill.; or Nashville, Tenn.

No. MC 124813 (Sub-No. 148), filed April 19, 1976. Applicant: UMTHUN TRUCKING CO., 910 South Jackson St., Eagle Grove, Iowa 50533. Applicant's representative: William L. Fairbank, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lime and limestone products*, from points in Manitowoc County, Wis., to points in Colorado, Kansas and Wyoming; (2) *lime and limestone products*, in bulk, from Green Bay Wis., to points in Minnesota; and (3) *lime, limestone products, and phosphatic feed ingredients and supplements*, from Alden, Iowa, to points in Indiana, Kentucky, Michigan and Ohio.

NOTE.—Applicant holds contract carrier authority in No. MC 118468 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 124887 (Sub-No. 25), filed April 7, 1976. Applicant: SHELTON TRUCKING SERVICE, INC., Route 1, Box 230, Altha, Fla. 32421. Applicant's representative: Edward G. Villalon, 1032 Pennsylvania Bldg., Pennsylvania Ave. & 13th St. NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from the facilities of East Highlands Company, Forest Products Division located at Albertville, Ala., to points in Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, West Virginia, and points in Louisiana east of the Mississippi River.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Birmingham, Ala.

No. MC 124951 (Sub-No. 35), filed April 12, 1976. Applicant: WATHEN TRANSPORT, INC., P.O. Box 237, Henderson, Ky. 42420. Applicant's representative: Louis J. Amato, P.O. Box E, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, *advertising materials, and empty containers*, (1) between St. Louis, Mo. and Louisville, Ky., on the one hand, and, on the other, Mt. Vernon, Ind.; and (2) between Fort Wayne, Ind., and Memphis, Tenn., on the one hand, and, on the other, Henderson, Ky.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Louisville, Ky. or Nashville, Tenn.

No. MC 125161 (Sub-No. 20), filed April 5, 1976. Applicant: UNITED FREIGHTWAYS, INC., 671 Chestnut Street, North Andover, Mass. 01845. Applicant's representative: George C. O'Brien, 15 Court Square, Boston, Mass. 02108. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lime, limestone, limestone products and limestone by-products;* in bags and in bulk, from Adams, Mass., to points in Maine, under a continuing contract, or contracts with Boston Feed Supply Corp., and Pfizer, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Boston, Mass., or New York, N.Y.

No. MC 125433 (Sub-No. 76), filed April 5, 1976. Applicant: F-B TRUCK LINE COMPANY, 1945 South Redwood

Road, Salt Lake City, Utah 84104. Applicant's representative: Alan R. Wilson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel and iron and steel articles* (except those which require special equipment because of size or weight), from the plantsite and storage facilities of Cyprus Tube & Conduit Company located at or near Torrance, Calif., to points in Arizona, Arkansas, Kansas, Louisiana, Missouri, New Mexico, Oklahoma, and Texas, restricted to shipments originating at the plantsite of Cyprus Tube and Conduit located at or near Torrance, Calif.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Los Angeles, Calif. or Salt Lake City, Utah.

No. MC 126276 (Sub-No. 147), filed April 7, 1976. Applicant: FAST MOTOR SERVICE, INC., 9100 Plainfield Road., Brookfield, Ill. 60513. Applicant's representative: Albert A. Andrin, 180 North La Salle Street, Chicago, Ill. 60601. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Containers, container ends and materials and supplies* used in connection with the manufacture and distribution of containers and container ends, from the plantsite and warehouse facilities of American Can Company located in Harrisburg and Philadelphia, Pa., to points in the United States (except Alaska and Hawaii), under a continuing contract or contracts with American Can Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 126276 (Sub-No. 148), filed April 5, 1976. Applicant: FAST MOTOR SERVICE, INC., 9100 Plainfield Road, Brookfield, Ill. 60513. Applicant's representative: Albert A. Andrin, 180 North La Salle Street, Chicago, Ill. 60601. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Containers, container ends and materials and supplies* used in the manufacture and distribution of containers and container ends, from the plantsites and warehouses of American Can Company, located in Le Moyne, Pa., Baltimore, Md., and Morrisville (Bucks County), Pa., to points in the United States (except Alaska and Hawaii), under a continuing contract, or contracts, with American Can Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 126899 (Sub-No. 98), filed April 1, 1976. Applicant: USHER TRANSPORT, INC., 3925 Old Benton Road, P.O. Box 5156, Paducah, Ky. 42001. Applicant's representative: George M. Catlett, 703–706 McClure Building, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General Commodities* in bulk, in tank vehicles, from the plantsite of the Owensboro Riverport Authority located at or near Owensboro, Ky., to points in Illinois, Indiana, and Kentucky.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Owensboro or Louisville, Ky.

No. MC 127042 (Sub-No. 170), filed April 5, 1976. Applicant: HAGEN, INC., P.O. Box 98, Leeds Station, 3232 Highway 75 North, Sioux City, Iowa 51108. Applicant's representative: Robert G. Tessar (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned foodstuffs*, from Elgin, Iowa to points in Michigan, Minnesota, Indiana, Illinois, Missouri, Wisconsin, North Dakota, South Dakota, Nebraska, and Kansas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Milwaukee, Wis., or Chicago, Ill.

No. MC 127042 (Sub-No. 171), filed April 19, 1976. Applicant: HAGEN, INC., 3232 Highway 75 N., P.O. Box 98, Leeds Station, Sioux City, Iowa 51108. Applicant's representative: Robert G. Tessar (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by-products and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions of Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and storage facilities of Tama Meat Packing Corporation located at Holton, Kans., to points in Arkansas, Arizona, California, Colorado, Iowa, Louisiana, Mississippi, Missouri, Nebraska, New Mexico, Oklahoma, and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Omaha, Nebr.

No. MC 127752 (Sub-No. 4), filed April 9, 1976. Applicant: WILLIAM P. RALSTON, Box 54, Bern, Kans. 66408. Applicant's representative: Clyde N. Christey, Suite 514, Capitol Federal Building, 700 Kansas Avenue, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dry pet food, animal treats and specialty extruded items* for pets, from the plant site and/or storage facilities of Bern Extrusion, Inc., at or near Bern, Kans., to points in Arkansas, Colorado, Illinois, Iowa, Missouri, Nebraska, New Mexico, Oklahoma, Tennessee, Texas, and Wyoming, and Phoenix, Ariz.; (2) *dry animal feed ingredients and* materials used in the manufacturing or packaging of animal feeds, from Springfield, Tenn., Monmouth, Ill., and Omaha, Nebr., to the plantsite and/or storage facilities of Bern Extrusion, Inc., at or near Bern, Kans.; and (3) *dry pet food ingredients*, from Omaha, Lincoln, and Fremont, Nebr., Cedar Rapids and Des Moines, Iowa and Springdale, Ark., to the plantsite and/or storage facilities of Bern Extrusion, Inc., at or near Bern, Kans.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 127867 (Sub-No. 14), filed April 7, 1976. Applicant: TRANSOL COMPANY, a Corporation, 116 Forest Avenue, Des Moines, Iowa 50314. Applicant's representative: Larry D. Knox, 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (A) (1) *Solvents and chemicals*, in tank vehicles; and (2) *solvents and chemicals*, in containers, in mixed loads with the commodities described in (1) above, from Lemont and Chicago, Ill. and Council Bluffs, Des Moines, and Bettendorf, Iowa, to points in Missouri and points in Kansas on and east of U.S. Highway 81; and (B) (1) *waste solvents and chemicals, recycled solvents and chemicals, and recyclable solvents and chemicals*, between points in Illinois, Indiana, Iowa, Kansas, Minnesota, Missouri, Nebraska, South Dakota, and Wisconsin, (A) and (B) are under a continued contract or contracts with Barton Solvents Co., Barton Solvents, Inc., and Barton Solvents Corp.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Des Moines, Iowa or Chicago, Ill.

No. MC 128021 (Sub-No. 24), filed March 29, 1976. Applicant: DIVERSIFIED PRODUCTS TRUCKING CORPORATION, 309 Williamson Avenue, Opelika, Ala. 36801. Applicant's representative: Robert E. Tate, P.O. Box 517, Evergreen, Ala. 36401. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Charcoal, vermiculite, hickory chips, charcoal lighter fluid*, and *fireplace logs*, from Lexington, Ky., to points in Alabama, Florida, Georgia, Illinois, Indiana, Louisiana, Michigan, Minnesota, Mississippi, North Carolina, Ohio, South Carolina, Tennessee, Virginia, West Virginia, and Wisconsin; and (2) *materials and supplies*, used in the manufacture of charcoal (except in bulk, in tank vehicles), from points in Alabama, Florida, Georgia, Illinois, Indiana, Louisiana, Michigan, Minnesota, Mississippi, North Carolina, Ohio, South Carolina, Tennessee, Virginia, West Virginia, and Wisconsin, to Lexington, Ky., under contract with The Kingsford Company.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., or Atlanta, Ga.

No. MC 128205 (Sub-No. 25), filed April 16, 1976. Applicant: BULKMATIC TRANSPORT COMPANY, 12000 S. Doty Avenue, Chicago, Ill. 60628. Applicant's representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, Ill. 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives*, in bulk, in tank and/or hopper type vehicles, from Cicero, Ill., to La Porte and South Bend, Ind., and to points in Michigan, Wisconsin, and Iowa.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 128527 (Sub-No. 61), filed April 9, 1976. Applicant: MAY TRUCKING COMPANY, a Corporation, P.O. Box 398, Payette, Idaho 83661. Applicant's representative: C. Marvin May (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles, and iron and steel pipe and fittings*, from points in Los Angeles and Orange Counties, Calif., to points in Ada, Canyon, Payette, and Washington Counties, Idaho.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Boise, Idaho.

No. MC 128555 (Sub-No. 10), filed April 12, 1976. Applicant: MEAT DISPATCH, INC., 2103 17th St., East, Palmetto, Fla. 33561. Applicant's representative: S. Michael Richards, 44 North Avenue, Webster, N.Y. 14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by retail department stores, between points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, under a continuing contract, or contracts, with Neisner's Brother's Inc. of Rochester, N.Y., and Mathews & Boucher Inc. a wholly owned subsidiary.

NOTE.—Applicant holds common carrier authority in No. MC 136123 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Buffalo or Rochester, N.Y.

No. MC 128652 (Sub-No. 13), filed March 29, 1976. Applicant: LARSON TRANSFER & STORAGE CO., INC., 950 West 94th Street, Minneapolis, Minn. 55431. Applicant's representative: F. H. Kroeger, 1745 University Avenue, St. Paul, Minn. 55104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lawn and garden maintenance equipment, snowblowers, and attachments*, for lawn and garden maintenance equipment and snowblowers; and *parts, materials, and supplies*, used in the manufacture of lawn and garden maintenance equipment and snowblowers, between Minneapolis, Burnsville, Brooklyn Park, and Windom, Minn., and Tomah, Wis. and their Commercial Zones; and (2) *parts, materials, and supplies* used in the manufacture of lawn and garden maintenance equipment and snowblowers, between Minneapolis, Burnsville, Brooklyn Park, and Windom, Minn., and Tomah, Wis., on the one hand, and, on the other, Mankato, Madelia, and Shakopee, St. James, St. Cloud, Minn., and Grafton and New Holstein, Wis., and the Commercial Zones thereof, restricted to a transportation service to be performed under a continuing contract or contracts with the Toro Company, at Bloomington, Minn.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either St. Paul or Minneapolis, Minn.

No. MC 128685 (Sub-No. 20), filed April 2, 1976. Applicant: DIXON BROS., INC., P.O. Drawer 8, Newcastle, Wyo. 82701. Applicant's representative: Jerome Anderson, 100 Transwestern Bldg., 404 North 31st St., Billings, Mont. 59101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ground mica*, in sacks or bags, from Custer, S. Dak., to Newcastle, Wyo.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Rapid City, S. Dak. or Casper, Wyo.

No. MC 128870 (Sub-No. 6), filed April 7, 1976. Applicant: NATIONAL MATERIALS CORPORATION, 3095 I.H. 35 West, P.O. Box 187, New Braunfels, Tex. 78130. Applicant's representative: Joe T. Lanham, 1102 Perry-Brooks Building, Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime*, in bulk, in tank vehicles, from points in Bexer, Comal, and Travis Counties, Tex., to ports of entry on the International Boundary line between the United States and the Republic of Mexico, located at points in Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either San Antonio or Dallas, Tex.

No. MC 129032 (Sub-No. 20), filed April 5, 1976. Applicant: TOM INMAN TRUCKING, INC., 6015 South 49th St., Tulsa, Okla. 74107. Applicant's representative: Gary G. Brasel, Mezzanine Floor, Beacon Bldg., Tulsa, Okla. 74103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods* (except frozen), from points in Wisconsin, to points in Arizona, Arkansas, Colorado, Illinois, Indiana, Kansas, Kentucky, Missouri, Nebraska, New Mexico, Oklahoma, and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Tulsa or Oklahoma City, Okla., or Dallas, Tex.

No. MC 129087 (Sub-No. 4), filed April 12, 1976. Applicant: LORAIN A. BELL, doing business as BELL MOTOR LINES, P.O. Box F, Chesterton, Ind. 46304. Applicant's representative: Lorain A. Bell, 704 Woodlawn Ave., Chesterton, Ind. 46304. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic and vinyl carrying cases and materials, supplies* (except in bulk), and *incidentals*, used in the manufacture and sale of such cases, between Porter and Chesterton, Ind., on the one hand, and, on the other, Rochelle and Ottawa, Ill.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.; Indianapolis, Ind.; or Washington, D.C.

No. MC 129352 (Sub-No. 13), filed April 7, 1976. Applicant: CREAGER TRUCKING CO., INC., 4 North East Marine Drive, P.O. Box 17007, Portland, Oreg. 97217. Applicant's representative: George B. LaBissoniere, 1100 Norton Building, Seattle, Wash. 98104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Flat glass products*, between Seattle, Wash., on the one hand, and, on the other, Eugene and Portland, Oreg., and points in California, under contract with Northwestern Industries, Inc.

NOTE.—Applicant holds common carrier authority in MC 136208 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Seattle, Wash. or Portland, Oreg.

No. MC 129387 (Sub-No. 23), filed April 7, 1976. Applicant: BILL PAYNE, doing business as BILL PAYNE TRUCKING COMPANY, P.O. Box 1271, Huron, S. Dak. 57350. Applicant's representative: William J. Boyd, 600 Enterprise Drive, Suite 222, Oak Brook, Ill. 60521. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the Report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Schuyler, Nebr., to points in Connecticut, Delaware, Illinois, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill. or Washington, D.C.

No. MC 129759 (Sub-No. 15), filed April 16, 1976. Applicant: TRIANGLE TRUCKING CO., P.O. Box 490, McKees Rocks, Pa. 15136. Applicant's representative: David A. Turano, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in by manufacturer of pipe, conduit, wire, cable, cord sets, plastic materials, equipment and supplies used in the conduct of such business* (except commodities in bulk, in tank vehicles), between the plants and warehouses of Triangle PWC, Inc., Subsidiary of Triangle Industries, Inc., at or near Los Angeles and Pittsburg, Calif., on the one hand, and, on the other, points in the United States (except California, Alaska and Hawaii), restricted to service performed under a continuing contract or contracts with Triangle PWC, Inc., Subsidiary of Triangle Industries, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 133095 (Sub-No. 94), filed April 8, 1976. Applicant: TEXAS CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, Tex. 76039. Applicant's representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, Tex. 75201.

Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles and materials, equipment and supplies* utilized in the manufacture and distribution thereof, between Greenville, Tex., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—Applicant holds contract carrier authority in MC 136032 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Dallas, Tex.

No. MC 133095 (Sub-No. 95), filed April 7, 1976. Applicant: TEXAS CONTINENTAL EXPRESS, INC., P.O. Box 434, 2603 W. Euless Blvd., Euless, Tex. 76039. Applicant's representative: Rocky Moore (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foodstuffs*, (frozen french fried potatoes, potato products, vegetables, carrots, peas, okra, turnips, squash, zucchini, other vegetables) and *potato products*, other than frozen, from Caribou, Portland, and Presque Isle, Maine to points in Arkansas, Colorado, Kansas, Louisiana, Oklahoma, Tennessee, and Texas.

NOTE.—Applicant holds contract carrier authority in MC 136032 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 133415 (Sub-No. 7), filed April 14, 1976. Applicant: SID PLANAMENTA, doing business as S & R AUTO PARTS DELIVERY SERVICE, 913 McKinley Street, Peekskill, N.Y. 10566. Applicant's representative: John L. Alfano, 550 Mamaroneck Avenue, Harrison, N.Y. 10528. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paint, paint thinners and reducers, and paint rollers* (except in bulk), from Springfield, N.J., to points in Nassau County, Westchester County and New York City, N.Y., and points in Connecticut; and (2) *returned, refused and rejected shipments* of the commodities in (1) above, from Nassau County, Westchester County and New York City, N.Y., and points in Connecticut to Springfield, N.J., (1) and (2) are under a continuing contract or contracts with E. I. duPont de Nemours & Co.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y.

No. MC 133542 (Sub-No. 9), filed April 14, 1976. Applicant: FLOYD WILD, INC., P.O. Box 91, Marshall, Minn. 56258. Applicant's representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, Minn. 55403. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Eggs*, powdered, containing additives; and (2) *eggs*, powdered, containing additives, in mixed loads with commodities exempt from economic regulations under Section 203(b)(6) of the Interstate Commerce Act, from Marshall and Pipestone, Minn., to points in Illinois, Kansas, Michigan, Missouri, and Ohio, under contract with Marshall Produce Co., a Division of Marshall Foods, Inc., at Marshall, Minn.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Minneapolis or St. Paul, Minn.

No. MC 133655 (Sub-No. 91), filed April 19, 1976. Applicant: TRANS-NATIONAL TRUCK, INC., P.O. Box 4168, Amarillo, Tex. 79105. Applicant's representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, Wis. 54306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printing paper*, from Anderson and Ripon, Calif., to points in New Mexico, Oklahoma, and Texas, and Salt Lake City, Utah; Denver and Colorado Springs, Colo.; and Cheyenne, Wyo.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 134755 (Sub-No. 74), filed April 14, 1976. Applicant: CHARTER EXPRESS, INC., 1959 E. Turner Street, P.O. Box 3772, Springfield, Mo. 65804. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Diagnostic drugs and chemicals and medical materials and supplies* (except in bulk), from Winchester, Va., to Salt Lake City, Utah, Denver, Colo., Phoenix, Ariz., Seattle, Wash., and points in California.

NOTE.—Applicant holds contract carrier authority in MC 138398 and subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests it be held at either Kansas City or St. Louis, Mo.

No. MC 134806 (Sub-No. 37), filed April 19, 1976. Applicant: B–D–R TRANSPORT, INC., P.O. Box 813, Brattleboro, Vt. 05301. Applicant's representative: Francis J. Ortman, 7101 Wisconsin Avenue, Suite 605, Washington, D.C. 20014. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Footwear*, from points in Pennsylvania (except Lancaster and Lebanon), to Brattleboro, Vt., under a continuing contract, or contracts, with Dunham Brothers Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Boston, Mass.

No. MC 135170 (Sub-No. 12), filed April 7, 1976. Applicant: TRI-STATE ASSOCIATES, INC., P.O. Box 188, Federalsburg, Md. 21632. Applicant's representative: James C. Hardman, 33 North LaSalle Street, Chicago, Ill. 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Containers, container closures, and materials, equipment, and supplies* used in the manufacture, sale, and distribution of containers and container closures (except commodities in bulk and those which because of size or weight require the use of special equipment), between Baltimore, Md., Hillside and South Brunswick, N.J., Chambersburg, Easton, Edison Township, Forks Township, Lemoyne, Morrisville, and Philadelphia, Pa., on the one hand, and, on the other, points in Delaware, Maryland, New Jersey, North Carolina, Pennsylvania, Virginia, and West Virgina, under a continuing contract, or contracts, with American Can Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 135170 (Sub-No. 13), filed April 2, 1976. Applicant: TRI-STATE ASSOCIATES, INC., P.O. Box 188, Federalsburg, Md. 21632. Applicant's representative: James C. Hardman, 33 North LaSalle Street, Chicago, Ill. 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Containers, container ends and accessories, and materials, equipment, and supplies* used in connection with the manufacture, sale, and distribution of containers (except commodities in bulk), (1) from Baltimore, Md., to points in New Jersey, North Carolina, and Pennsylvania; and (2) from Wayne, N.J., to Princeton, W. Va., under a continuing contract or contracts with Continental Can Company.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 135231 (Sub-No. 17), filed April 16, 1976. Applicant: NORTH STAR TRANSPORT, INC., Highway 1 and 59 West, Thief River Falls, Minn. 56701. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by mail order houses (except commodities in bulk and foodstuffs), from St. Cloud, Minn., to Little Rock, Ark., Des Moines, Iowa; Shreveport, La., and Nashville, Tenn., restricted to transportation of shipments originating at the plantsite and storage facilities of Fingerhut Manufacturing Co. located at or near St. Cloud, Minn., and destined to U.S. Post Offices or United Parcel Service, Inc., for immedate and subsequent movement by U.S. Mail or United Parcel Service, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn.

No. MC 135425 (Sub-No. 15), filed April 8, 1976. Applicant: CYCLES LIMITED, P.O. Box 5715, Jackson Miss. 39208. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in or sold by a manufacturer of paint and paint products, and materials, equipment and supplies, used in the conduct of such business, between Baltimore, Md., on the one hand, and, on the other, points in Connecticut, Idaho, Maine, Massachu-

setts, Montana, New Hampshire, Oregon, Rhode Island, Vermont, and Washington, under a continuing contract, or contracts, with Baltimore Paint & Chemical Company, a division of ELT, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 135425 (Sub-No. 16), filed April 12, 1976. Applicant: CYCLES LIMITED, P.O. Box 5715, Jackson, Miss. 39208. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by a manufacturer of drugs and medicines, and *materials, supplies, and equipment*, used in the conduct of such business (except in bulk), between West Memphis, Ark., Friendship, N.C., and Hatboro and Philadelphia, Pa., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), under a continuing contract, or Division of Richardson-Merrell, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y.

No. MC 135437 (Sub-No. 7), filed April 16, 1976. Applicant: TRI-NORTHEASTERN TRANSPORT, INC., South Main Street, Lyonville, N.Y. 14098. Applicant's representative: S. Michael Richards, 44 North Avenue, Webster, N.Y. 14580. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs* (except frozen foodstuffs) (except in bulk); and (2) *empty containers and materials, supplies, and equipment* used in the manufacture, sale, or distribution of foodstuffs (except frozen foodstuffs) (except in bulk), between Owensboro and Henderson, Ky., on the one hand, and, on the other, points in Alabama, Arkansas, Colorado, Delaware, Florida, Georgia, Iowa, Kansas, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Texas, Virginia, West Virginia, Wisconsin, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Rochester, N.Y., and Buffalo, N.Y.

No. MC 135873 (Sub-No. 3), filed April 6, 1976. Applicant: KSS TRANSPORTATION CORPORATION, P.O. Box 3052, North Brunswick, N.J. 08902. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Envelopes, advertising materials, circulars, paper bags, rolled paper stock, news prints, periodical inserts, business forms, inks, adhesives, and materials, equipment, and supplies*, used in the manufacture and sale of the foregoing commodities (except commodities in bulk), between Metuchen, North Brunswick, Linden, and Newark, N.J., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), under continuing contract or contracts with Webcraft Packaging, Filmcraft Packaging, Publication Insert, Converters Ink Co., Inc., Tricon Ink Company, and Envelope Adhesive Corp., Divisions of Beatrice Foods, Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 136220 (Sub-No. 30), filed April 5, 1976. Applicant: ROY SULLIVAN, doing business as SULLIVAN TRUCKING CO., P.O. Box 2164, Ponca City, Okla. 74601. Applicant's representative: G. Timothy Armstrong, Suite 200, Timbergate Office Gardens, 6161 North May Avenue, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dried fish oil residuum*, in bulk, in dump vehicles, from the plantsite of Vy Lactose Laboratories Co. located at Old Rock, Kans., to points in Arkansas, Illinois, Louisiana, Mississippi, Missouri, Oklahoma, Tennessee, and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Kansas City, Mo., or Oklahoma City, Okla.

No. MC 136411 (Sub-No. 2), filed April 19, 1976. Applicant: PERKINS MOTOR TRANSPORT, INC., P.O. Box 218, Savage, Minn. 55378. Applicant's representative: James Malecki, One South State Street, New Ulm, Minn. 56073. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Metal or metal alloy pipe connectors, flanges, ells, tee's, pipe, headers and machinery, equipment, materials, and supplies* used, sold, fabricated, or manufactured by D & M Fabrication & Mechanical Contractor, Inc., from Lakeville, Minn., to points in the United States including Alaska, but excluding Hawaii, under a continuing contract or contracts with D & M Fabrication & Mechanical Contractors, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis or St. Paul, Minn.

No. MC 136464 (Sub-No. 21), filed April 7, 1976. Applicant: CAROLINA-WESTERN EXPRESS, INC., 650 Eastwood Drive, P.O. Box 3961, Gastonia, N.C. 28052. Applicant's representative: Eric Meierhoefer, 303 N. Frederick Avenue, Gaithersburg, Md. 20760. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) (a) *Zippers, thread, binding, braid, lace, tape, webbing, ribbon, and sewing aids;* and (b) *materials and supplies* used in the manufacture and sale of the commodities named in (a) above, from Avenel, New Brunswick, and Dayton, N.J.; York, Pa., and points in New Haven and Hartford Counties, Conn., to Charlotte, N.C.; and (2) *commodities* named in (1) (a) and (b) above, from Charlotte, N.C.; to Hinsdale, Ill.; St. Louis, Mo., and Memphis and Knoxville, Tenn., restricted in (1) and (2) above to traffic originating at or destined to the facilities used by, and under a continuing contract, or contracts, with Talon Division of Textron, Inc., located in Meadville, Pa.

NOTE.—Applicant holds common carrier authority in MC 138635 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Charlotte, N.C.

No. MC 136553 (Sub-No. 41), filed April 5, 1976. Applicant: ART PAPE TRANSFER, INC., 1080 East 12th Street, Dubuque, Iowa 52001. Applicant's representative: William L. Fairbank, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural chemicals* (except in liquids, in bulk), from Streator, Ill., to points in Indiana, Iowa, Minnesota, Missouri, Wisconsin, and points in Michigan on and west of U.S. Highway 27 and on and south of Interstate Highway 96.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 136640 (Sub-No. 11), filed April 8, 1976. Applicant: ROBERT L. ALLEN, doing business as ALLEN TRANSPORT, P.O. Box 321, Pocomoke City, Md. 21851. Applicant's representative: S. Michael Richards, 44 North Avenue, Webster, N.Y. 14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs*, when transported in mixed loads with agricultural commodities otherwise exempt from economic regulations under Section 203(b)(6) of the Interstate Commerce Act, from Boston, Mass., to points in Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Missouri, North Carolina, New Jersey, New York, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin; and (2) *cartons and boxes*, from Chambersburg, Pa., to Boston, Mass., (1) and (2) are under a continuing contract or contracts with Boston Bonnie, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Boston, Mass., or Washington, D.C.

No. MC 136718 (Sub-No. 1), filed April 12, 1976. Applicant: GLENN'S INC., P.O. Box 426, Arcadia, Ind. 46030. Applicant's representative: Donald W. Smith, 2465, One Indiana Square, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *New furniture* (crated) (a) from Cicero, Ind., Columbus, Wis., and Geneva, Ill., to points in Iowa, Kansas, Maryland, North Dakota, and South Dakota; and (b) from Lincoln, Nebr., to points in Iowa, Kansas, Maryland, North Dakota, South Dakota, Kentucky, Tennessee, Ohio, Pennsyl-

vania, Indiana, Michigan, West Virginia, Wisconsin, Minnesota, Illinois, and Missouri; and (2) *materials and supplies* used in the manufacture of new furniture, from points in (1)(b) above to the plant sites of Harris Pine Mills located at Cicero, Ind., Geneva, Ill., Columbus, Wis. and Lincoln, Nebr., under a continuing contract with Harris Pine Mills.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Indianapolis, Ind., or Chicago, Ill.

No. MC 136762 (Sub-No. 6), filed April 19, 1976. Applicant: OSBORNE HIGHWAY EXPRESS, P.O. Box 763, Ukiah, Calif. 95482. Applicant's representative: J. H. Gulseth, 125 University Avenue, Berkeley, Calif. 94710. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Agricultural chemicals and fertilizers* (other than bulk), from the plantsites and storage facilities of Occidental Chemical Company located at Lathrop, Stockton, Azusa, Chino, and Plaster City, Calif., to points in Arizona, California, and Nevada; and (2) *Chemicals and supplies* (other than in bulk) used in the manufacture and sale of agricultural chemicals and fertilizers, from points in Arizona, California, and Nevada, to the plantsites and storage facilities of Occidental Chemical Company located at Lathrop, Stockton, Azusa, Chino, and Plaster City, Calif.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at San Francisco, Calif.

No. MC 136987 (Sub-No. 13), filed April 7, 1976. Applicant: REMINGTON FREIGHT LINES, INC., P.O. Box 315, U.S. Highway 24 West, Remington, Ind. 47977. Applicant's representative: James Roberts Evans, 145 West Wisconsin Ave., Neenah, Wis. 54956. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dessert and beverage preparations*, in containers, from West Chicago, Ill., to points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, Rhode Island, South Carolina, Tennessee, Texas, Virginia, and Wisconsin, under a continuing contract, or contracts with the Jel Sert Company located at West Chicago, Ill.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 136989 (Sub-No. 14), filed March 26, 1976. Applicant: R. F. BOX, INC., 500 Kinley NE., Albuquerque, N. Mex. 87107. Applicant's representative: Edwin E. Piper, Jr., 1115 Sandia Savings Bldg., Albuquerque, N. Mex. 87102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Floor covering* (except carpeting and rugs), from points in Lancaster County, Pa., to points in Colorado, Montana, Nebraska, New Mexico, South Dakota, and Wyoming under a continuing contract or contracts with Mountain States Distributing Corp.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Albuquerque, N. Mex.

No. MC 138144 (Sub-No. 8), filed April 16, 1976. Applicant: FRED OLSON CO., Inc., 6022 West State Street, Milwaukee, Wis. 53213. Applicant's representative: Daniel C. Sullivan, 327 South LaSalle Street, Chicago, Ill. 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Heat exchangers and equalizers* for air, gas, or liquids; *machinery and equipment* for heating, cooling, conditioning, humidifying, dehumidifying, and moving of air, gas, or liquids; (2) and *parts, materials equipment, and supplies* used in the manufacture, distribution installation, or operation of those items named in (1) above (except in bulk), between points in Monroe, Randolph, Perry Counties, Ill., and St. Clair County, Ill., on and south of State Highways 177 and 158, on the one hand, and, on the other, points in the United States, except Alaska and Hawaii, restricted to shipments originating at or destined to the plantsite and warehouse facilities of the Singer Company at Monroe, Randolph, Perry and St. Clair Counties, Ill.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill., or Washington, D.C.

No. MC 138198 (Sub-No. 3), filed April 5, 1976. Applicant: SPD TRUCK LINE, INC., Opalena at Cottage, Abilene, Kans. 67401. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kans. 666603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in or used by wholesale, retail discount or variety stores, from points in Arkansas, Colorado, Kansas, Missouri, Oklahoma, Nebraska, New Mexico, and Texas, to points in Iowa, under a continuing contract, or contracts, with Duckwall Stores, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Kansas City, Mo.

No. MC 138308 (Sub-No. 14), filed April 19, 1976. Applicant: KLM, INC., 2102 Old Brandon Rd., P.O. Box 6098, Jackson, Miss. 39208. Applicant's representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, Miss. 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural implements, hand and parts thereof*, from the facilities of Ames Distribution Center located at or near Parkersburg, W. Va., to Salt Lake City, Utah, Reno, Nev., Dallas, Tex., Los Angeles, Calif., and Portland, Oreg., restricted to shipments originating at and destined to the above named points.

NOTE.—Applicant holds contract carrier authority in No. MC 128592 and subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests it be held at either Memphis, Tenn., or Jackson, Miss.

No. MC 138635 (Sub-No. 23), filed March 30, 1976. Applicant: CAROLINA WESTERN EXPRESS, INC, 650 East-Wood Drive, P.O. Box 3961, Gastonia, N.C. 28052. Applicant's representative: Eric Meierhoefer, 303 N. Frederick Avenue, Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Oil filters, oil filter cartridges, and air cleaners*, from Los Angeles, Calif., to Greenville, Tenn.

NOTE.—Applicant holds contract carrier authority in MC 13646 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Knoxville, Tenn., or Los Angeles, Calif.

No. MC 139341 (Sub-No. 7), filed April 1, 1976. Applicant: J. J. PERRY, JR., AND EDWARD BAILEY, doing business as P & B TRUCKING COMPANY, R.F.D., Horn Lake, Miss. 38637. Applicant's representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, Miss. 39205. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Brewers grain*, in bulk, in dump vehicles, from Memphis, Tenn., to the facilities of Murphy Products Co., Inc. located at Longview, Tex., under a continuing contract, or contracts, with Murphy Products Co., Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Memphis, Tenn.

No. MC 139495 (Sub-No. 138), filed April 1, 1976. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, 1819 H St. NW., Suite 1030, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cleaning, scouring, and washing compounds; water treating compounds; activated carbon; and lavatory fixtures* (except in bulk), (1) from the plantsite and storage facilities of Calgon Corporation, located at or near St. Louis, Mo., to Birmingham, Ala.; Los Angeles and Haywood, Calif.; Denver, Colo.; East Hartford, Conn.; Miami, Fla.; Atlanta, Ga.; Chicago, Ill.; Indianapolis, Ind.; Shreveport and New Orleans, La.; Beaver Heights, Md.; Charlestown, Mass.; Detroit, Mich.; St. Paul, Minn.; Omaha, Nebr.; Rochester, N.Y.; Charlotte, N.C.; Cleveland and Dayton, Ohio; Oklahoma City, Okla.; Philadelphia and Pittsburgh, Pa.; Memphis, Tenn.; Houston, Dallas, and Arlington, Tex.; Seattle, Wash.; and Milwaukee, Wis.; (2) from the plantsite and storage facilities of Calgon Corporation, located at or near Frisco, Pa., to Hayward and Los Angeles, Calif.; Atlanta, Ga.; Chicago, Ill.; New Orleans, La.; Rockwood, Mich.; St. Paul, Minn.; St. Louis, Mo.; Charlotte, N.C.; Bayport and Houston, Tex.; Salt Lake City, Utah; Seattle, Wash.; and Bluefield, W. Va.; (3) from the plantsite and storage facilities

of Calgon Corporation, located at or near Rockwood, Mich.; to Hayward and Los Angeles, Calif.; Denver, Colo.; East Hartford, Conn.; Atlanta, Ga.; Chicago, Ill.; New Orleans, La.; Charlestown, Mass.; St. Paul, Minn.; Kansas City and St. Louis, Mo.; Charlotte, N.C.; Massilon, Ohio; Philadelphia and Pittsburgh, Pa.; Memphis, Tenn.; Houston and Arlington, Tex.; Salt Lake City, Utah; and Seattle, Wash.; and (4) from the plantsite and storage facilities of Calgon Corporation, located at or near Morrisville, Pa., to Atlanta, Ga.; St. Louis, Mo.; Charlotte, N.C.; and Arlington, Tex.

NOTE.—Applicant holds contract carrier authority in MC 133106 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 139495 (Sub-No. 140), filed April 13, 1976. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, 1819 H Street NW., Suite 1030, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printing paper*, from the facilities utilized by Fitchburg Paper Co., located at or near Fitchburg, Mass., to Charleston and Chicago, Ill., and Detroit, Mich.

NOTE.—Applicant holds contract carrier authority in MC 133106 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 139495 (Sub-No. 141), filed April 7, 1976. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, 1819 H Street NW., Suite 1030, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Boxes and crates*, from the facilities utilized by Edwards & McGehee, located at or near Auburn, Ala., to points in Arkansas, Kansas, Louisiana, Mississippi, Missouri, Oklahoma, and Texas.

NOTE.—Applicant holds contract carrier authority in MC 133106 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 139495 (Sub-No. 143), filed April 16, 1976. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th St., P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, 1819 H Street NW., Suite 1030, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture stock and furniture*, in cartons, from the facilities utilized by John Hancock Furniture Mfg. Co., located at or near San Diego, Calif., to Denver, Colo.; Atlanta, Ga.; Chicago, Ill.; Kansas City and St. Louis, Mo.; Trenton, N. J.; Columbus, Ohio; Portland, Oreg.; Dallas and Houston, Tex.; and Seattle, Wash.

NOTE.—Applicant holds contract carrier authority in MC 133106 and subs thereto, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 140509 (Sub-No. 3), filed April 13, 1976. Applicant: ART KOHLER TRUCKING, INC., P.O. Box 68, Audubon, Minn. 56511. Applicant's representative: Charles E. Johnson, 425 Gate City Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Processed, frozen, and dehydrated potato products*, from the plantsites and storage facilities of J. R. Simplot Company, located in Minnesota, to points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee, restricted to a transportation service to be performed under a continuing contract or contracts with J. R. Simplot Company, Crookston, Minn.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either St. Paul, Minn., or Fargo, N. Dak.

No. MC 140612 (Sub-No. 8), filed March 26, 1976. Applicant: ROBERT F. KAZIMOUR, P.O. Box 2011, Cedar Rapids, Iowa 52406. Applicant's representative: A. J. Swanson, 521 South 14th St., P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Houston County, Ga., to points in Iowa and Minnesota.

NOTE.—Applicant holds contract carrier authority in MC 138003 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Lincoln, Nebr., or Milwaukee, Wis.

No. MC 140736 (Sub-No. 1), filed April 8, 1976. Applicant: THOMAS A. AND JOHN C. TOMLANOVICH, a Partnership, doing business as J. T. TRUCKING, Box 295, Eagle River, Wis. 54521. Applicant's representative: Holly A. Tomlanovich (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and building supplies*, from Rhinelander, Wis., to points in Baraga, Dickinson, Gogebic, Houghton, Iron, Marquette, and Ontonagon Counties, Mich., under a continuing contract or contracts with Wickes Lumber & Building, Division of the Wickes Corp.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Rhinelander, Wis.

No. MC 141070 (Sub-No. 3), filed April 5, 1976. Applicant: RAZORBACK DUMP HAULERS, INC., Route 1, Black Rock, Ark. 72415. Applicant's representative: Thomas B. Staley, 1550 Tower Building, Little Rock, Ark. 72201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rock, sand, gravel, and agricultural lime*, from points in Baxter, Benton, Boone, Carroll, Clay, Craighead, Fulton, Greene, Independence, Izard, Lawrence, Madison, Marion, Newton, Randolph, Searcy, Sharp, and Washington Counties, Ark., to points in Barry, Butler, Carter, Christian, Douglas, Dunklin, Howell, McDonald, New Madrid, Newton, Oregon, Ozark, Pemiscot, Ripley, Shannon, Stoddard, Stone, and Taney Counties, Mo.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Little Rock, Ark.

No. MC 141171 (Sub-No. 3), filed April 12, 1976. Applicant: J & G SWARTZ, INC., 3755 Fenwick Drive, Spring Valley, Calif. 92077. Applicant's representative: David P. Christianson, 606 South Olive, Suite 825, Los Angeles, Calif. 90014. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Synthetic sponges* (not compressed), from Erie County, N.Y., to points in California, under a continuing contract, or contracts with O-Cel-O, General Mills, Inc.

NOTE.—If a hearing is deemed necessary, the application requests it be held at Los Angeles, Calif.

No. MC 141306 (Sub-No. 2), filed March 20, 1976. Applicant: DAVWAY TRUCKING, INC., 13354 S. Clairmont Way, Oregon City, Oreg. 97045. Applicant's representative: Lawrence V. Smart, Jr., 419 NW. 23rd Avenue, Portland, Oreg. 97210. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Horsemeat*, from points in Snohomish County, Wash., to ports of entry on the International Boundary line between the United States and Canada, located at or near Detroit, Mich.; Champlain, N.Y.; and the Chicago, O'Hare International Airport, Ill., and points in Anderson County, Tex., under contract with Florence Packing Co., Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 141584 (Sub-No. 2), filed April 12, 1976. Applicant: R. E. LEE, JR., HOWARD HYATT AND JAMES I. GREENE, doing business as L & H PAVING, Box 402, Pulaski, Tenn. 38478. Applicant's representative: D. C. Lee, First National Bank Bldg., Pulaski, Tenn. 38478. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Scrap iron and steel, and iron and steel turnings*, in bulk, in dump vehicles, from Nashville, Tenn., and Birmingham, Ala., to points in Giles County, Tenn.; and (2) *ferro chrome*, in bulk, in dump vehicles, from Nashville, Tenn., to points in Giles County, Tenn., under contract with American Magotteaux Corporation.

NOTE.—If a hearing is deemed necessary, the applicant does not specify a location.

No. MC 141602 (Sub-No. 3), filed April 12, 1976. Applicant: AUTO & TRUCK FORWARDING, INC., 1989 Marina Boulevard, San Leandro, Calif. 94577. Applicant's representative: Paul E. LaRose, 620 West Ireland Road, South Bend, Ind. 46614. Authority sought to operate as a

common carrier, by motor vehicle, over irregular routes, transporting: *Buses and bus chassis*, in driveaway service, from ports of entry in Texas, and from Woodlawn, Tex., to points in the United States (including Alaska, but excluding Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Dallas or Houston, Tex.

No. MC 141618 (Sub-No. 1), filed April 8, 1976. Applicant: DAVID C. BURNS, doing business as DAVID C. BURNS TRUCKING, 1146 East Main Street, Casa Grande, Ariz. 85222. Applicant's representative: Donald E. Fernaays, Suite 320, 4040 East McDowell Road, Phoenix, Ariz. 85008. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Insulation* (except in bulk), from Santa Clara, Calif., to Las Vegas, Nev., and points in Arizona, under a continuing contract or contracts with Collier Insulation Company, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Phoenix, Ariz.

No. MC 141723 (Sub-No. 2), filed April 1, 1976. Applicant: FEDERALSBURG TRANSIT CO., INC., Davis Mill Pond Road, Route No. 1, Box 224, Federalsburg, Md. 21632. Applicant's representative: Henry U. Snavely, 410 Pine Street, Vienna, Va. 22180. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood and wood products; fencing; and equipment, materials, and supplies* used in the manufacture of wood products and fencing, between those points in that part of Maryland, Delaware, and Virginia, located east of the Chesapeake Bay and south of Chesapeake and Delaware Canal, on the one hand, and, on the other, points in Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Virginia, Maryland, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 141759 (Sub-No. 1), filed March 30, 1976. Applicant: OHIO PACIFIC EXPRESS, INC., 817 West Fifth Ave., Columbus, Ohio 43212. Applicant's representative: Thomas F. Kilroy, P.O. Box 624, Springfield, Va. 22150. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter*, (1) from Chicago, Ill.; Corinth, Miss.; and Dresden, Tenn.; to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Texas, Utah, Washington, and Wyoming; (2) from Chicago, Ill., to Dresden, Tenn., and Corinth, Miss.; (3) from Corinth, Miss., to Dresden, Tenn., and Chicago, Ill.; and (4) from Dresden, Tenn., to Chicago, Ill., and Corinth, Miss.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 141761 (Sub-No. 1), filed April 19, 1976. Applicant: KENNETT TRANSPORTATION COMPANY, INC., West Main St., Conway, N.H. 03818. Applicant's representative: O. Lee Gregory, Box 904, Conway, N.H. 03818. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Specialized plastic pellets*, in bulk, in specialized tank vehicles, (1) from Fryeburg, Maine, to Conway, N.H., and (2) from Conway, N.H., to Lewiston, Me., under a continuing contract, or contracts, with J. V. Components, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Conway, N.H.

No. MC 141804 (Sub-No. 5), filed April 16, 1976. Applicant: WESTERN EXPRESS, division of INTERSTATE RENTAL, INC., Rt. 3, Box 2040, Goodlettsville, Tenn. 37072. Applicant's representative: Charles R. Parker (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lawn mowers and yard equipment*, from the plantsite and storage facilities of McDonough Power Equipment Company located at or near McDonough, Ga., to the plantsite and storage facilities of Tru-Cut, Inc. located at or near Pacoima, Calif.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Nashville, Tenn., or Los Angeles, Calif.

No. MC 141817 (Sub-No. 2), filed April 14, 1976. Applicant: R. C. HACKETT TRUCKING, Star Route, Lewis Run, Pa. 16738. Applicant's representative: James F. McVay, 8 Kennedy Street, Bradford, Pa. 16701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wood chips*, (1) from Kane, McKean County, Pa., to Niagara Falls, Niagara County, N.Y.; and (2) from Kane, McKean County, Pa., to Buffalo, Erie County, N.Y., (1) and (2) are under a continuing contract with Otter-Creek Corp.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Buffalo, N.Y., or Pittsburgh, Pa.

No. MC 141825 (Sub-No. 1), filed April 13, 1976. Applicant: DIETZ BROS., INC., 149 Barlow Point Road, Longview, Wash. 98632. Applicant's representative: Evalyn L. Dietz (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand, gravel, dirt, debris, cinders, and asphaltic concrete mix*, in dump trucks and ready-mix concrete, between points in Columbia and Caltsop Counties, Oreg., and Cowlitz and Pacific Counties, Wash.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Longview, Wash., or Ranier, St. Helens, or Portland, Oreg.

No. MC 141883 (Sub-No. 2), filed April 5, 1976. Applicant: NEWPORT TRUCKING, INC., 913 NW. 34th Avenue, Miami, Fla. 33125. Applicant's representative: Richard B. Austin, Ste. 214 Palm Coast II Bldg., 5255 NW. 87th Avenue, Miami, Fla. 33178. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except household goods as defined by the Commission, articles of unusual value, Classes A and B explosives, articles in bulk, and articles which because of size or weight require specialized handling and equipment), *trailers and containers*, with or without wheels, loaded or empty, between points in Miami, Fla., and its Commercial Zone, restricted to traffic having a subsequent interstate movement and further restricted to traffic having an immediately prior or subsequent movement by water.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Miami, Fla.

No. MC 141932, filed March 26, 1976. Applicant: POLAR TRANSPORT, INC., 176 King Street, Hanover, Mass. 02339. Applicant's representative: Frank J. Weiner, 15 Court Square, Boston, Mass. 02108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: I (A) *Foodstuffs and restaurant supplies and equipment* (except in bulk), (1) from Brockton, Quincy, and Watertown, Mass., to Los Angeles, Calif.; Miami, Fla.; Atlanta and East Point, Ga.; Chicago, Ill.; Arlington, Dallas, and Houston, Tex.; and points in Connecticut, Maine, Maryland, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, Delaware, and the District of Columbia; (2) from New York, N.Y. to Brockton, Quincy, and Watertown, Mass.; (3) from Chicago, Ill., to points in Iowa, Nebraska, South Dakota, California, Georgia, Florida, Maryland, Massachusetts, New Jersey, New York, Ohio, Pennsylvania, Texas, and Montana; (4) From New York, N.Y., and Secaucus, N.J., to Los Angeles, Calif.; Miami, Fla.; Atlanta and East Point, Ga.; Chicago, Ill.; Arlington, Dallas, and Houston, Tex.; and points in Connecticut, Indiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, and Vermont; (5) from Syracuse, N.Y. to Brockton, Mass.

(6) From Baltimore, Md., to points in Delaware, New Jersey, New York, Ohio, Pennsylvania, Virginia, West Virginia, and the District of Columbia; (7) from Miami, Fla., to points in California, Georgia, Illinois, Maryland, New Jersey, Massachusetts, New York, Ohio, Pennsylvania, and Texas; and (8) from Bedford, Pa., to points in Illinois, Indiana, Maryland, Michigan, and Ohio; (B) *Foodstuffs* (except in bulk), (1) from Biglerville, Pa.; and Harrison and Saddle Brook, N.J.; to Brockton, Boston, and Wollaston, Mass.; and points in Georgia, Illinois, Maryland, Ohio, and Texas; and (2) from New York, N.Y. and Secaucus, N.J., to Forest Park, Ga.; Sparks, Nev.; Fort Wayne, Ind.; and Lawrence, Kans.; (C) *frozen french fried potatoes*, from points in Maine to Brockton and Boston, Mass.; (D) *potatoes, frozen*, (1) from points in Maine to points in Georgia and Maryland; and (2) from Grand Forks,

Nebr., to points in Georgia, Maryland, and Massachusetts; (E) *frozen bakery products,* from Bedford, Pa., to Chicago, Ill.; Cleveland, Ohio; Baltimore, Md.; Brockton, Mass.; Atlanta and East Point, Ga.; Arlington, Dallas, and Houston, Tex.; Los Angeles, Calif.; Miami, Fla.; Secaucus, N.J.; and Syracuse and New York, N.Y.; (F) *carbonated beverages,* from Garfield, N.J., to Brockton, Mass.; (G) *ice cream,* (1) from Baltimore, Md., to Bedford, Pa.; New York, N.Y.; and points in California, Florida, Georgia, Illinois, Ohio, and Texas; and (2) from Chicago, Ill., to points in California, Maryland, New York, Ohio, Pennsylvania, and Texas; (H) *poultry and animal fat* (except in bulk), from Douglas, Ga., to New York, N.Y., and Brockton, Mass.; (I) *frozen foods,* (1) from Syracuse, N.Y., to Brockton, Boston, and Watertown, Mass.; Baltimore, Md.; Bedford, Pa.; and Cleveland, Ohio; and (2) from Patterson, Sanger, Turlock, and Watsonville, Calif., to Baltimore, Md.; Atlanta and East Point, Ga.; Bedford, Pa.; Brockton and Boston, Mass.; Chicago, Ill.; Cleveland, Ohio; Arlington and Dallas, Tex.; Miami, Fla.; and New York and Syracuse, N.Y.

(J) *Meats,* (1) from New York, N.Y., to Detroit, Mich.; Indianapolis, Ind.; and St. Louis, Mo.; (2) from Wilmington, Del., to New York, N.Y.; and (3) from Omaha and Decatur, Nebr.; and Greeley, Ohio.; to Quincy, Mass.; (K) *plastic articles, games, toys, notions, novelties, costume jewelry, chinaware, earthenware, and pottery,* from Bedford, Pa., to points in Illinois, Indiana, Maryland, Michigan, and Ohio; (L) *orange juice and grapefruit juice* (except in bulk), from Dade City, Fla., to points in California, Georgia, Illinois, Maryland, Massachusetts, New Jersey, New York, Ohio, Pennsylvania and Texas; (M) *sugar,* beet, or cane, other than raw (except in bulk), from points in Ohio to points in California, Georgia, Florida, Illinois, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, and Texas; (N) *chemicals,* cleaners, detergents, cleaners and wax (except in bulk), from Avenel, N.J., to points in Georgia, Maryland, Ohio, Illinois, and Pennsylvania; (O) *boxes,* cylindrical fibreboard, paper, or pulpboard, other than corrugated, with tops or bottoms of same or other materials, with tops and bottoms detached from bodies and bottoms enclosed in tops, bodies nested in boxes, from Fulton, N.Y., to points in Florida, Illinois, Maryland, and Massachusetts; (P) *glassware,* from Dunkirk, Ind., to points in California, Florida, Georgia, Illinois, Maryland, Massachusetts, New Jersey, New York, Ohio, Pennsylvania, and Texas; (Q) *returned and rejected shipments* of the above-described commodities, from the above-named respective destination points in (A) through (P) above to the origins respectively set forth in (A) through (P) above; (R) *chemicals, cleaners, detergents, and wax* (except in bulk), from Avenel, N.J. to Brockton, Mass.

(S) *Plastic articles, games, toys, notions, novelties, costume jewelry, chinaware, earthenware, and pottery,* from Bedford, Pa., to Rancocas, N.J., and Brockton, Mass.; (T) *insulated cups, lids, and ice cream containers,* from Exton, Pa.; Eatontown, N.J.; and Milford, N.H., to Brockton, Mass.; (U) *whipped cream,* from Lynnbrook, N.Y., to Brockton, Mass.; (V) *orange juice and grapefruit juice* (except in bulk), from Auburndale, Fla., to Brockton, Mass., (W) *plastic bags and barrel liners,* from Old Saybrook, Conn., to Brockton, Mass.; (X) *popped corn,* from Baltimore, Md., to Brockton, Mass.; (Y) *paper and plastic place mats,* from Vineland, N.J., to Brockton, Mass.; (Z) *pallets,* between Brockton and Quincy, Mass.; Los Angeles, Calif.; Miami, Fla.; Atlanta and East Point, Ga.; Chicago, Ill.; Arlington, Dallas, and Houston, Tex.; and points in Connecticut, Maine, Maryland, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, and Vermont, the authority in Part I above is restricted to the transportation of traffic originating at or destined to the plantsites and warehouse facilities of Howard Johnson Company,

(II) (A) *foodstuffs and animal foods* (except in bulk), (1) from Atlanta, Georgia, to points in the United States (except Georgia, Alaska, and Hawaii); and (2) from Baltimore, Maryland, to points in the United States (except Maryland, Alaska, and Hawaii); (B) *pallets, packaging materials and materials and materials, supplies, and ingredients* used in the manufacture of the above-described commodities (except commodities in bulk), (1) from points in the United States (except Georgia, Alaska, and Hawaii) to Atlanta, Ga.; and (2) from points in the United States (except Maryland, Alaska, and Hawaii) to Baltimore, Md., the authority in Part II above is restricted to the transportation of traffic originating at or destined to the plantsites and warehouse facilities of J. H. Filbert, Inc.

(III) (A) *Ice cream, ice cream confections, ice water confections,* and *sherbert,* (1) from Suffield, Conn., to points in Alabama, Delaware, Florida, Georgia, Illinois, Indiana, Maryland, Maine, Massachusetts, Michigan, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Tennessee, Texas, Virginia, and the District of Columbia; and (2) from Laurel, Md., and York, Pa., to Suffield, Conn.; (B) *packaging materials, and materials, supplies, and ingredients* used in the manufacture of ice cream, confections, ice water confections, sherbert, and dairy products, from points in New Jersey and New York, to Suffield, Conn., and Agawam, Mass.; (C) *orange juice and frozen fruit juice concentrates,* in containers, from Dunedin, Fla., to Agawam and Boston, Mass.; Binghamton, N.Y.; Burlington, Vt.; Cranston and Providence, R.I.; Hillside, N.J.; Manchester, N.H.; and Portland, Maine; (D) *pallets and milk cases,* between Agawam and Bostonfi Mass.; Burlington, Vt.; Manchester, N.H., Portland, Maine; Providence, R.I.; and Suffield, Conn., the authority in Part iii above is restricted to the transportation of traffic originating at or destined to the plantsites and warehouse facilities of H. P. Hood, Inc., (IV) *vegetable oil shortening,* from Decatur, Ind., to points in Alabama, Connecticut, Delaware, Georgia, Florida, Illinois, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, the authority in Part IV above is restricted to the transportation of traffic originating at the plantsite and warehouse facilities of Central Soya Company, Inc. and destined to points in the destination states named.

(V) *Frozen onion rings,* and *agricultural commodities* otherwise exempt from economic regulation under Section 203(b)(6) of the Interstate Commerce Act when moving in mixed loads with frozen onion rings, from Boston, Gloucester, Lawrence, Brockton, and Worcester, Mass., to points in Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia, and the District of Columbia; *frozen donuts,* from Boston, Mass., to points in Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia, and the District of Columbia, the authority in Part V above is restricted to the transportation of traffic originating at the plantsite and warehouse facilities of Boston Bonnie, Inc. and destined to points in the destination states named, and (VI) *meats, meat products and meat byproducts, and articles distributed by meat packing houses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and/or storage facilities utilized by Iowa Beef Processors, Inc., at or near Amarillo, Texas, to points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and the District of Columbia, the authority in Part VI above is restricted to the transportation of traffic originating at the plantsite and warehouse facilities of Iowa Beef Processors, Inc. and destined to points in the destination states named.

NOTE.—Applicant states that the purpose of this application is to convert applicant's contract carrier authority to that of a common carrier authority, and further states that the authority sought embraces its existing contract carrier authorities and those

presently pending before the Commission. If a hearing is deemed necessary, the applicant requests it be held at Boston, Mass.

No. MC 141945, filed March 30, 1976. Applicant: LOWER FULTONVILLE TRUCKING COMPANY, INC., 99 Washington Ave., Albany, N.Y. 12210. Applicant's representative: James T. Avery III, 28 State St., Boston, Mass. 02109. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Beer and malt liquor*, in cans, bottles, and kegs, between Radisson (Syracuse), N.Y.; Boston, Mass.; and Providence, R.I.; under a continuing contract or contracts with Ocean State Distributors and Crown Distributors.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Boston, Mass.; Providence, R.I., or Hartford, Conn.

No. MC 141950, filed March 29, 1976. Applicant: KENNETH OBERG, doing business as OBERG DAIRY PRODUCTS, 903 South 22nd Street, Fort Dodge, Iowa 50501. Applicant's representative: Larry L. Seckington, 7901 Douglas Avenue, Urbandale, Iowa 50322. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Homogenized milk, lowfat milk, skim milk, chocolate milk, buttermilk, half & half, eggnog, yogurt, fruit drinks, vegetable fat dressings and dips, whipping cream, whipped topping, butter, sour cream dressings, cottage cheese, orange juice, margarine, and American cheese*, between Rochester, Minn., and Storm Lake, Spencer, Laurens, Fort Dodge, Rockwell City, Ames, Des Moines, Boone, and Clarion, Iowa, under a continuing contract, or contracts, with Marigold Foods, Incorporated.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Des Moines, Iowa.

No. MC 141956 (Sub-No. 1), filed April 5, 1976. Applicant: AREA CONTAINER SERVICES, INC., 3400 South Pulaski Road, Chicago, Ill. 60623. Applicant's representative: Donald E. Nelson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *General commodities* (except commodities in bulk, in tank vehicles, and Classes A and B explosives), between railroad and/or steamship lines container facilities, located in the Chicago, Ill., Commercial Zone as defined by the Commission, on the one hand, and, on the other, points in Illinois, Indiana, Iowa, Kentucky, Michigan, Missouri, Ohio, and Wisconsin, restricted to traffic having a prior or subsequent movement by rail in trailer-on-flat car service and/or container having a prior or subsequent movement by water; and (B) *empty trailer, empty steamship containers, and/or trailer chassis*, between railroad and/or steamship lines container facilities, located in the Chicago, Ill., Commercial Zone as defined by the Commission, on the one hand, and, on the other, points in Illinois, Indiana, Iowa, Kentucky, Michigan, Missouri, Ohio, and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill., or Washington, D.C.

No. MC 141985, filed March 30, 1976. Applicant: TAB TRANSPORTATION, INC., 1631 Perrino Place, Los Angeles, Calif. 90023. Applicant's representative: David P. Christianson, 606 South Olive, Suite 825, Los Angeles, Calif. 90014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum ladders, candy, gum, and cough drops*, between the warehouse operated by TAB Transportation, Inc., located in Los Angeles County, Calif., on the one hand, and, on the other, points in Los Angeles, Orange, San Diego, Riverside, San Bernardino, Ventura, Santa Barbara, and Kern Counties, Calif.

NOTE.—Applicant holds contract carrier authority in MC 134789 Sub 1, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 141988, filed April 19, 1976. Applicant: C. F. HEARN, doing business as HEARN TRUCKING COMPANY, P.O. Box 6, Colon, N.C. 27236. Applicant's representative: Ralph McDonald, P.O. Box 2246, Raleigh, N.C. 27602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brick*, from points in North Carolina, to points in Alabama, Connecticut, Delaware, Florida, Georgia, Indiana, Kentucky, Maryland, Massachusetts, New Jersey, New York, Ohio, Pennsylvania, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and the District of Columbia.

NOTE.—Applicant holds contract carrier authority in No. MC 127198, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Raleigh, N.C., or Washington, D.C.

PASSENGER APPLICATIONS

No. MC 1515 (Sub-No. 215), filed March 24, 1976. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Phoenix, Ariz. 85077. Applicant's representative: W. L. McCracken (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage and express and newspapers*, in the same vehicle with passengers; Between Philadelphia, Pa., and the junction of U.S. Highway 13 and the Pennsylvania Turnpike at Interchange No. 29, serving all intermediate points: From Philadelphia, Pa., over Interstate Highway 95, to junction Pennsylvania Highway 413 access route, thence over Pennsylvania Highway 413 access route to Pennsylvania 413, thence over Pennsylvania Highway 413 to junction U.S. Highway 13, thence over U.S. Highway 13, to junction Pennsylvania Turnpike at Interchange No. 29, and return over the same route.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Philadelphia, Pa.

No. MC 136964 (Sub-No. 1), filed March 12, 1976. Applicant: HOWARD WILLIAMS AND THOMAS MILTON, a Partnership, doing business as WILLIAMS-MILTON BUS COMPANY, Route 2, Box 268, Woodford, Va. 22580. Applicant's representative: John W. Scott, Jr., 615 Caroline Street, Fredericksburg, Va. 22401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their express, newspapers, and baggage*, in the same vehicle, in special operations, charter, sightseeing, and pleasure tours, beginning and ending at Fredericksburg, Va., and points in Caroline, Culpeper, Essex, Fauquier, Hanover, King George, Louisa, Orange, Spotsylvania, and Stafford Counties, Va., and extending to points in Connecticut, Delaware, Georgia, Maryland, New Jersey, New York, North Carolina, Pennsylvania, South Carolina, Virginia, West Virginia, and District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Richmond, Va., or Washington, D.C.

No. MC 141486 (Sub-No. 1), filed February 12, 1976. Applicant: SLOPE & TRACK PLEASUREWAYS, INC., 7446 Metcalf, Overland Park, Kans. 66204. Applicant's representative: Stephen M. Fletcher, Fairway Office Center, Suite 101B, 4220 Johnson Drive, Shawnee Mission, Kans. 66205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in sleeper berth equipped vehicles, in seasonal and charter operations, between points in Colorado, Kansas, Missouri, and Nebraska, beginning at the Missouri-Kansas state line and extending in a westerly direction along U.S. Highway 54 to the junction of U.S. Highway 75, thence in a northerly direction along U.S. Highway 75 to the junction of U.S. Highway 36, thence in an easterly direction along U.S. Highway 36 to the junction of U.S. Highway 65, thence in a southerly direction along U.S. Highway 65 to the junction of U.S. Highway 54, thence easterly along U.S. Highway 54 to the point of beginning.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Kansas City, Mo., or Washington, D.C.

BROKER APPLICATIONS

No. MC 12655 (Sub-No. 3, filed April 16, 1976. Applicant: LEWIS G. HILLARD, doing business as TRI-STATE TOURS, P.O. Box 307, Highway 20 West, Galena, Ill. 61036. Applicant's representative: Nancy J. Johnson, 4506 Regent St., Suite 100, Madison, Wis. 53705. Authority sought to engage in operation, in interstate or foreign commerce, as a *broker* at Galena, Wis., to sell or offer to sell the transportation of *Passengers and their baggage*, in round-trip, all-expense tours, by motor carrier beginning and ending at Galena, Ill., and Hazel Green,

Cuba City, Shullsburg, and Benton, Wis., and extending to points in the United States (including Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Dubuque, Iowa, or Madison, Wis.

No. MC 12821 (Sub-No. 1), filed April 7, 1976. Applicant: WILLIAM DANIEL DIPERT, doing business as DAN DIPERT'S SERVICE, 103 S. Mesquite, Arlington, Tex. 76010. Applicant's representative: S. Harrison Kahn, Suite 733, Investment Building, Washington, D.C. 20005. Authority sought to engage in operation, in interstate or foreign commerce, as a *broker* at Arlington, Fort Worth, and Houston, Tex., and Conway and Little Rock, Ark., to sell or offer to sell the transportation of *Passengers and their baggage*, in round trip tours, by motor vehicle, or by any combination of transportation, beginning and ending at points in Texas and Arkansas, and extending between points in the United States, including Alaska and Hawaii.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Fort Worth or Dallas, Tex., with further hearing at Little Rock, Ark.

No. MC 130371, filed March 22, 1976. Applicant: HELEN FRANCES CZARNECKI, doing business as HERITAGE TRAVEL AGENCY. Union Square, Putnam, Conn. 06260. Applicant's representative: Arthur S. Kaminsky, 158 Main Street, Putnam, Conn. 06260. Authority sought to engage in operation, in interstate or foreign commerce, as a *broker* at Union Square, Putnam, Conn., to sell or offer to sell the transportation of individual *passengers and groups of passengers and their baggage*, in special and charter operations, including sightseeing and pleasure, in all-expense round trip tours, by air, water, motor, and rail carriers, beginning and ending at points in Windham County, Conn., and extending to points in the United States, including Alaska and Hawaii, and points in Canada.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Hartford, Conn.; Providence, R.I.; or Boston, Mass.

FINANCE APPLICATIONS

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of rail carriers or motor carriers pursuant to Sections 5(2) or 210a(b) of the Interstate Commerce Act.

An original and two copies of protests to the granting of the requested authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protest shall comply with Special Rules 240(c) or 240(d) of the Commission's *General Rules of Practice* (49 CFR § 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant if no representative is named.

No. MC-F-12828. Authority sought for purchase by WALTER A. JUNGE, INC., 3818 SW 84th Street, Tacoma, Washington 98491, of a portion of the operating rights of PENINSULA PRODUCTS, INC., Route 1, Box 143, Scappoose, Oregon 97056, and for acquisition by GARY MCLEAN, 2112 S. 90th Street, Tacoma, WA. 98444, of control of such rights through the purchase. Applicants' attorneys: George R. LaBissoniere, 1100 Norton Building, Seattle, Washington 98104, and David C. White, 2400 SW Fourth Avenue, Portland, Oregon 97201. Operating rights sought to be transferred: *Wine and malt beverages*, except in bulk, as a *contract carrier* over irregular routes from points in California to Bremerton, Wash., with no transportation for compensation on return except as otherwise authorized, with restrictions; *wine*, except in bulk, from points in California to Seattle, Wash., with no transportation for compensation on return except as otherwise authorized, with restrictions. Vendee is authorized to operate as a *contract carrier* in Washington, Oregon, and California. Application has been filed for temporary authority under section 210a (b).

No. MC-F-12830. Authority sought for purchase by SOUTHERN FURNITURE TRANSPORT, INC., 2003 Viscount Row, Orlando, FL. 32809, of a portion of the operating rights of THE FURNITURE TRANSPORT COMPANY, INC., Furniture Row, P.O. Box 392, Milford, CT. 06460, and for acquisition by ANGELO CANTANESI and ROBERT PICCOLO, BOTH of 2003 Viscount Row, Orlando, FL. 32809, of control of such rights through the purchase. Applicants' attorneys: Bruce J. Robbins, One Lefrak City, Plaza, Flushing, N.Y. 11368 and Robert Evans, 261 Bradley St., New Haven, CT. 06507. Operating rights sought to be transferred: *New furniture, as a common carrier* over irregular routes between the southeastern states of Florida, Georgia, and Alabama, on the one hand, and, on the other, the nine northeastern states New York, New Jersey, Pennsylvania, and the six New England states of Maine, New Hampshire, Vermont, Massachusetts, Connecticut, and Rhode Island; *organs* from carrier's facilities at or near Orlando, Florida, and Forest Park, Georgia, to points in Florida, Georgia, and Alabama. Vendee is authorized to operate as a common carrier in Alabama, Connecticut, Delaware, the District of Columbia, Florida, Georgia, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, West Virginia, and Virginia. Application has been filed for temporary authority under section 210a(b).

MOTOR CARRIER ALTERNATE ROUTE DEVIATIONS

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Commission's Deviation Rules—Motor Carriers of Property (49 CFR § 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the 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 this FEDERAL REGISTER notice.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its request.

MOTOR CARRIERS OF PROPERTY

No. MC 33641 (Deviation No. 111) (Correction), filed April 13, 1976, published in the April 29, 1976 issue of the FEDERAL REGISTER, and republished, as corrected, this issue. IML FREIGHT, INC., 2175 So. 3270 West, P.O. Box 30277, Salt Lake City, Utah 84125. The purpose of this republication is to reflect the correct deviation number as Deviation No. 111 in lieu of Deviation No. 110 as previously published in the April 29, 1976 issue of the FEDERAL REGISTER. The rest of the notice remains the same as previously published.

No. MC 1936 (Deviation No. 19), B & P MOTOR EXPRESS, INC., 720 Gross St., Pittsburgh, Pa. 15224, filed April 30, 1976. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Hagerstown, Md., over Interstate Highway 81 to junction U.S. Highway 17, thence over U.S. Highway 17 to junction U.S. Highway 1, 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 Hagerstown, Md., over U.S. Highway 40 to Frederick, Md., thence over Maryland Highway 355 to junction U.S. Highway 240, thence over U.S. Highway 240 to Washington, D.C., thence over U.S. Highway 1 to junction U.S. Highway 17, and return over the same route.

No. MC 76032 (Deviation No. 31), NAVAJO FREIGHT LINES, INC., 1205 S. Platte River Drive, Denver, Colo. 80223, filed April 28, 1976. 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 U.S. Highway 61 and Interstate Highway 40 near Memphis, Tenn., over Interstate Highway 40 to junction Interstate Highway 15 near Barstow, Calif., thence over Interstate Highway 15 to junction Interstate Highway 10 near San Bernardino, Calif., thence over Interstate Highway 10 to Los Angeles, Calif., 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 junction U.S. Highway 61 and Interstate Highway 40 near Memphis, Tenn., over U.S. High-

way 61 to Sikeston, Mo., thence over U.S. Highway 60 to junction U.S. Highway 51, thence over U.S. Highway 51 to Mound City, Ill., thence over Illinois Highway 37 to Boles, Ill., thence over Illinois Highway 146 to Vienna, Ill., thence over U.S. Highway 45 to Norris City, Ill., thence over Illinois Highway 1 to Lawrenceville, Ill., thence over U.S. Highway 50 to St. Louis, Mo., thence over U.S. Highway 40 to Kansas City, Mo., thence over city streets to Kansas City, Kans., thence over Kansas Turnpike to Wichita, Kans., thence over U.S. Highway 54 to Stratford, Okla., thence over U.S. Highway 287 to Amarillo, Tex., thence over U.S. Highway 66 to Los Angeles, Calif., and return over the same route.

No. MC 76032 (Deviation No. 32), NAVAJO FREIGHT LINES, INC., 1205 S. Platte River Drive, Denver, Colo. 80223, filed April 29, 1976. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Memphis, Tenn., over Interstate Highway 40 to Knoxville, Tenn., thence over Interstate Highway 81 to junction Virginia Highway 7 near Winchester, Va., thence over Virginia Highway 7 to junction U.S. Highway 340, thence over U.S. Highway 340 to junction Maryland Highway 180 near Harpers Ferry, W. Va., thence over Maryland Highway 180 to junction Interstate Highway 70, near Frederick, Md., thence over Interstate Highway 70 to Baltimore, Md., thence over Interstate Highway 95 to Philadelphia, Pa., 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 Memphis, Tenn., over U.S. Highway 61 to Sikeston, Mo., thence over U.S. Highway 60 to junction U.S. Highway 51, thence over U.S. Highway 51 to Mound City, Ill., thence over Illinois Highway 37 to West Vienna, Ill., thence over Illinois Highway 146 to Vienna, Ill., thence over U.S. Highway 45 to Norris City, Ill., thence over Illinois Highway 1 to Marshall, Ill., thence over U.S. Highway 40 to Indianapolis, Ind., thence over U.S. Highway 36 to junction Indiana Highway 9, thence over Indiana Highway 9 to Huntington, Ind., thence over U.S. Highway 24 to Fort Wayne, Ind., thence over Indiana Highway 37 to the Indiana-Ohio State line, thence over Ohio Highway 2 via Hicksville, Ohio, to junction U.S. Highway 127 near Bryan, Ohio, thence over U.S. Highway 127 to junction unnumbered highway near Pulaski, Ohio, thence over unnumbered highway to junction Ohio Highway 2, thence over Ohio Highway 2 to Loran, Ohio, thence over Ohio Highway 57 to Elyria, Ohio, thence over unnumbered highway to junction Ohio Highway 57 near La Porte, Ohio, thence over Ohio Highway 57 to Medina, Ohio, thence over Ohio Highway 18 to Akron, Ohio, thence over Ohio Highway 8 to Canton, Ohio, thence over U.S. Highway 30 to junction Pennsylvania Turnpike near Irwin, Pa., thence over Pennsylvania Turnpike to junction U.S. Highway 11, thence over U.S. Highway 11 to Harrisburg, Pa., thence ver U.S. Highway 230 to Lancaster, Pa., thence over U.S. Highway 30 to Dowingtown, Pa., thence over U.S. Highway 322 to junction U.S. Highway 1, thence over U.S. Highway 1 to Philadelphia, Pa., and return over the same routes.

No. MC 111383 (Deviation No. 47), BRASWELL MOTOR FREIGHT LINES, INC., P.O. Box 4447, Dallas, Tex. 75208, filed April 27, 1976. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Waco, Tex., over Texas Highway 31 to Gladewater, Tex., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Waco, Tex., over U.S. Highway 77 to Dallas, Tex., thence over U.S. Highway 80 to Gladewater, Tex., and return over the same route.

No. MC 111383 (Deviation No. 48), BRASWELL MOTOR FREIGHT LINES, INC., P.O. Box 4447, Dallas, Tex. 75208, filed April 27, 1976. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Memphis, Tenn., over Interstate Highway 40 to Nashville, Tenn., thence over Interstate Highway 24 to junction Interstate Highway 59, thence over Interstate Highway 59 to junction Interstate Highway 75, at Chattanooga, Tenn., thence over Interstate Highway 75 to Atlanta, Ga., 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 Memphis, Tenn., over U.S. Highway 51 to Jackson, Miss., thence over U.S. Highway 80 to junction U.S. Highway 11, thence over U.S. Highway 11 to Birmingham, Ala., thence over U.S. Highway 78 to Atlanta, Ga., and return over the same route.

No. MC 111383 (Deviation No. 49), BRASWELL MOTOR FREIGHT LINES, INC., P.O. Box 4447, Dallas, Tex. 75208, filed April 28, 1976. 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 Louisiana Highway 41 and Interstate Highway 59, over Louisiana Highway 41 to junction Louisiana Highway 36, thence over Louisiana Highway 36 to Covington, La., thence over U.S. Highway 190 to junction U.S. Highway 51 near Hammond, La., thence over U.S. Highway 51 to junction Interstate Highway 12, thence over Interstate Highway 12 to Baton Rouge, La., 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 junction Louisiana Highway 41 and Interstate Highway 59 over Interstate Highway 59 to New Orleans, La., thence over U.S. Highway 61 to Baton Rouge, La., and return over the same route.

Motor Carrier Alternate Route Deviations

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Commission's Deviation Rules—Motor Carriers of Passengers (49 CFR § 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the 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 within 30 days from the date of this Federal Register notice.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its request.

Motor Carriers of Passengers

No. MC 45626 (Deviation No. 36), VERMONT TRANSIT CO., INC., 135 St. Paul St., Burlington, Vt. 05401, filed April 28, 1976. 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 a deviation route as follows: From Boston, Mass., over Interstate Highway 93 to junction Interstate Highway 495 at Andover, Mass., thence over Interstate Highway 495 to junction U.S. Highway 3 at North Chelmsford, Mass., and return over the same route 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 Boston, Mass., over U.S. Highway 3 to junction Massachusetts Highway 3A, thence over Massachusetts Highway 3A to North Chelmsford, Mass., and return over the same route.

By the Commission.

[SEAL] Robert L. Oswald,
Secretary.

[FR Doc.76-13802 Filed 5-12-76;8:45 am]

[Notice No. 45]

ASSIGNMENT OF HEARINGS

May 10, 1976.

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.

AB 31 (Sub 2), Grand Trunk Western Railroad Company Abandonment Between Marne and Grand Haven, Ottawa County, Michigan now assigned June 8, 1976 (2 days) at Coopersville, Michigan and will be held in City Council Chambers, 2nd Floor, City Hall, 289 Danforth.

MC 139495 (Sub 95), National Carriers, Inc. now assigned June 11, 1976 (1 day) at Chicago, Illinois and will be held in Room 286, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC-F 12440, M & M Transportation Company — Purchase (Portion) — Nelson Freightways, Inc. now assigned June 8, 1976 (9 days) at Boston, Massachusetts and will be held on the Fifth Floor, 150 Causeway.

MC-F 12700, Robert B. Schilli—Control—Keightley Bros., Inc. now assigned June 9, 1976 (3 days) at St. Louis, Missouri and will be held in Court Room 3, 5th Floor, U.S. Court & Custom House, 1114 Market Street.

MC 136469 (Sub 1), Broughton's Trucking Co., Inc. now assigned June 14, 1976 (5 days) at Boston, Massachusetts and will be held on the 13th Floor, U.S. Tax Court, U.S. Customs House, 2 India Street.

I&S M 28972, Increased Bus Fares, Rockland Coaches, Inc. now assigned June 14, 1976 (1 week) at New York, New York and will be held in Tax Court Room No. 208, 26 Federal Plaza.

MC 71043 (Sub 9), Laporte Transit Co., Inc. now assigned June 7, 1976 (2 weeks) at Indianapolis, Indiana and will be held in Room 288, Tax Court, 2nd Floor, Federal Building & Courthouse, 46 East Ohio Street.

MC 76032 (Sub 312), Navajo Freight Lines, Inc. now assigned July 26, 1976 (2 weeks) at Phoenix, Arizona and will be held at the Adams Hotel, Central and Adams Street.

MC 130253 (Sub 1), Douglas Patrick Stoffers and Michael J. O'Meara, now assigned June 8, 1976 (3 days) at Madison, Wisconsin and will be held in Room 468, Wisconsin Public Service Commission, Hill Farm State Office Building, 4802 Sheboygan Avenue.

MC 141162, Markay Trucking Company, Inc. now assigned June 7, 1976 (1 week) at New York, New York and will be held in Room 31C-6, 31st Floor, 2 World Trade Center.

MC 140917, James E. Young, now assigned June 2, 1976 (3 days) at Dover, Delaware and will be held in Kent Count Levy Court, Conference Room Court House, The Green.

MC 105813 (Sub 205), Belford Trucking Co. now assigned June 7, 1976 (2 days) at New York, New York and will be held in Court of Claims, Court Room A-238, 26 Federal Plaza.

MC 139495 (Sub 97), National Carriers, Inc. now assigned June 9, 1976 (3 days) at New York, New York and will be held in Court of Claims, Court Room A-238, 26 Federal Plaza.

MC 69623 Sub 3, Central West Motor Stages, Inc., now assigned June 7, 1976, at Chicago, Ill., is postponed to October 18, 1976, (1 week), at Chicago, Ill. in a hearing room to be later designated.

MC 124887 (Sub-No. 15), Shelton Trucking Service, Inc., now assigned June 3, 1976, at Washington, D.C., is canceled and application dismissed.

MC 117956 (Sub-No. 10), Scott Transfer Co., Inc., now assigned June 9, 1976, at Washington, D.C. is postponed indefinitely.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.76-14033 Filed 5-12-76;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

MAY 10, 1976.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

FSA No. 43160—*Paper and Paper Articles from, to, and Between Points in Southweestern Territory.* Filed by Southwestern Freight Bureau, Agent, (No. B-598), for interested rail carriers. Rates on paper and paper articles, in carloads, as described in the application, between points in eastern territory and points in southwestern territory, from points in eastern and southern territories, also Canada, to points in southwestern territory; also between points in southwestern territory, including Mississippi River crossings, Memphis, Tennessee and south; from points in southwestern territory to points in western trunkline territory, also from points in Louisiana and Texas, to Rio Grande crossings for export.

Grounds for relief—Revision of rate structure.

Tariffs—Supplements 91, 65, and 130 to Southwestern Freight Bureau, Agent, tariffs 281-I, 306-F, and SW/E-2005-J, I.C.C. Nos. 5047, 5104, and 5049, respectively. Rates are published to become effective on June 10, 1976.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.76-14032 Filed 5-12-76;8:45 am]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

[Notice No. 246]

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) 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.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission within 30-days after the date of this publication. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-FC-76462, filed April 29, 1976. Transferee: MICHAEL R. BELL, doing business as NICHOLS MOTOR EXPRESS, RFD #1, Cape Vincent, New York 13618. Transferor: STANLEY L. MAYNE, doing business as NICHOLS MOTOR EXPRESS, 1380 Sherman Street, Watertown, New York 13601. Applicants' representative: Alfred J. Morehead, Attorney at Law, 2601 Lodi Street, Syracuse, New York 13208. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC-48901 and Certificate of Registration No. MC-48901 (Sub-No. 3), both issued June 4, 1968, as follows: The former general commodities, with exceptions, over regular routes, between Watertown, N.Y. and Cape Vincent, N.Y., serving all intermediate points and off-route points of Rosiere and Sand Bay, N.Y.; and the latter evidencing a right to engage in transportation in interstate or foreign commerce solely within the State of New York corresponding in scope to the service authorized by certificate No. 1168 dated February 28, 1961, issued by the New Public Service Commission. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 206a(b).

No. MC-FC-76479, filed April 16, 1976. Transferee: WESTERN HYWAY DISTRIBUTING, INC., 2700 Wear Road, Bakersfield, Calif. 93302. Transferor: LA SALLE TRUCKING COMPANY, A Corporation, 690 Anita Street, Chula Vista, Calif. 92011. Applicants' representative: Donald Murchison, Esq., 9454 Wilshire Blvd., Suite 400, Beverly Hills, Calif.

90212. Authority sought for purchase by transferee of a portion of the operating rights of transferor, as set forth in Certificate No. MC–109126 (Sub-No. 12), issued March 2, 1971, as follows: petroleum products, in bulk, in tank vehicles, between points in San Louis Obispo, Kings, Tulare, Inyo, Santa Barbara, Ventura, Kern, and Fresno within 50 miles of Lone Pine Counties, Calif.; and between points in the above described counties, on the one hand, and, on the other Los Angeles County, Calif. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–76493, filed April 26, 1976. Transferee: CLARA L. MARTIN, doing business as MARTIN TRUCKING, Box 219B, Route 1, Sullivan, Wis. 53178. Transferor: JEROME J. MARTIN, doing business as JEROME TRUCKING, Box 219B, Route 1, Sullivan, Wis. 53178. Applicants' representative: David V. Purcell, Attorney at Law, 111 East Wisconsin Avenue, Milwaukee, Wis. 53202. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permit No. MC–136444 (Sub-No. 2), issued March 2, 1972, as follows: Aluminum and steel building materials, and accessories, materials, and supplies thereof, and sample and display materials, thereof, from Ixonia, Wis., to Elk Grove Village and Joliet, Ill., and from Elk Grove Village, Ill., to Lake Mills and Wilwaukee, Wis.; and returned shipments and materials, equipment, and supplies used in the manufacture or processing of the above-named commodities, from the above-indicated destination points, to the above-indicated origin points. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–76527, filed April 20, 1976. Transferee: BOSTONIAN WORLDWIDE MOVERS, INC., Route 1, Walpole Industrial Park, Walpole, Mass. 02081. Transferor: GEORGE O. SLATER, INC., 70 Crafts Street, Newton, Mass. 02160. Applicants' representatives: Frank J. Weiner, Attorney for transferor, 15 Court Square, Boston, Mass. 02108. Kenneth L. Phalan, Attorney for transferee, 11 Beacon Street, Boston, Mass. 02108. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC–45362 (Sub-No. 1), issued November 14, 1973, as follows: Household goods, as defined by the Commission, between points in Massachusetts, on the one hand, and, on the other, points in Connecticut, Delaware, Maryland, New Jersey, New York, Pennsylvania, and the District of Columbia. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–76528, filed April 20, 1976. Transferee: I. E. MILLER & SONS, INC., P.O. Box 495, 151 North Seventh Street, Eunice, La. 70535. Transferor: HELENA CHRIST MILLER, IVAN MILLER, IVIE HENRY MILLER, IRA MILLER, ALLEN GUS MILLER, INA MILLER WAFER, NETTIE MILLER, HELEN MILLER DeROSIER, LILLIAN MILLER MEAUX, IRENE MILLER PETERSON, and JOYCE MILLER McCAULEY, doing business as I. E. Miller & Sons, P.O. Box 495, 151 North Seventh Street, Eunice, La. 70535. Applicant's representative: Aaron Frank McGee, Attorney at Law, P.O. Box 151, Eunice, La. 70535. Authority sought for purchase by transferee of Certificate of Registration No. MC–96840 (Sub-No. 1), issued October 22, 1963, to transferor evidencing a right to engage in transportation in interstate commerce as described in certificate No. 5021–B dated July 26, 1957, issued by the Louisiana Public Service Commission. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–76551, filed April 29, 1976. Transferee: THREE-B FREIGHT SERVICE, INC., 3973 Riverside Drive, Chino, California 91710. Transferor: AZTEC TRANSPORTATION CO., INC., c/o San Diego Wholesale Credit Mens Assn., 110 W. "C" Street, San Diego, California 92101. Applicant's attorney: Milton W. Flack, 4311 Wilshire Boulevard, Los Angeles, California 90010. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate No. MC–120575 (Sub-No. 3), issued July 17, 1974, as follows: General commodities, over regular routes, between Borrego Springs, Calif., and San Diego, Calif., serving all intermediate points, over specified highways; and between Julian, Calif., and San Diego, Calif., as an alternate route for operating convenience only, in connection with carrier's authorized regular-route operations, serving no intermediate points, over specified highways; and general commodities, with specified exceptions, over irregular routes, between specified points in California. Transferee is presently authorized to operate as a common carrier under Certificate of Registration No. MC–126944. Application has been filed for temporary authority under Section 210a(b).

No. MC–FC–76572, filed May 5, 1976. Transferee: AMERICAN VAN LINES, INC., 5330 Winner Road, Kansas City, MO 64127. Transferor: CARRIER VAN SERVICE, INC., 3041 Paseo, Kansas City, MO 64109. Applicants' representative: Donald J. Quinn, Attorney-at-Law, Suite 900, 1012 Baltimore Ave., Kansas City, MO 94105. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC–103967 (Sub-No. 1), issued September 15, 1971, as follows: Household goods as defined by the Commission, between Kansas City, Mo., and points within 25 miles of Kansas City, on the one hand, and, on the other, points in Kansas, Nebraska, Iowa, Missouri, and Illinois. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

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

[FR Doc.76–14030 Filed 5–12–76;8:45 am]

[Notice No. 247]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

MAY 13, 1976.

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to Sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 C.F.R. Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before June 2, 1976. 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–76344. By supplemental order of April 29, 1976, The Motor Carrier Board approved the transfer to Smart Transportation Company, a corporation, Beaumont, Texas, of the operating rights in Permit No. MC–135435 (Sub-No. 2) issued March 3, 1976, to Dale Smart, doing business as Dale Smart Trucking, Beaumont, Texas, authorizing the transportation of forgings from Beaumont and Houston, Tex. to points in Illinois. Jerry Prestridge, Capital National Bank Bldg., Austin, Tex., 78767 Attorney for applicants.

No. MC–FC–76389. By order of May 7, 1976 the Motor Carrier Board approved the transfer to Jim Nagle's Truck Parts and Sales, Inc., Duncansville, Pa., of the operating rights in Certificate No. MC–133439 issued January 12, 1970 to Robert Garlock, doing business as Garlock's Body Shop, McConnellsburg, Pa., authorizing the transportation of wrecked, disabled, and repossessed motor vehicles and replacement vehicles, with certain exceptions, between points in Fulton, Franklin, and Bedford Counties, Pa. and between points in Illinois, Indiana, Maryland, New Jersey, Ohio, Pennsylvania, Virginia, West Virginia, and the District of Columbia. Frederick B. Gieg, Jr., 435 Central Trust Bldg., Altoona, Pa., 16603 Attorney for applicants.

No. MC–FC–76440. By order of May 7, 1976, the Motor Carrier Board approved the transfer to Chippewa Yellow Bus Co., Inc., 515 Roland St., Chippewa Falls, Wisc. 54729, of a portion of the operating rights in Certificate No. MC 135552

(Sub-No. 1), issued March 5, 1974, to Allied Underwriters, Inc., doing business as Scenic Trails, 1807 Jackson St., La Crosse, Wisc. 54601, authorizing the transportation of passengers and their baggage, and express and newspapers in the same vehicle with passengers, over regular routes, between Eau Claire, Wisc., and Ladysmith, Wisc., serving all intermediate points, subject to certain restrictions.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.76-14031 Filed 5-12-76;8:45 am]

[Notice No. 61]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 C.F.R. § 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the I.C.C. Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 1239 (Sub-No. 6TA), filed April 29, 1976. Applicant: PONY TRUCKING, INC., 501 State Route 7, Steubenville, Ohio 43952. Applicant's representative: Maxwell A. Howell, 1100 Investment Bldg., 1511 K St., N.W., Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Titanium and titanium products and materials and supplies* used in the production and manufacture thereof, between the plantsite of Titanium Corporation of America, at or near Toronto, Ohio, on the one hand, and, on the other, points in the United States. Restriction: The operations herein authorized are limited to a transportation service to be performed under a continuing contract with Titanium Metals Corporation of America, for 180 days. Supporting shipper: Titanium Metals Corporation of America, Toronto, Ohio. Send protests to: Joseph A. Niggemyer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 416 Old Post Office Bldg., Wheeling, W. Va. 26003.

No. MC 52574 (Sub-No. 51TA), filed April 30, 1976. Applicant: ELIZABETH FREIGHT FORWARDING CORP., 120 South 20th St., Irvington, N.J. 07111. Applicant's representative: Edward F. Bower, 744 Broad St., Newark, N.J. 07102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Bakery products*, from Irvington and Wayne, N.J., to Altoona and Pittsburgh, Pa.; and (2) *Bakery products*, from Totowa, N.J., to Easton and Hagerstown, Md.; Cleveland and Youngstown, Ohio; Boiling Springs, Pa., and Norfolk, Va., under a continuing contract with S. B. Thomas Inc., and Drake Bakeries Inc., for 180 days. Supporting shippers: S. B. Thomas Inc., 930 North Riverview Drive, Totowa, N.J. and Drake Bakeries, Inc., Div. of Borden Inc., 75 Demarest Drive, Wayne, N.J. Send protests to: Robert S. H. Vance, District Supervisor, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102.

No. MC 52579 (Sub-No. 153TA), filed April 29, 1976. Applicant: GILBERT CARRIER CORP., 1 Gilbert Drive, Secaucus, N.J. 07094. Applicant's representative: Fred L. Cardascia (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel*, on hangers, from San Antonio, Tex., to Little Rock, Ark., for 180 days. Supporting shipper: Santone Industries, Inc., 6818 S. Zarzamora St., San Antonio, Tex. 78221. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102.

No. MC 64932 (Sub-No. 560TA), filed April 28, 1976. Applicant: ROGERS CARTAGE CO., 10735 S. Cicero Ave., Oak Lawn, Ill. 60453. Applicant's representative: William F. Farrell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Therminol*, in bulk, in tank vehicles; (2) *Reclaimed therminol*, in bulk, in tank vehicles; (1) From the facilities of Findett Services, Inc., at St. Charles, Mo., to the facilities of Goodyear Tire & Rubber Co., at Pt. Pleasant, W. Va., and (2) from the facilities of Goodyear Tire & Rubber Co., at Pt. Pleasant, W. Va., to the facilities of Findett Services, at St. Charles, Mo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Findett Corporation, Milton A. Tegethoff, President, R. R. #1, Box 13, St. Charles, Mo. 63301. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1086, Chicago, Ill. 60604.

No. MC 103051 (Sub-No. 351TA), filed April 29, 1976. Applicant: FLEET TRANSPORT COMPANY, INC., 934 44th Ave., South, Nashville, Tenn. 37209. Applicant's representative: William G. North (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn products and blends containing corn products* (except corn oil, feed products, and blends containing corn oil or feed products), in bulk, from the plantsite or warehouse facility of Cargill, Inc., at or near Memphis, Tenn., to points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, and Texas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Cargill, Incorporated, P.O. Box 13368, Memphis, Tenn. 38113. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422 U.S. Courthouse, 801 Broadway, Nashville, Tenn. 37203.

No. MC 107496 (Sub-No. 1029TA), filed April 30, 1976. Applicant: RUAN TRANSPORT CORPORATION, 3200 Ruan Center, Des Moines, Iowa 50309. Applicant's representative: E. Check (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer*, in bulk, in tank vehicles, from Whiting, Iowa, to points in Nebraska, South Dakota, and Minnesota, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Chevron Chemical Company, Fort Madison, Iowa 52627. Send protests to: Herbert W. Allen, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 107743 (Sub-No. 44TA), filed April 29, 1976. Applicant: SYSTEM TRANSPORT, INC., E. 11707 Montgomery, P.O. Box 3456A, Spokane, Wash. 99220. Applicant's representative: S. J. Cully, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel flats, shapes, angles, bars, beams, sheets, tubing, and coils;* (1) from Beaver Falls, Sharon, and Aliquippa, Pa.; Youngstown, Cleveland, Warren, Shelby, Massillon, Canton, Elyria, and Lorain, Ohio; South Lyon and Detroit, Mich.; and Winnimac, Ind., to Azuza, City of Commerce, Los Angeles, Martenez, Richmond, Stockton, Fresno, Orange, San Francisco, Oxnard, Vernon, Hayward, Willetts, Compton, City of Industry, San Leandro, and San Diego, Calif.; Portland, Klamath Falls, and Eugene, Oreg.; Vancouver, Seattle,

Auburn, Kent, and Euphrata, Wash.; Sparks and Reno, Nev.; and (2) from Chicago, Ill., and Hammond, Ind., to Seattle, Auburn, Kent, Spokane, and Vancouver, Wash.; Portland, Eugene and Klamath Falls, Oreg., for 180 days. Supporting shippers: There are approximately 10 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Bldg., 915 Second Ave., Seattle, Wash. 98174.

No. MC 114533 (Sub-No. 339TA), filed April 29, 1976. Applicant: BANKERS DISPATCH CORPORATION, 1106 W. 35th St., Chicago, Ill. 60609. Applicant's representative: Paul R. Bergant (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Exposed and processed film and prints, complimentary replacement film and incidental dealer handling supplies* (except motion picture film and materials and supplies used in connection with commercial and television motion pictures), *and audit media and other business records*, between Hastings, Minn., on the one hand, and, on the other, Minneapolis and St. Paul, Minn., restricted to shipments having a prior or subsequent movement by air, for 180 days. Supporting shipper: Western Film Services Corporation, Donald G. Gill, Plant Manager, 460 Spiral Blvd., Hastings, Minn. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1086, Chicago, Ill. 60604.

No. MC 116073 (Sub-No. 320TA), filed April 29, 1976. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., 1825 Main Ave., P.O. Box 919, Moorhead, Minn. 56560. Applicant's representative: John C. Barrett (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, *and buildings*, from the plantsite of Kit Manufacturing Company, at Caldwell, Idaho, to points in Alaska, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming, for 180 days. Supporting shipper: Kit Manufacturing Company, P.O. Box 250, Caldwell, Idaho 83605. Send protests to: J. H. Ambs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 116866 (Sub-No. 1TA), filed April 28, 1976. Applicant: PAT'S TOW SERVICE INC., 76 Pearl St., Cambridge, Mass. 02139. Applicant's representative: James E. Mahoney, 84 State St., Boston, Mass. 02109. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Storage trailers and office trailers*, between points in Massachusetts, on the one hand, and, on the other, points in Maine, New Hampshire, Vermont, Rhode Island, Connecticut, New York, New Jersey, and Pennsylvania, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Space Rentals Inc., 123 Corporation Way, Medford, Mass. 02155. Send protests to: Darrell W. Hammons, District Supervisor, Interstate Commerce Commission, 150 Causeway St., Room 501, Boston, Mass. 02114.

No. MC 124078 (Sub-No. 685TA), filed April 30, 1976. Applicant: SCHWERMAN TRUCKING COMPANY, 611 South 28 St., Milwaukee, Wis. 53215. Applicant's representative: Richard H. Prevette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum rock*, in bulk, in tank vehicles, from Jacksonville, Fla., to Clinchfield, Ga., for 180 days. Supporting shipper: Medusa Cement Company, P.O. Box 5668, Cleveland, Ohio 44101. Send protests to: John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells St., Room 807, Milwaukee, Wis. 53203.

No. MC 124328 (Sub-No. 99TA), filed April 28, 1976. Applicant: BRINK'S INCORPORATED, 1 Crossroads of Commerce, Rolling Meadows, Ill. 60008. Applicant's representative: Chandler L. van Orman, 704 Southern Bldg., Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Silver bullion*, from Laredo, Tex., to New York, N.Y., and Chicago, Ill., under a continuing contract with Exim, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Exim, Inc., R. R. Haller, President, 4545 Bellaire Drive South, Fort Worth, Tex. 76109. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1086, Chicago, Ill. 60604.

No. MC 128831 (Sub-No. 9TA), filed April 28, 1976. Applicant: DIXON RAPID TRANSFER, INC., Rt. 65 East, Mt. Morris, Ill. 61054. Applicant's representative: Robert H. Levy, 29 S. La Salle St., Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe and duct* used in heating, cooling, A/C and *exhaust systems, materials and supplies* used in the installation thereof and building *construction wall sections and accessories and* parts used in the installation thereof, from the plantsite of United Steel Metal Division of United McGill Corp., at Westerville, Ohio, to points in Nebraska, Indiana, Iowa, Michigan, Missouri, Minnesota, and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: United Sheet Metal, Harry L. Keebaugh, Traffic Manager, 200 E. Broadway St., Westerville, Ohio 43081. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everette McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1086, Chicago, Ill. 60604.

No. MC 129387 (Sub-No. 25TA), filed April 30, 1976. Applicant: BILL PAYNE, doing business as BILL PAYNE TRUCKING COMPANY, P.O. Box 1271, Huron, S. Dak. 57350. Applicant's representative: Tomothy R. Stivers, P.O. Box 162 Boise, Idaho 83701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh meats*, from the facilities of Columbia Foods, Inc., at or near Wallula, Wash., to points in Connecticut, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, and Washington, D.C., and the commercial zone thereof, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Columbia Foods, Inc., Dirk Martin, Transportation Manager, P.O. Box 926, Pasco, Wash. 99301. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369, Federal Bldg., Pierre, S. Dak. 57501.

No. MC 136464 (Sub-No. 24TA), filed April 30, 1976. Applicant: CAROLINA WESTERN EXPRESS, INC., 650 Eastwood Drive, P.O. Box 3961, Gastonia, N.C. 28050. Applicant's representative: Eric Meierhoefer, 303 N. Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Textiles and textile products*, from the facilities of Burlington Industries, Inc., located at or near Memphis, Tenn., and Cramerton, N.C., to points in Washington and Oregon, under a continuing contract with Burlington Industries, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper. Burlington Industries, Inc., Box 691, Burlington, N.C. 27215. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Road, Room CC516, Mart Office Bldg., Charlotte, N.C. 28205.

No. MC 138329 (Sub-No. 3TA), filed April 28, 1976. Applicant: REDWAY CARRIERS, INC., 411 Eleventh St., P.O. Box 104, Waukegan, Ill. 60064. Applicant's representative: Paul J. Maton, 10 S. La Salle St., Suite 1620, Chicago, Ill. 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Food products*, dry or liquid, in containers; *materials and supplies* incidental to, and used in, the processing, canning, and bottling of said food products; between the plantsites and warehouse facilities of Ocean Spray Cranberries, Inc., Kenosha County, Wis., and North Chicago, Ill., and points in Indiana, Ohio, Kentucky, Tennessee, Illinois, Missouri on and east of U.S. Highway 65 (except Springfield, Mo.), Georgia, Mississippi, Alabama, and Louisiana, under a continuing contract

with Ocean Spray Cranberries, Inc., for 180 days. Supporting shipper: Ocean Spray Cranberries, Inc., Florence Quick, Traffic Manager, 7800 S. 60th Ave., Kenosha, Wis. 53140. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, 219 S. Dearborn St., Room 1086, Chicago, Ill. 60604.

No. MC 140869 (Sub-No. 3TA), filed April 30, 1976. Applicant: KERRI TRUCKING, INC., 162 Closter Dock Road, Closter, N.J. 07624. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Prepared edible flour and bread crumbs* (except in bulk), from Queens, N.Y., to points in Ohio, Indiana, Connecticut, Massachusetts, Rhode Island, New Hampshire, Vermont, Maine, and Louisville, Ky., under a continuing contract with Modern Maid Food Products, Inc., for 180 days. Supporting shipper: Modern Maid Food Products, Inc., 200 Garden City Plaza, Garden City, N.Y. 11530. Send protests to: Joel Morrows, District Supervisor, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102.

No. MC 141546 (Sub-No. 9TA), filed April 30, 1976. Applicant: BULK TRANSPORT SERVICE, INC., 1 Dundee Park, Andover, Mass. 01810. Applicant's representative: Edward J. Smith (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry cement*, in bulk, in tank trucks, from the plantsite of Marquette Cement Manufacturing Company, in Providence, R.I., to points in Massachusetts, Connecticut, New Hampshire, and Maine, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Marquette Cement Manufacturing Co., 2200 First American Center, Nashville, Tenn. 37238. Send protests to: Max Gorenstein, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 150 Causeway St., Boston, Mass. 02114.

No. MC 141570 (Sub-No. 3TA), filed April 29, 1976. Applicant: ELECTRONICS TRANSPORT, INC., 3213 Eighth Ave. North, P.O. Box 31103, Birmingham, Ala. 35222. Applicant's representative: M. Craig Massey, 202 East Walnut St., P.O. Drawer J, Lakeland, Fla. 33802. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Copying machines, and parts, materials, and supplies, used in the manufacture, installation, or sale or such commodities*, between Mobile, Ala., on the one hand, and, on the other, points in Florida, west of the Apalachicola River and points in Mississippi on and south of U.S. Highway 80, under a continuing contract with Xerox Corporation, for 180 days. Supporting shipper: Xerox Corporation, 816 111th St., Arlington, Tex. 76011. Send protests to: Clifford W. White, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1616, 2121 Bldg., Birmingham, Ala. 35203.

No. MC 141610 (Sub-No. 3TA), filed April 26, 1976. Applicant: WASHINGTON TRANSPORTATION COMPANY, 3305 Highway 192, Omaha, Nebr. 68104. Applicant's representative: Edward A. O'Donnell, 1004 29th St., Sioux City, Iowa 51104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Madison and Omaha, Nebr., and Sioux City, Iowa, to Albany, Brooklyn, Buffalo, Maspeth, Schenectady, Syracuse, and Yonkers, N.Y.; Baltimore, Md.; Boston and Chelsea, Mass.; Cheshire, Hartford, and South Windsor, Conn.; Chicago and Rockford, Ill.; Cleveland and Toledo, Ohio; Detroit, Mich.; Jersey City, South Hackensack, South Plainfield, and Woodbridge, N.J.; Media, Milton, New Castle, Philadelphia, Pittsburgh, and Wawa, Pa.; and Portland, Maine, restricted to a transportation service to be performed under a continuing contract or contracts with Cudahy Foods Co., for 180 days. Supporting shipper: Cudahy Foods Co., J. T. Ferguson, Transportation Manager—Northern Region, 5115 South 33rd St., Omaha, Nebr. 68107. Send protests to: Carroll Russell, District Supervisor, Suite 620, 110 North 14th St., Omaha, Nebr. 68102.

No. MC 141803 (Sub-No. 1TA), filed April 30, 1976. Applicant: KENNETH W. FREEMAN, doing business as EAGLE TRANSPORT, P.O. Box 28, Haines, Alaska 99827. Applicant's representative: L. B. Jacobson, 123 Seward St., P.O. Box 1211, Juneau, Alaska 99802. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, including those requiring special equipment, mobile homes and modular units requiring the use of pintle hitch (except articles of unusual value, Classes A and B explosives, livestock and commodities in bulk), for 180 days. Supporting shippers: There are approximately 9 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Hugh H. Chaffee, Interstate Commerce Commission, P.O. Box 1532, Anchorage, Alaska 99510.

No. MC 142014TA, filed April 29, 1976. Applicant: JOE BRAND, INC., 601 N. Portland, Oklahoma City, Okla. 73107. Applicant's representative: Rufus H. Lawson, Suite 106, Baxler Bldg., Oklahoma City, Okla. 73107. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Butter*, in packages and/or containers, in refrigerated equipment, with multiple stops-in-transit, from the plantsite of Wilsey-Bennett Company of Oklahoma, Inc., to points in Alabama, Arizona, California, Florida, Georgia, Louisiana, New Mexico, Mississippi, and Texas, under a continuing contract with Wilsey-Bennett Company of Oklahoma, Inc., for 180 days. Supporting shipper: Wilsey-Bennett Company of Oklahoma, Inc., 3949 NW. 36th St., Oklahoma City, Okla. 73112. Send protests to: Joe Green, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240 Old Post Office and Courthouse, 215 NW. 3rd St., Oklahoma City, Okla. 73102.

No. MC 142015TA filed April 29, 1976. Applicant: PERISHABLES TRANSPORT INCORPORATED, 1220 East 23rd St., Fremont, Nebr. 68025. Applicant's representative: Frank S. Maple (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and storage facilities utilized by Spencer Foods, Inc., at or near Schuyler and Fremont, Nebr., to points in Massachusetts, New Jersey, New York, and Pennsylvania. Applicant proposes to interline traffic destined for Canada at ports of entry at or near Buffalo, N.Y., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Bill D. Gardner, Corporate Traffic Manager, Spencer Foods, Inc., P.O. Box 1228, Spencer, Iowa 51301. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th St., Omaha, Nebr. 68102.

No. MC 142016TA, filed April 29, 1976. Applicant: DRIVERS POOL INC., doing business as ARCTIC FREIGHTWAYS, P.O. Box 72, 545 W. 23rd St., Fremont, Nebr. 68025. Applicant's representative: Edward J. Baugh (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by-products and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and storage facilities utilized by Spencer Foods, Inc., at or near Schuyler and Fremont, Nebr., to points in Massachusetts, New Jersey, New York, and Pennsylvania. Applicant proposes to interline traffic destined for Canada at ports of entry at or near Buffalo, N.Y., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Bill D. Gardner, Corporate Traffic

Manager, Spencer Foods, Inc., P.O. Box 1228, Spencer, Iowa 51301. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th St., Omaha, Nebr. 68102.

By the Commission.

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

[FR Doc.76-14028 Filed 5-12-76;8:45 am]

[Amdt. No. 1 to I.C.C. Order No. 167 Under Revised S.O. No. 994]

BURLINGTON NORTHERN, INC., AND CANADIAN NATIONAL RAILWAYS

Rerouting Traffic

Upon further consideration of I.C.C. Order No. 167 (BN and CN), and good cause appearing therefor:

It is ordered, That: I.C.C. Order No. 167 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., May 17, 1976, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., May 10, 1976, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., May 6, 1976.

INTERSTATE COMMERCE COMMISSION,
[SEAL] LEWIS R. TEEPLE, *Agent.*

[FR Doc. 76-14029 Filed 5-12-76;8:45 am]

DEPARTMENT OF AGRICULTURE

Forest Service

HERBICIDE USE ON NATIONAL FORESTS OF ALASKA

Notice of Availability of Environmental Statement Final Addendum

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared an environmental statement final addendum on Herbicide Use on National Forests of Alaska, USDA-FS-FES(Adm)R-10-75-03.

This environmental statement final addendum concerns proposed herbicide use on road, railroad, and powerline rights-of-way on the Tongass and Chugach National Forests in Alaska during 1976.

This environmental statement final addendum was transmitted to the CEQ on May 5, 1976.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3231, 12th St. and Independence Ave., S.W., Washington, D.C. 20250.

U.S. Department of Agriculture, Forest Service—Alaska Region, Federal Building, Juneau, Alaska 99802.

Forest Supervisor, Chugach National Forest, 121 W. Fireweed Lane, Suite 205, Anchorage, Alaska 99503.

Forest Supervisor, Chatham Area, Tongass National Forest, Lloyd Center Building, Sitka, Alaska 99835.

Forest Supervisor, Stikine Area, Tongass National Forest, Federal Building, Petersburg, Alaska 99833.

Forest Supervisor, Ketchikan Area, Tongass National Forest Federal Building, Room 313, Ketchikan, Alaska 99901.

A limited number of single copies are available upon request to Regional Forester John A. Sandor, U.S. Forest Service, Federal Office Building, Juneau, Alaska 99802.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

JOHN A. SANDOR, *Regional Forester, Alaska Region.*

MAY 5, 1976.

[FR Doc.76-13845 Filed 5-12-76;8:45 am]

MULTIPLE USE PLAN BIG HOLE PLANNING UNIT

Notice of Availability of Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Multiple Use Plan Big Hole Planning Unit, USDA-FS-R1(16)DES-Adm-76-17.

The environmental statement concerns a proposed action to implement a revised Multiple Use Plan for the Big Hole Planning Unit, located on the Plains and Thompson Falls Ranger Districts, Lolo National Forest in Sanders County, Montana. The action affects 39,090 acres of National Forest Land. The plan recommends that 20,960 acres be managed in various combinations for recreation, esthetics, fisheries, wildlife, watershed, timber and range. An area of 18,130 acres which will remain unroaded will be managed for recreation, esthetics, wildlife, and watershed.

The primary environmental effects involve the modification of natural conditions on 9,750 acres that are presently roadless. The major changes will be in the vegetative patterns and tree species resulting from management of the vegetative resources; the availability of products, employment, and services provided; and in the natural condition of vegetation, soil, water, and wildlife.

This draft environmental statement was transmitted to CEQ on May 7, 1976. Copies are available for inspection during regular working hours at the following locations.

USDA, Forest Service, South Agriculture Bldg., Room 3230, 12th St., and Independence Ave. SW., Washington, D.C. 20250.

USDA, Forest Service, Northern Region, Federal Building, 340 N. Pattee, Missoula, MT 59801.

USDA, Forest Service, Lolo National Forest, Building 24, Fort Missoula, Missoula, MT 59801.

USDA, Forest Service, Thompson Falls Ranger District, Thompson Falls, MT 59873.

USDA, Forest Service, Plains Ranger District, Plains, MT 59859.

University of Montana, Forestry School Library, Room 411, Science Complex, Missoula, MT 59801.

Missoula City—County Library, Washington and East Main, Missoula, MT 59801.

A limited number of single copies are available upon request to Orville L. Daniels, Forest Supervisor, Lolo National Forest, Building 24, Fort Missoula, Missoula, Montana 59801.

Copies of the environmental statement have been sent to various federal, state and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public and from the State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor, Orville L. Daniels, Lolo National Forest, Building 24, Fort Missoula, Missoula, Montana 59801.

Comments must be received by July 7, 1976, in order to be considered in the preparation of the Big Hole final environmental statement.

ORVILLE L. DANIELS, *Forest Supervisor.*

MAY 7, 1976.

[FR Doc.76-14006 Filed 5-12-76;8:45 am]

KANCAMAGUS UNIT PLAN WHITE MOUNTAIN NATIONAL FOREST

Notice of Availability of Final Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement on the Kancamagus Unit Plan for the White Mountain National Forest, USDA-FS-R9-FES-(ADM)-76-01.

The environmental statement concerns a proposed land use plan for 105,000 acres of Forest Service land located on the White Mountain National Forest in Carroll and Grafton Counties in the State of New Hampshire.

This final environmental statement was transmitted to CEQ on May 5, 1976.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3231, 12th St. and Independence Ave. SW., Washington, D.C. 20250.

USDA, Forest Service, Eastern Region, 633 West Wisconsin Ave., Milwaukee, Wis. 53203.

USDA, Forest Service, White Mountain National Forest, Federal Building, 719 Main St., P.O. Box 638, Laconia, N.H. 03246.

A limited number of single copies are available upon request to Forest Supervisor, White Mountain National Forest, Federal Building, 719 Main Street, P.O. Box 638, Laconia, New Hampshire 03246.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ Guidelines.

CURTIS L. SMITH,
Acting Regional Forester.

MAY 5, 1976.

[FR Doc.76-14007 Filed 5-12-76;8:45 am]

Soil Conservation Service

CROOKED CREEK WATERSHED, ALABAMA

Notice of Availability of Negative Declaration

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for a portion of Crooked Creek Watershed, Clay and Randolph Counties, Alabama.

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

The project concerns a plan for watershed protection and flood prevention. The planned works of improvement as described in the negative declaration, incude conservation land treatment supplemented by floodwater retarding structure no. 17 and recreational facilities adjacent to multiple-purpose structure no. 2.

The negative declaration is being filed with the Council on Environmental Quality and copies are being sent to various federal, state, and local agencies. The basic data developed during the environmental assessment is on file and may be reviewed by interested parties at the Soil Conservation Service, 128 South Gay Street, Auburn, Alabama 36830. A limited number of copies of the negative declaration is available from the same address to fill single copy requests.

No administrative action on implementation on the proposal will be taken until May 28, 1976.

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

Dated: May 5, 1976.

JOSEPH W. HAAS,
Deputy Administrator for Water Resources, Soil Conservation Service.

[FR Doc.76-13846 Filed 5-12-76;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

ALBERT EINSTEIN COLLEGE OF MED.

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (40 F.R. 12253 et seq, 15 CFR 701, 1975).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Program, Department of Commerce, Washington, D.C. 20230.

Docket number: 76-00301. Applicant: Albert Einstein College of Medicine of Yeshiva University, Department of Pathology, Room 441-Kennedy Center, 1300 Morris Park Avenue, Bronix, New York 10461. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. intended use of article: The article is intended to be used for studies of various tissues, but especially nervous tissue, from animals and humans and nervous tissue grown in tissue culture. Biochemically prepared tissue fractions also will be studied. Animal, human and cultured tissues and tissue fractions will be embedded in hardened epoxy resins for sectioning. The article will also be used for the research training of physicians in residency and post-doctoral fellowship programs in neuropathology. Trainees will be taught the use and application of electron microscopic techniques in solving individual resarch problems in neuropathology.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness etc.), the properties of the embedding media and the geometry of the block. In connection with prior case (Docket No. 69-00665-33-46500) which relates to the duty-free entry of an identical foreign article, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting, (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section." In connection with another prior case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness etc." requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm/sec). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm/sec. We are advised by HEW in its memorandum of April 23, 1976 that cutting speeds in the excess of 4 mm/sec. are pertinent to the applicant's research studies.

We therefore, find that the Model MT-2B utramicrotome is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.76-13995 Filed 5-12-76;8:45 am]

SHRINERS HOSPITALS—BURNS

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (40 F.R. 12253 et seq, 15 CFR 701, 1975).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket number: 76–00277. Applicant: Shriners Hospitals for Crippled Children—Burns Institute—Cincinnati Unit, 202 Goodman Street, Cincinnati, Ohio 45219. Article: Sharplan 791 Surgical Laser Machine. Manufacturer: Laser Industries Ltd., Israel. Intended use of article: The article is intended to be used in research to evaluate tissue reactions to the 10.6 micron beam both focused and unfocused. These exepriments will be used to compare the laser to standard operating room techniques, as the steel scalpel, electric knife, and to newer techniques like the plasma scalpel. The article will also be used to train both surgical residents and faculty in the use of this instrument in the treatment of thermal injuries.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides a 100 watt carbon dioxide laser operating at 10.6 micron wavelength with an articulated arm conduit and hand-piece suitable for surgery. The Department of Health, Education, and Welfare advises in its memorandum dated April 22, 1976 that (1) the capability described above is pertinent to the applicant's purposes and (2) it knows of no domestic instrument of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc. 76–13996 Filed 5–12–76;8:45 am]

UNIV. OF CONNECTICUT

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (40 F.R. 12253 et seq, 15 CFR 701, 1975).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 73–00299–65–77040. Applicant: University of Connecticut, Storrs, Conn. 06268. Article: Mass Spectrometer, Model MS902EI and accessories. Manufacturer: Associated Electrical Industries, Ltd., United Kingdom. Intended use of article: The article is intended to be used for research in the following areas:

(1) Structure elucidation of natural products including:
Polypeptides.
Fungal metabolites.
Alkaloids.
Steroids.
Terpenes.
Anti-tumor compounds.
(2) Structure elucidation of synthetic organic and inorganic compounds including:
Synthetic terpenoids.
Synthetic alkaloid precursors.
Nitrogen heterocycles.
Organo-transition metal complexes.
Boron compounds.
General organic synthetic intermediates.
(3) Isotope labelling studies including:
Kinetic isotope effects in organic reactions.
Deuterium labelling in polypeptides and derivatives.
(4) Mass spectral fragmentation mechanism including:
Kinetic and thermodynamic studies of gasous ions.
Metastable decomposition of gaseous ions.
(5) Combined GC-mass spectrometry for:
Identification of neurological compounds from snail brain.
Identification of flavor components in milk.
Characterization of odorous substances from microorganisms.

Comments: No comments have been received with respect to this application. Letters received from Nuclide Corporation (Nuclide) and DuPont Instrument Products Division (DuPont) on February 22, 1973 and February 21, 1973, respectively (after expiration of the comment period) are being treated as offers to supply additional information in accordance with Subsection 301.10 of the regulations. Decision: Appplication approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (July 17, 1970). Reasons: The foreign article provides a static resolving power of between 70–90,000 (10% valley) and a dynamic resolving power of 10,000 at a scan rate of 8 seconds per decade. The National Bureau of Standards (NBS) advises in its memorandum dated April 26, 1976 that (1) the capabilities of the article listed above are pertinent to the applicant's intended uses, (2) at the time the foreign article was ordered the comparable domestic instruments from DuPont and Nuclide could not provide both pertinent features and (3) it knows of no domestic instrument of equivalent scientific value to the foreign article for such purposes as the article is intended to be used, which was available at the time the article was ordered.

For the foregoing reasons, we find that no mass spectrometer from DuPont or Nuclide of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the article was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.76–13998 Filed 5–12–76;8:45 am]

LOYOLA UNIVERSITY, ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6 (c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the FEDERAL REGISTER.

Amended regulations issued under cited Act, (40 F.R. 12253 et seq. 15 CFR 701, 1975) prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C. 20230.

Docket number: 76–00381. Applicant: Loyola University Stritch School of Medicine, Physiology Dept., 2160 South First Avenue, Maywood, Illinois 60153. Article: Veterinary equipment, consisting of stainless steel rods, clamps, pelvis clamps, spinal cord holders, electrode holders and positioners. Manufacturer: Elektro-Mechanik-Rockenberg, West Germany. Intended use of article: When assembled the articles is a frame used to hold a cat in a rigid position for the introduction of electrodes in the spinal column to study the mechanisms of neurological control of respiration in cats. Application received by Commissioner of Customs: April 21, 1976.

Docket number: 76–00382. Applicant: Veterans Administration Hospital, Laboratory Service (113), 3900 Loch Raven Blvd., Baltimore, Maryland 21218. Arti-

cle: Ultramicrotome, Model LKB 8800A and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to cut frozen sections at environmental temperatures of less than —80° C in a controlled chamber. In addition, the article is intended to be used for investigation of the elemental distributions and re-distributions that occur in the transition from normal to diseased tissues. Educational use will also be made of this equipment and suitable training will be given in the preparation and subsequent analysis by x-ray techniques combined with electron microscopy of ultrathin frozen sections of a variety of tissues, both human and animal. Application received by Commissioner of Customs: April 21, 1976.

Docket number: 76-00383. Applicant: University of Rochester, Rochester, N.Y. 14627. Article: 4 (Four) Joulemeters and (One) Digital Readout. Manufacturer: Gentec, Inc., Canada. Intended use of article: The articles will be used to monitor the beam energy at various locations of a neodynium glass laser system. The measurements will be used to evaluate different system staging schemes as well as individual component performance. These experiments will lead to an optimum staging configuration and laser amplifier design. Application received by Commissioner of Customs: April 21, 1976.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.76-14001 Filed 5-12-76;8:45 am]

MEDICAL UNIVERSITY OF SOUTH CAROLINA, ET AL.

Notice of Consolidated Decision on Applications for Duty-Free Entry of Electrophoresis Apparatus

The following is a consolidated decision on applications for duty-free entry of electrophoresis Apparatus pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (40 F.R. 12253 et seq., 15 CFR 701, 1975). (See especially Section 301.11 (e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket number 76-00287. Applicant: Medical University of South Carolina, Department of Pharmacology, 80 Barre Street, Charleston, S.C. 29401. Article: Particle Electrophoresis apparatus mk. II. Manufacturer: Rank Brothers, United Kingdom. Intended use of article: The article is intended to be used for the study of temperature induced phase transitions of artificial and biological membrane preparations and in the cell membranes of intact erythrocytes, leukocytes and renal cell suspensions. The objectives of these studies are to determine the extent that modification of membrane constituents by certain disease processes and drugs produce, through an amplification mechanism, alterations in the surface charge of the membranes. Predoctoral and postdoctoral trainees will be exposed to the article in their research training to demonstrate how surface charges can be measured. Application received by Commissioner of Customs: February 2, 1976. Advice submitted by the Department of Health, Education, and Welfare on: April 23, 1976.

Docket number: 76-00300. Applicant: Cornell University Medical College, Rogosin Labs, 1300 York Avenue, New York, New York 10021. Article: Mark I Microelectrophoresis Apparatus Manufacturer: Rank Bros., United Kingdom. Intended use of article: The article is intended to be used for the investigation of the electrophoretic mobilities of blood elements in order to devise method of separating subpopulation of human peripheral blood lymphocytes. Application received by Commissioner of Customs: February 18, 1976. Advice submitted by the Department of Health, Education, and Welfare on: April 23, 1976.

Comments: No comments have been received with respect to any of the foregoing applications. Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for such purposes as these articles are intended to be used, is being manufactured in the United States. Reasons: Each of the foreign articles provides a thin walled glass cell in a controlled temperature bath as parts of an integrated instrument. The most closely comparable domestic instrument is the Zeta-Meter manufactured by Zeta-Meter Incorporated (Zeta). The Department of Health, Education, and Welfare (HEW) advises in its respectively cited memoranda that (1) the capability of each article described above is pertinent to each applicant's intended purposes and (2) the Zeta-Meter does not provide the pertinent feature.

For these reasons, we find that the Zeta-Meter is not of equivalent scientific value to the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.76-14002 Filed 5-12-76;8:45 am]

UNIVERSITY OF MICHIGAN

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (40 F.R. 12253 et seq., 15 CFR 701, 1975).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket number: 76-00310. Applicant: University of Michigan, Naval Architecture, 126 West Engineering Building, 550 East University, Ann Arbor, Michigan 48109. Article: Model Propulsion Dynamometer, R25 and accessories. Manufacturer: Kempf and Remmer, West Germany. Intended use of article: The article is intended to be used for propelling model ships to measure horsepower and speed. The article is also to be used for student laboratory classes to teach students how ship model and propeller tests are carried out and how full scale performance can be predicted from model tests.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The article has the capability of use for propelling ship models to measure horsepower and speed. We find this capability to be pertinent to the applicant's intended purposes. The National Bureau of Standards (NBS) advises in its memorandum dated April 29, 1976 that it knows of no comparable domestically manufactured instrument which can be applied to the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.76-13999 Filed 5-12-76;8:45 am]

VA. INST. OF MARINE SCIENCE

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as

amended (40 F.R. 12253 et seq. 15 CFR 701, 1975).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 76–00291. Applicant: Virginia Institute of Marine Science, Route 17, Gloucester Point, Virginia 23062. Article: Turbidity Monitor. Manufacturer: Spectrum Electric Ltd., Canada. Intended use of article: The article is intended to be used for measuring the suspended sediment of thick fluid mud on the floor of estuaries and rivers which is discharged from dredge pipes. A study will be undertaken to determine the extent, thickness and rate of movement of the fluid mud which is detrimental to ecology. The unit would be deployed both for time-series measurements and for vertical profiles near the bed.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article operates in-situ and is capable of measuring very high concentrations of suspended sediment. The National Oceanic and Atmospheric Administration (NOAA) advises in its memorandum dated April 21, 1976, that the characteristics of the article described above are pertinent to the applicant's research studies. NOAA further advises that it knows of no domestically manufactured instruments nor combination of instruments that can satisfy both requirements.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.76-13997 Filed 5-12-76;8:45 am]

WAYNE STATE UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (40 F.R. 12253 et seq., 15 CFR 701, 1975).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 76–00132–33–46040. Applicant: Wayne State University, School of Medicine, Dept. of Immunology & Microbiology, 7374 Gordon Scott Hall, 540 E. Canfield, Detroit, Michigan 48201. Article: Electron Microscope, Model EM 201C. Manufacturer: Philips Electronic Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for the observation of human and animal tissues and cells, bacteria, viruses, and various subcellular components. Extracts such as ribosomes, bacterial endotoxin, and viral nucleic acids will be studied. In addition, single- and double-stranded DNA, RNA, DNA–RNA hybrids and DNA protein complexes will be observed. Experiments will compare and contrast normal structure function relationships of living systems with systems subjected to physical or chemical manipulations including destruction or selective removal of all or part of a given system. These studies will result in a further understanding of basic cellular phenomena which underlie normal function as well as disturbances of function. Such enhanced understanding will ultimately be brought to bear on human disease and malfunction. In addition, the article will be used to teach students in the course "Dissertation Research" (IM 0999) in the methodology, application, and interpretation of electron microscopy as it relates to their dissertation research.

Comments: No comments have been received with respect to this application. Decision: Application denied. An instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The applicant in response to Question 8 alleges that the foreign article provides the following pertinent features:

(1) "... [M]ini-lens [single condenser] design in combination with a short focal length objective lens which permits the high resolution (3.5Å) [Angstroms] [without the use of] a complicated double condenser system [which] would result in greater operator malfunctions due to poor alignment." The mini-lens "will allow greater ease of operation" [than is available in comparable domestic instruments].

(2) Differing magnifications (200x to 200,000X) and acceleration voltages for scanning beam sensitive preparations in the shortest possible time.

(3) Interchangeable use of 35 millimeter (mm) film with the standard plate camera.

(4) High resolution microscope of relatively simple design for maximum ease of operation and minimum "downtime". The domestic instrument most closely comparable to the foreign article is the Model EMU–4C manufactured by the Adam David Company. The Department of Health, Education, and Welfare (HEW) recommends in its memorandum dated January 16, 1976 that this application be denied because the applicant provides no pertinent feature within the meaning of Subsection 301.2(n) of the regulations upon which duty-free entry could be based. In this connection, HEW advises that the intended use is in research with the teaching use at a sophisticated level, therefore simplicity, ease of operation, single or double condenser, downtime, and constant readiness to serve are not pertinent. As to the specific allegations of the applicant in reply to Question 8, in the order listed above, the following is noted:

(1) According to the applicant, mini-lens design and the short focal length of the article provide high resolution with greater ease. However, HEW advises that ease of operation as well as single or double condensers are not pertinent to the applicant's work.

Moreover, we note that the EMU–4C can also be provided with a single or double condenser system.

As to the claimed need for high resolution (3.5Å), we note that, according to Subsection 301.11(a) of the regulations, the determination of 'scientific equivalency' is based on a comparison of the guaranteed specifications of the article and the most closely comparable domestic instrument. HEW advises the article guarantees 4Å point-to-point (point) resolution which does not represent a scientifically significant difference in comparison with the 5Å point guarantee of the EMU–4C.

(2) The article provides a magnification range of 1500–200,000X with 200X for scanning without a pole-piece change as well as accelerating voltages of 40, 60, 80 and 100 kilovolts (kv). The EMU–4C provides 1400–240,000X and less than 400X for scanning without loss of time, etc. for a pole-piece change as well as 52, 50, 75 and 100 kv.

HEW advises that the EMU–4C and the article have equivalent magnification ranges and accelerating voltages for the applicant's work.

(3) The EMU–4C provides multiple camera use, such as, a plate, 35 mm or 70 mm camera. The article was ordered with a plate camera only. A future purchase of a 35 mm camera to provide interchangeable use with the standard plate camera cannot be considered in the determination of scientific equivalency according to Subsections 301.2(d) and 301.6(a) of the regulations which limits our deliberations to accessories ordered as a part of the foreign article. At any rate HEW advises that both the article and the Model EMU–4C have equivalent photographic facilities.

(4) HEW advises that simplicity, ease of operation, downtime, and constant readiness to serve are not pertinent. We find that these factors are either convenience or cost-related. As noted above, the resolution of the EMU–4C matches that of the article for the intended use.

For the foregoing reasons, we find that the Model EMU–4C electron microscope is scientifically equivalent to the foreign article for such purposes as the article is intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.76-14000 Filed 5-12-76;8:45 am]

Domestic and International Business Administration

AMOS, LIONEL, AMOS (MACHINERY) LTD., ET AL.

Export Privileges Restored

Pursuant to the Export Control Act of February 28, 1949, 50 U.S.C. App. § 2021 et seq., and/or the Export Administration Act of 1969, 50 U.S.C. App. § 2401 et seq., certain parties were denied full export privileges by reason of probationary orders; their names appear on the Table of Denial and Probation Orders, 15 CFR Part 388, Supp. I & II. The current activities of those parties have been scrutinized with view to restoring them to full export privileges.

The Director, Compliance Division, reported that no one suffering probation imposed by an order dated prior to June 1, 1971, is suspect or is known to have failed to comply with the terms of probation.

The Hearing Commissioner, in view of the Compliance Division's report, recommends restoration of full export privileges to all parties (respondents) where probation was imposed by orders dated prior to June 1, 1971, and where the respondents have fully complied with the terms of the respective probation orders.

I have examined the report and recommendations of the Commissioner. The record fails to disclose any adverse report relative to the respondents he has recommended for restoration and there are none presently suspect in connection with any violations of the United States export laws or Department of Commerce export regulations. It is fair, fitting and proper that the respondents who have so manifestsed their intentions to comply and are in compliance with the export regulations, be restored to full export privileges. Restoration is in accord with the purpose and intent of the law, the regulations, and the policies of this Department.

Therefore, it is ordered, All orders of probation issued on or before June 1, 1971 are terminated effective May 31, 1976. Effective June 1, 1976, the parties affected hereby are unconditionally restored to all United States export privileges.

Dated: April 30, 1976.

RAUER H. MEYER,
Director, Office of
Export Administration.

[FR Doc.76-13847 Filed 5-12-76;8:45 am]

Maritime Administration

[Docket S-493-Sub-1]

AMERICAN PRESIDENT LINES, LTD.

Supplemental Notice of Application

Notice is hereby given that American President Lines, Ltd., a Delaware Corporation, has filed an application dated December 18, 1975, as supplemented by a submittal of March 22, 1976, and amended by submission of April 1, 1976, to amend its Operating-Differential Subsidy Agreement, Contract No. FMB-50, in order to conduct a proposed eastbound Round-the-World service and coordinate it with its presently existing westbound Round-the-World service, including a revised service description of its presently existing Line B Round-the-World westbound service. A Notice covering the eastbound Round-the-World service was published in the FEDERAL REGISTER on March 4, 1976 (41 FR 9411) and a modification of the service area for that service will be published to include the Gulf of Cadiz and the Gulf of Oman.

APL proposes to provide westbound Round-the-World service sailings from the U.S. Atlantic to Panama, West Coast of Mexico, California, to the Far East, including the Union of Soviet Socialist Republics in Asia and the People's Republic of China, to Southeast Asia and South Asia, including the Gulf of Oman, the Persian Gulf, Gulf of Aden, the Red Sea, and via the Suez Canal to the Mediterranean, Gulf of Cadiz, and return to U.S. Atlantic ports.

APL proposes to continue utilizing five containerships on the Round-the-World westbound service. The proposed route description is identical, except for a reversed geographical order, with the description of the proposed Round-the-World eastbound service. No change is proposed by APL in the frequency of sailings on the Round-the-World westbound service. APL is currently required to provide a minimum of 24 and a maximum of 36 sailings per annum.

Interested parties may inspect the application in the Office of the Secretary, Maritime Subsidy Board, Room 3099-B, and E Streets, N.W., Washington, D.C. Department of Commerce Building, 14th 20230.

Any party who in response to the March 4, 1976, notice of application of American President Lines, Ltd. in respect to its proposed eastbound Round-the-World service (41 F.R. 9411), has filed a petition to intervene in Docket S-493 will be deemed to have intervened in response to this notice in respect of any issue it might wish to raise in respect to the revised westbound Round-the-World service.

Any other person, firm or corporation having any interest in such application and desiring a hearing on issues pertinent to section 605(c) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1175), should by the close of business on May 25, 1976, notify the Secretary, Maritime Subsidy Board, in writing, in triplicate, and file a petition for leave to intervene in accordance with the Rules of Practice and Procedure of the Maritime Subsidy Board in the hearing which will be conducted in Docket S-493.

Each such additional statement of interest and petition to intervene shall state whether a hearing is requested under section 605(c) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1175), and with as much specificity as possible the facts that the intervenor would undertake to prove at such a hearing.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidy (ODS).)

Dated: May 10, 1976.

By Order of the Maritime Subsidy Board.

JAMES S. DAWSON,
Secretary.

[FR Doc.76-14037 Filed 5-12-76;8:45 am]

[Docket No. S-493-Sub-2]

AMERICAN PRESIDENT LINES, LTD.

Notice of Amended Application

Notice of Application was given in the FEDERAL REGISTER of March 4, 1976 (41 FR 9411) that American President Lines, Ltd., had filed an application dated December 18, 1975, with the Maritime Subsidy Board pursuant to Title VI (46 U.S.C. 1171-1183) of the Merchant Marine Act of 1936, as amended, (the Act) for operating-differential subsidy in order to conduct an eastbound Round-the-World service in coordination with its presently existing westbound Round-the-World service, to provide sailings from the U.S. Atlantic to the Mediterranean, via the Suez Canal to South Asia, including the Red Sea, Gulf of Aden, Persian Gulf, Southeast Asia, the Far East, including the People's Republic of China and the Union of Soviet Socialist Republics in Asia; California and the West Coast of Mexico, and Panama to the U.S. Atlantic. Services to be provided include areas or ports on essential Trade Routes Nos. 4, 10, 12, 17, 18, 23, 25, 28, and 29.

Notice is hereby given that the route description contained in the above referenced application has been amended to include the Gulf of Oman and the Gulf of Cadiz.

Any person, firm or corporation having any interest in the amendment to the application and desiring a hearing on issues pertinent to section 605(c) of the Act (46 U.S.C. 1175), should by the close of business on May 25, 1976 notify the Secretary, Maritime Subsidy Board, in writing, in triplicate and file a petition for leave to intervene in accordance with the Rules of Practice and Procedure of the Maritime Subsidy Board.

Each such statement of interest and petition for leave to intervene shall state whether a hearing is requested under section 605(c) of the Act, and with as much specificity as possible, the facts that the intervenor would undertake to prove at the hearing.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Board determines that petitions for leave to intervene within the specified time do not demonstrate sufficient interest to warrant a hearing, the Board will take such action as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.504, Operating-Differential Subsidy (ODS)).

Dated: May 10, 1976.

By Order of the Maritime Subsidy Board.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.76-14038 Filed 5-12-76;8:45 am]

[Docket No. S-508]

PACIFIC FAR EAST LINE, INC.

Notice of Application

Notice is hereby given that Pacific Far East Line, Inc., has applied for amendment of its service description to permit LASH vessels of Pacific Far East Line, Inc., operating on the Operator's subsidized Trade Route 29 extended service to call at ports in Oregon, Washington, British Columbia, and Alaska for carriage of cargoes between those areas and Indonesia.

As information, service between the areas being herewith Noticed was included in the application of Pacific Far East Line, Inc., docketed S-443 (40 F.R. 43750); that application, which is in the hearing process, has been amended to delete the Indonesia area.

Any person, firm or corporation having any interest in such application and desiring a hearing on issues pertinent to section 605(c) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1175), should, by close of business on May 25, 1976 notify the Secretary, Maritime Subsidy Board, in writing in triplicate, and file petition for leave to intervene in accordance with the Rules of Practice and Procedure of the Maritime Subsidy Board.

In the event a section 605(c) hearing is ordered to be held, the purpose thereof will be to receive evidence relevant to (1) whether the application is one with respect to a vessel to be operated in an essential service, served by citizens of the United States which would be in addition to the existing service, or services, and if so, whether the service already provided by vessels of United States registry in such essential service is inadequate, and (2) whether in the accomplishment of the purposes and policy of the Act additional vessels should be operated therein.

If no request for hearing and petition for leave to interevne is received within the specified time, or if the Maritime Subsidy Board determines that petitions for leave to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Maritime Subsidy Board will take such action as may be deemed appropirate.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS).)

By Order of the Maritime Subsidy Board.

Dated: May 7, 1976.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.76-14039 Filed 5-12-76;8:45 am]

[Docket No. S-509]

COVE TANKERS CORP.

Notice of Application

Notice is hereby given that application has been filed under the Merchant Marine Act, 1936, as amended (the Act), to include the SS *Cove Communicator* in its operating-differential subsidy agreement with respect to bulk carrying service in the U.S. foreign trade, principally between the United States and the Union of Soviet Socialist Republics, to expire on December 31, 1976, or upon completion of a voyage(s) in progress on that date.

Inasmuch as the applicant, and/or related persons or firms, employ or may employ ships in the domestic intercoastal or coastwise service, written permission of the Maritime Administration under section 8$5(a) of the Act will be required if its application for operating-differential subsidy is granted.

Cove Tankers Corporation has previously been granted written permission to operate the SS's *Mount Explorer* and *Mount Navigator* in the domestic service, and is now requesting written permission for the SS *Cove Communicator* to engage in similar service. It specifically requests that the *Cove Communicator* receive written permission to engage in the domestic service under Military Sealift Command or private charter, as well as the right to move this vessel from one domestic trade to another, and/or from foreign trade(s) to a domestic trade(s).

Such written permission is now required under section 805(a) notwithstanding the fact that a voyage in the proposed service on which the vessel engaged in domestic intercoastal or coastwise trade would not be eligible for subsidy.

Any person, firm, or corporation having any interest (within the meaning of section 805(a)) in such application and desiring to be heard on issues pertinent to section 805(a) and desiring to submit comments or views concerning the application must, by close of business on May 25, 1976 file same with the Secretary, Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing will be held, the purpose of which will be to receive evidence under section 805(a) relative to whether the proposed operation (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS).)

By Order of the Assistant Secretary for Maritime Affairs.

Dated: May 10, 1976.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.76-14040 Filed 5-12-76;8:45 am]

National Oceanic and Atmospheric Administration

SOUTHEAST REGION PROGRAM WORKSHOP

Meeting

Notice is hereby given of a workshop to be held by the Southeast Region of the National Marine Fisheries Service (NMFS) starting at 9:00 a.m., June 3, 1976, in the Timberwood Room, Holiday Inn-Airport, 4500 W. Cypress Street, Tampa, Florida.

The purpose of this workshop is to discuss NMFS present program elements and seek the views of participants as to the direction they would like to see NMFS efforts take in the future. This will give the Southeast Region an opportunity to start developing an integrated program incorporating the needs of the various sectors of the fishing community.

If you are interested in participating in this work session, please let us know as seating is limited. For information and notification of planned attendance, please contact NMFS Southeast Regional Office, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida, Area Code 813-893-3143.

Dated. May 6, 1976.

JACK W. GEHRINGER,
Deputy Director,
National Marine Fisheries Service.

[FR Doc.76-14017 Filed 5-12-76;8:45 am]

MARINE PETROLEUM AND MINERALS ADVISORY COMMITTEE DEEP OCEAN MINING ENVIRONMENTAL STUDY ADVISORY PANEL

Notice of Open Meeting

The Marine Petroleum and Minerals Advisory Committee's Deep Ocean Mining Environmental Study Advisory Panel (the "Advisory Panel") will meet from 9:00 a.m. until 4:30 p.m. on June 2, 1976 and from 9:00 a.m. until approximately 12:30 p.m. on June 3, 1976 in the Condon Room of the University Tower Hotel, 4507 Brooklyn Avenue, N.E., Seattle, Washington. The meeting will be open for public observation.

The Advisory Panel was established as a subcommittee of the Marine Petroleum

and Minerals Advisory Committee (the "Committee") for the purpose of advising Department of Commerce officials on the planning for and conduct of the National Oceanic and Atmospheric Administration's Deep Ocean Mining Environmental Study (DOMES) Program and to develop, when necessary, recommendations to the Secretary regarding the DOMES Program. The Panel members represent environmental, industrial, and academic sectors concerned with determining the possible environmental effects of deep ocean mining.

The matters included for consideration, and the approximate times for their consideration, are as follows:

JUNE 2, 1976

9 ..... Welcoming remarks and administrative announcements.
9:30 ..... Status of the first phase of DOMES and plans for first phase report.
12 ..... Recess for lunch.
1:30 ..... Deep ocean mining system operating parameters relevant to environmental studies.
4:30 ..... Recess for the day.

JUNE 3, 1976

9 ..... Call to order and announcements.
9:10 ..... Plans for the second phase of DOMES and status report.
11:30 ..... Topics suggested by members, business carried over from previous day, and future plans.
12:30 ..... Adjourn.

Approximately 25 seats will be available for the public on a first-come, first-served basis. Written statements from interested persons will be accepted before or after the meeting either directly or by mail. Inquiries or statements should be addressed to: Dr. J. Frank Hebard, DOMES Advisory Panel Secretariat, c/o MESA Program Office (Rx5), NOAA Environmental Research Laboratories, Boulder, Colorado 80302, Telephone: (303) 499-1000, Extension 6551.

Dated May 10, 1976.

ROBERT L. CARNAHAN,
Deputy Assistant Administrator for Administration, National Oceanic and Atmospheric Administration.

[FR Doc.76-14134 Filed 5-12-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 76N-0176]

PRODUCTION AND DISTRIBUTION OF SHORT-LIVED RADIONUCLIDES FOR MEDICAL USE

Open Public Meeting

The Food and Drug Administration, under the authority of the Public Health Service Act (Pub. L. 410, 58 Stat. 682 (42 U.S.C. 201 note)), held a public meeting May 19-20, 1975, to discuss the production of iodine-123 for application in nuclear medicine. To further define the issues raised at this meeting, an open public meeting will be held May 18-19, 1976. Selected government and public representatives concerned with the production and medical use of short-lived radionuclides have been invited to participate.

The meeting will be held from 8:30 to 5 p.m., May 18, 1976 and from 8:30 a.m. to 12 noon May 19, 1976, at the Bureau of Radiological Health, Rm. 400, 12720 Twinbrook Parkway, Rockville, MD. Observers from the public are invited to attend and participate, but attendance will be limited to space available. A summary of the meeting will be prepared following the meeting and will be filed with the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852.

For additional information, contact Dr. Peter Paras, Division of Radioactive Materials and Nuclear Medicine, Bureau of Radiological Health (HFX-300), Rockville, MD 20852, telephone (301) 443-2814.

Dated: May 7, 1976.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.76-13537 Filed 5-12-76;8:45 am]

Health Resources Administration

HEALTH SERVICES RESEARCH STUDY SECTION

Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory bodies scheduled to assemble during the month of June 1976:

Name: Health Services Research Study Section.

Date and Time: June 2-4, 1976, 8:30 a.m.

Place: Conference Room G, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852.

Closed June 2, 8:30 a.m.—11:30 a.m. Open June 2, 12:30 p.m.—1:30 p.m. Closed for remainder of meeting.

Purpose: The Study Section is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Center for Health Services Research.

Agenda: Agenda items for the open portion of the meeting will cover administrative matters and reports; minutes of previous meeting; and establishment of future meeting dates. The remainder of the meeting will be closed to the public for the review of research grant applications relating to the delivery, organization, and financing of health services, in accordance with the provisions set forth in section 552(b) (5) and (6), Title 5, U.S. Code and the Determination by the Administrator, Health Resources Administration, pursuant to Public Law 92-463.

Anyone wishing to obtain a roster of members, minutes of meeting, or other relevant information should contact Mr. Hoke S. Glover, Room 15-19, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852, Telephone (301) 443-2920.

* * * * *

Name: Health Services Developmental Grants Study Section.

Date and Time: June 6-8, 1976, 12:00 p.m.

Place: Holiday Inn of Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20015.

Open June 6, 12:00 p.m.-1:00 p.m. Closed for remainder of day. Closed June 7, 8:00-11:30 a.m. Open June 7, 11:30 a.m.-12:00 p.m. Closed for remainder of meeting.

Purpose: The Study Section is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Center for Health Services Research.

Agenda: Agenda items for the open portions of the meeting will cover the Administrative Report; minutes of the previous meeting; establishment of future meeting dates; and discussion of other related general matters. The remainder of the meeting will be closed to the public for the review of research grant applications which relate to the development, utilization, quality, organization, and financing of services, facilities and resources of hospital care, and other medical facilities, in accordance with the provisions set forth in section 552(b) (5) and (6), Title 5, U.S. Code and the Determination by the Administrator, Health Resources Administration, pursuant to Public Law 92-463.

Anyone wishing to obtain a roster of members, minutes of meeting, or other relevant information should contact Mr. David McFall, Room 15-29, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852, Telephone (301) 443-2930.

* * * * *

Name: Health Care Technology Study Section.

Date and Time: June 9-11, 1976, 2:00 p.m.

Place: Conference Room G, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852.

Closed June 9, 1976. Open June 10, 9:00 a.m.-10:00 a.m. Closed for remainder of meeting.

Purpose: The Study Section is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Center for Health Services Research.

Agenda: Agenda items for the open portion of the meeting will cover administrative matters and reports; minutes of previous meeting; and establishment of future meeting dates. The remainder of the meeting will be closed to the public for the review of research grant applications relating to the delivery, organization, and financing of health services, in accordance with the provisions set forth in section 552(b) (5) and (6), Title 5, U.S. Code and the Determination by the Administrator, Health Resources Administration, pursuant to Public Law 92-463.

Anyone wishing to obtain a roster of members, minutes of meeting, or other relevant information should contact Mr. Jonathan Bromberg, Room 15-19, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852, Telephone (301) 443-2920.

* * * * *

Name: National Advisory Council on Nurse Training.

Date and Time: June 14-17, 1976, 10:30 a.m.

Place: Conference Room 5, Building 31, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20014.

Open June 14, 10:30 a.m.-12:15 p.m. Closed for remainder of meeting.

Purpose: The Council advises the Secretary and Administrator, Health Resources Administration, concerning general regulations and policy matters arising in the administration of the Nurse Training Act of

1971. The Council also performs final review of grant applications for Federal Assistance for construction projects, special projects for the improvement of nurse training, and research grants and makes recommendations to the Administrator, HRA.

Agenda: Agenda items for the open portion of the meeting will cover announcements; consideration of minutes of previous meeting; discussion of future dates; and administrative and staff reports. The remainder of the meeting will be closed to the public for the final review of applications for Federal assistance, in accordance with the provisions set forth in section 552(b) (5) and (6), Title 5, U.S. Code and the Determination by the Administrator, Health Resources Administration, pursuant to Public Law 92-463.

Anyone wishing to obtain a roster of members, minutes of meeting, or other relevant information should contact Dr. Mary S. Hill, Room 6C08, Federal Building, 9000 Rockville Pike, Bethesda, Maryland 20014, Telephone (301) 496-6985.

* * * * *

Name: Nursing Research and Education Advisory Committee.

Date and Time: June 17-18, 1976, 9:00 a.m.

Place: Room 6C-09, Federal Building, 7550 Wisconsin Avenue, Bethesda, Maryland 20014.

Open June 17, 9:00 a.m.-10:45 a.m. Closed for remainder of meeting.

Purpose: The Committee is charged with the initial review of research grant applications in all areas of nursing education and practice, including studies of extended professional roles, model curricula, clinical investigations, historical research, and institutional research development and with surveying the status of research in nursing education and practice.

Agenda: The open portion of the meeting will be devoted to covering administrative and staff reports. During the closed sessions, the committee will be reviewing grant applications for Federal assistance, and will not be open to the public in accordance with the provisions set forth in section 552(b) (5) and (6), Title 5, U.S. Code and the Determination by the Administrator, Health Resources Administration, pursuant to Public Law 92-463.

Anyone wishing to obtain a roster of members, minutes of meeting, or other relevant information should contact Dr. Doris Bloch, Room 6A-14, Federal Building, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20014, Telephone (301) 496-6955.

Agenda items are subject to change as priorities dictate.

Dated: May 7, 1976.

JAMES A. WALSH,
Associate Administrator for Operations and Management.

[FR Doc.76-13960 Filed 5-12-76;8:45 am]

National Institutes of Health

COMMITTEE ON CANCER IMMUNOTHERAPY

Meeting

Notice is hereby given of a change in the meeting of May 27, 1976, 1:00 p.m. at the Clinical Center, Conference Room 4B-14, of the Committee on Cancer Immunotherapy, National Cancer Institute, which was published in the FEDERAL REGISTER on April 16, 1976, Volume 41, No. 75, Page 16196.

This committee was to have convened at 1:00 p.m. on May 27, 1976, but has been changed to 1:00 p.m., June 3, 1976, at the Clinical Center, Conference Room 4B-14.

The meeting will be open to the public from 1:00 p.m. to 1:30 p.m. on June 3, 1976.

Dated: May 6, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.76-13902 Filed 5-12-76;8:45 am]

NATIONAL INSTITUTES OF HEALTH

Meeting

Dr. Donald S. Fredrickson, Director, National Institutes of Health, is holding an open meeting with representatives of private industry who are involved in the support or conduct of research with recombinant DNA molecules. The meeting is being held to exchange information and discuss forthcoming National Institutes of Health (NIH) guidelines on reseach involving recombinant DNA molecules. Representatives from industries in the drug, health, chemical, and agricultural areas have been invited to attend. The NIH progress in constructing guidelines for recombinant DNA research will be discussed. The scope of present and potential activities within industry and the degree of their interest in adopting the guidelines will be reviewed.

The entire meeting will be open to the public from 9:30 a.m. to adjournment on Wednesday, June 2, 1976, in Building 31, Conference Room 7, National Institutes of Health, Bethesda, Maryland. Individuals interested in obtaining further information about this meeting should contact Mrs. Elizabeth Shelton, National Institutes of Health, Building 1, Room 137, Bethesda, Maryland 20014, phone (301) 496-3152. Since attendance will be limited to space available, it is requested that individuals wishing to attend contact Mrs. Shelton.

Dated: May 7, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.76-13903 Filed 5-12-76;8:45 am]

NATIONAL LARGE BOWEL CANCER PROJECT WORKING CADRE

Cancellation of Meeting

Notice is hereby given of the cancellation of the meeting of the National Large Bowel Cancer Project Working Cadre, National Cancer Institute, Division of Cancer Research Resources and Centers, National Institutes of Health, on June 3-4, 1976, at the Anderson Mayfair Hotel, Mayfair Dining Room, 1600 Holcombe Boulevard, Houston, Texas, which was published in the FEDERAL REGISTER on May 4, 1976, 41 FR 18464. This meeting will be rescheduled at a later date.

Dated: May 7, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc.76-13904 Filed 5-12-76;8:45 am]

NATIONAL ADVISORY RESEARCH RESOURCES COUNCIL

Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the National Advisory Research Resources Council, Division of Research Resources, June 16, 17, and 18, 1976, in Boston, Massachusetts.

The meeting will convene 9:00 a.m. on June 16 at the Countway Library, Harvard Medical School, for the conduct of routine Council business, and will be open to the public until recess at 12:00 noon. Attendance by the public will be limited to space available. Council will then visit the General Clinical Research Centers at the Children's Hospital Medical Center and the Peter Bent Brigham Hospital, the New England Primate Research Center, the Biotechnology Resource in Electron Probe Microanalysis at the Harvard Medical School, and the Animal Facility Resource and the Mass Spectrometry Resource at the Massachusetts Institute of Technology, from the afternoon of June 16 through noon on June 18. Council will reconvene at 1:30 p.m., June 18 at the Countway Library, Harvard Medical School.

In accordance with the provisions set forth in Sections 552(b)(4), 552(b)(5), and 552(b)(6), Title 5, U.S. Code and Section 10(d) of Public Law 92-463, the meeting of the Council will be closed to the public on June 18 from 1:30 p.m. to adjournment for the review discussion, and evaluation of individual and institutional National Research Service Award Program applications, and an individual renewal grant application. The closed portions of the meeting involve solely the internal expression of views and judgments of committee members on individual grant applications containing detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the applications.

Mr. James Augustine, Information Officer, Division of Research Resources, National Institutes of Health, Room 5B39, Building 31, Bethesda, Maryland 20014, (301) 496-5545, will provide summaries of the meeting and rosters of the Council members. Dr. James F. O'Donnell, Deputy Director, Division of Research Resources, National Institutes of Health, Room 5B03, Building 31, Bethesda, Maryland 20014, (301) 496-6611, will furnish substantive program information.

Dated: May 7, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

(Catalog of Federal Domestic Assistance Program Nos. 13.306, 13.333, 13.337, 13.371, 13.375, National Institutes of Health.)

[FR Doc.76-13905 Filed 5-12-76;8:45 am]

POPULATION RESEARCH COMMITTEE

Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the

Population Research Committee, National Institute of Child Health and Human Development, on June 3–4, 1976, in Room C–418, Landow Building, 7910 Woodmont Avenue, Bethesda, Maryland.

The meeting will be open to the public on June 3, 1976, from 9:00 a.m. to 10:30 a.m., to discuss the program status, new developments and projections for population research centers and program project applications. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552(b)(4), 552(b)(5), and 552(b)(6), Title 5, U.S. Code and Section 10(d) of Public Law 92–463, the meeting will be closed to the public on June 3 from 10:30 a.m. to adjournment on June 4 for the review, discussion and evaluation of individual initial pending and supplemental grant applications. The closed portion of the meeting will involve solely the internal expression of views and judgments of committee members on individual grant applications containing detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the applications.

Mrs. Marjorie Neff, Committee Management Officer, NICHD, Building 31, Room 2A–04, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496–1848, will provide a summary of the meeting and a roster of committee members. Dr. William A. Sadler, Executive Secretary of the Population Research Committee, NICHD, Room C–733, Landow Building, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496–6515, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.317, National Institutes of Health.)

Dated: May 7, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc.76–13906 Filed 5–12–76;8:45 am]

BIOMEDICAL LIBRARY REVIEW COMMITTEE

Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Biomedical Library Review Committee, National Library of Medicine, on June 29–30, 1976, from 8:30 a.m. to 5:00 p.m. on June 29, and from 8:30 a.m. to adjournment on June 30, in the Board Room of the National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland.

This meeting will be open to the public from 8:30 a.m. to 12:00 noon on June 29 for the discussion of administrative reports and program developments. The period from 12:00 noon to 1:00 p.m. has been set aside for the lunch break. Attendance by the public will be limited to space available. In accordance with provisions set forth in Sections 552(b)(4), 552(b)(5), and 552(b)(6), Title 5, U.S. Code and Section 10(d) of P.L. 92–463, the meeting will be closed to the public on June 29 from 1:00 p.m. to 5:00 p.m. and from 8:30 a.m. to adjournment on June 30, for the review, discussion, and evaluation of individual initial pending and renewal grant applications. The closed portion of the meeting involves solely the internal expression of views and judgments of committee members on individual grant applications which contain information of a proprietary or confidential nature, including detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the applications.

Dr. Roger W. Dahlen, Executive Secretary of the Committee, and Chief, Division of Biomedical Information Support, Extramural Programs, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20014, Telephone Number: 301–496–4191, will furnish summaries of the meeting, rosters of committee members, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program Nos. 13.348, 13.351, 13.353—National Institutes of Health.)

Dated: May 7, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc.76–13907 Filed 5–12–76;8:45 am]

NATIONAL HEART AND LUNG INSTITUTE

Filing of Annual Report

Pursuant to Public Law 92–463 and OMB Circular A–63, notice is hereby given that the Annual Report for the Interagency Technical Committee on Heart, Blood Vessel, Lung and Blood Diseases and Blood Resources, National Heart and Lung Institute, has been filed with the Library of Congress.

Copies are available to the public for inspection at the Library of Congress, Special Forms Reading Room, Main Building, or on weekdays between 9:00 a.m. and 4:30 p.m. at the Department of Health, Education, and Welfare Department Library, North Building, Room 1436, 300 Independence Avenue SW., Washington, D.C. 20201, telephone (202) 245–6791.

Dated: May 6, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc.76–13908 Filed 5–12–76;8:45 am]

Office of Education

EMERGENCY SCHOOL AID

Notice of Closing Date for Receipt of Special Project Applications

A. Closing date for receipt of applications.

The Commissioner hereby gives notice that, pursuant to section 708(a) of the Emergency School Aid Act ("ESAA"), 20 U.S.C. 1607(a), applications for Special Project grants are invited under that section, including applications from local educational agencies which adopted desegregation plans on or after January 14, 1976 for implementation during the 1976–77 school year. The Commissioner has determined that such agencies adopted plans too late to apply for ESAA assistance related to those plans in the most recent funding cycle and that grants to such agencies to meet needs incident to the initial implementation of such plans will make substantial progress toward achieving the purposes of the statute.

Applications for assistance must be received by the U.S. Office of Education Application Control Center on or before June 30, 1976.

B. *Applications sent by mail.*

An application sent by mail should be addressed as follows: U.S. Office of Education, Grants and Procurement Management Division, Application Control Center, 400 Maryland Avenue, S.W., Washington, D.C. 20202, Attention: 13:532B. An application sent by mail will be considered to have been received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than June 25, 1976, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

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

C. *Hand delivered applications.*

An application to be hand delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets, S.W., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4:00 p.m., Washington, D.C. time, on the closing date.

D. *Program information and forms.*

Information and application forms may be obtained from the Bureau of School Systems, Equal Educational Opportunity Programs, Special Projects Branch, Room 2017, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

E. *Project periods.*

Awards of assistance pursuant to this notice will be made for projects commencing on or after July 1, 1976, and terminating no later than June 30, 1977.

F. *Applicable regulations.*

Awards of assistance pursuant to this notice will be subject to the regulations in 45 CFR Part 185, relating to the Emer-

gency School Aid Act, and in particular to 45 CFR 185.94 through 185.94–4, relating to Other Special Projects. Further, except where inconsistent with Part 185, such awards will be subject to the Office of Education General Provisions Regulations in 45 CFR Parts 100 and 100a, relating to direct project assistance programs. In applying 45 CFR 185.94–3, relating to criteria for assistance, the Commissioner will take into account the particular need for assistance occasioned by the initial implementation of desegregation plans by local educational agencies.

(20 U.S.C. 1607(a), 1609(c))

(Catalog of Federal Domestic Assistance Number 13.532, Emergency School Aid—Special Projects)

Dated: May 7, 1976.

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

[FR Doc.76–14004 Filed 5–12–76;8:45 am]

Office of the Assistant Secretary for Planning and Evaluation

POLICY RESEARCH GRANT FUNDS IN FY 1976

Prospects for Award

The purpose of this notice is to advise all potential applicants of funding prospects for grant assistance during fiscal year 1976 under the Policy Research Grant Program administered by the Assistant Secretary for Planning and Evaluation (ASPE). This program derives its authority from Section 232 of the Community Services Act of 1974 (42 U.S.C. 2825) and Section 1110 of the Social Security Act (42 U.S.C. 1310). The program is further described in 40 FR 34700 (Policy Research Studies Proposed Objectives and Priorities) and in 40 FR 1537 (Research and Demonstration Grant Applications for 1975 and Thereafter, General Solicitation). Those notices continue in effect and should be read in conjunction with this notice.

It is not the purpose of this notice to solicit, or to infer a solicitation of applications for grant assistance or for any other type of financial arrangement for the conduct of research or demonstration projects.

At this juncture it appears unlikely that the ASPE will publish a general solicitation for policy research grant applications. The funding available for FY 76 is less than in FY 75 and will be used almost exclusively for contracts and to continue existing grants.

A few new Partnership grants may be awarded to State or local governments under priority area C.2.c., State and local government capacity building (see 40 FR 34701). These grants will be selected and awarded by the Departmental Regional Offices dealing directly with the governmental organizations under their jurisdiction.

If funding should subsequently become available for a high priority policy research area, ASPE will publish in the Federal Register a special solicitation inviting applications for grant assistance. The objectives and limitations of that research area will be defined specifically in the solicitation along with any special selection criteria.

Applications for continuation of prior-year grants are considered to be non-competitive and will be evaluated at the discretion of and in such manner as ASPE may determine. Such applications will be considered in accordance with the terms and conditions of existing grant awards.

Nothing in this announcement should be construed as preventing the ASPE from funding an unsolicited grant application if, in the opinion of the Assistant Secretary, the project is likely to be of special and unusual value to the conduct of the Policy Research program. Potential applicants are cautioned that it is highly unlikely that any such applications will be funded. In addition, the ASPE does not have staff to prepare detailed evaluations of unsolicited applications. Reviews and comments will be brief and focussed on determining a proposal's relevance and probable value to accomplishment of Policy Research objectives and priorities.

Questions concerning the above, requests for consultation, copies of application forms and applicable regulations shall be obtained from or submitted to:

Grants Officer, Office of the Assistant Secretary for Planning and Evaluation, Department of Health, Education, and Welfare, 330 Independence Avenue SW., Washington, D.C. 20201.

Dated: May 6, 1976.

WILLIAM A. MORRILL,
Assistant Secretary for Planning and Evaluation.

[FR Doc.76–13953 Filed 5–12–76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 76–073A]

PORT OF NEW YORK

Temporary Local Regulations

Pursuant to the authority contained in 33 U.S.C. 1224, 46 U.S.C. 454, and 33 CFR Parts 100 and 160, Commander, Third Coast Guard District on April 9, 1976 issued Temporary Local Regulations affecting navigation in the Port of New York during the period July 2 to July 5, 1976. FEDERAL REGISTER of April 22, 1976 (41 FR 16855).

Subsequently it has been ascertained that more than fifty passenger carrying vessels and other spectator craft in excess of 100 feet in length will be in the Port of New York observing the Marine Parade on July 4. This large number of vessels over 100' LOA cannot be accommodated in the designated anchorage west of Governors Island.

To alleviate hazardous conditions occasioned by the unprecedented large number of spectator vessels anticipated, it is desired that as many of the larger vessels as possible be at anchor. Commander, Third Coast Guard District has amended the Temporary Local Regulations of April 9, 1976 to designate the Narrows Temporary Anchorage as an additional anchorage area for vessels over 100 feet in length.

TEMPORARY LOCAL REGULATIONS—PORT OF NEW YORK

July 2–5, 1976

1. The Narrows Temporary Anchorage, established in paragraph 5.b. of the Temporary Local Regulations issued 9 April 1976 is being designated as an anchorage for vessels greater than 100' LOA as opposed to less than 100' LOA. Paragraph 5.b. is amended to read:

"b. *Narrows Temporary Anchorage:* Commencing 6:00 a.m., until 4:00 p.m., 4 July 1976 the area bounded by the following coordinates is established as a temporary anchorage area for boats and spectator vessels greater than 100' LOA: Beginning at Latitude 40°38'00" North, Longitude 74°02'24" West, thence to Latitude 40°38'00" North, Longitude 74°02'37" West, thence to Latitude 40°37'21.5" North, Longitude 74°02'50" West, thence to Latitude 40°36'24" North, Longitude 74°02'30" West, thence to Latitude 40°36'29" North, Longitude 74°02'11.5" West, thence along the shoreline to the beginning."

Issued at Governors Island, New York, New York, on 3 May 1976.

W. F. REA, III,
Commander,
Third Coast Guard District.

[FR Doc.76–13852 Filed 5–12–76;8:45 am]

Federal Aviation Administration

RADIO TECHNICAL COMMISSION FOR AERONAUTICS

Notice of Meeting

Notice is hereby given of a meeting of the Radio Technical Commission for Aeronautics (RTCA) Special Committee 125, which is being utilized as an Advisory Committee within the meaning of the Federal Advisory Committee Act, 5 U.S.C. Appendix I. It will be held June 9–10, in Conference Room 3201, FAA Transpoint Building, 2100 Second Street, SW., Washington, D.C. 20590, commencing at 9:30 a.m. Agenda items incude:

1. Approval of Minutes of the March 24–25, 1976 meeting;
2. FAA Status Report (National and International);
3. Report on Informal Coordination Group Meeting held April 27, 1976;
4. Review of leaders' inputs for each chapter of the Final Report; and
5. PERT Chart scheduling assessment.

Meetings of the RTCA Special Committee 125 are open to the public, subject to space limitations. The public may submit written statements to and obtain additional information from the RTCA Secretariat, 1717 H Street, NW., Washington, D.C. 20006; (202) 296–0484. Oral statements may be presented at the meeting, subject to time being available.

Issued in Washington on May 7, 1976.

HUGH E. WATERMAN,
Designated Officer.

[FR Doc.76–13765 Filed 5–12–76;8:45 am]

Federal Highway Administration

BAYONNE BRIDGE ET AL.

Agreement

As a result of the Prehearing Conference held on May 4, 1976, in the above-styled matter, it was agreed among the parties that:

1. Individuals desiring to present testimony for consideration by the Administrative Law Judge may do so by presenting such testimony in affidavit form served upon all parties of record by July 1, 1976. These will be accepted in evidence at the time of the public hearing without the necessity for cross-examination unless such cross-examination is specifically requested by a party in opposition. The request for cross-examination will state the name of the witness to be examined and shall be made no later than July 26, 1976, with notice to the party to be examined.

2. Those who only desire to make a statement of position, which is not evidence, may do so at the beginning of the public hearing. Such statements will not be subject to cross-examination.

3. Petitions for leave to intervene may be filed on or before June 1, 1976.

Both the statements of position and testimony on cross-examination of specifically requested affiants will be taken at the beginning of the public hearing on August 9, 1976.

The above-described procedural dates, along with those already established are as follows:

Petitions for Leave to Intervene, June 1, 1976.
Exchange of Affidavits, Written Testimony and Exhibits, No Later Than, July 1, 1976.
Exchange of Rebuttal Written Testimony and Exhibits, if any, And Request for Cross-examination of Affiants, No Later Than, July 26, 1976.
Public Hearing, Statements of Position, August 9, 1976.

All dates shown alone, except for hearing, are postmark dates. That is, this order has been complied with if the party submits its documents postmarked no later than June 1, 1976, July 1, 1976, and July 26, 1976, as appropriate.

Attached as Appendix A is a service list current as of this date.

Dated the 11th day of May, 1976.

JOHN E. FAULK,
Administrative Law Judge.

ATTACHMENT A

Honorable Peter A. Peyser, House of Representatives, Washington, D.C. 20515.
Mr. Stanley D. Ver Nooy, 241 Larch Avenue, Bogota, New Jersey 07603.
Matthew J. Derham, Chairman, AAA Clubs of New Jersey, 1 Hanover Road, Florham Park, New Jersey 07932.
Joseph Lesser, Esquire, Port Authority of New York and New Jersey, One World Trade Center, New York, New York 10048.
Honorable Matthew Feldman, Majority Leader, New Jersey Senate, 790 Grange Road, Teaneck, New Jersey 07666.
Myron B. Wolf, Executive Director, National Council of Salesmen's Organizations, Inc., 127 John Street, New York, New York 10038.
Honorable Linda Winikow, New York Senate, Albany, New York 12224.
Albert R. Lamb, Jr., M.D., 161 Fort Washington Avenue, New York, New York 10032.
Honorable Benjamin A. Gilman, House of Representatives, Washington, D.C. 20515.
Diana W. Rivet, County Attorney, The County of Rockland, County Office Building, 11 New Hempstead Road, New City, New York 10956.
Frank J. Biondolillo, D.D.S., Councilman at Large, City Council of New York, 5 Keegans Lane, Staten Island, New York, 10308.
Honorable Albert Burstein, Assemblyman, New Jersey Senate, 26 Journal Square, Jersey City, New Jersey 07306.
Honorable Byron Baer, Assemblyman, New Jersey Senate, 420 Lantana Avenue, Englewood, New Jersey 07632.
Jeffrey C. Cohen, Esquire, Vice President, Citizens for Clean Air, Inc., 25 Broad Street, New York, New York 10004.
Lawrence Berman, Esquire, Transway International Corp., 747 Third Avenue, 38th Floor, New York, New York 10017.
Robert N. Rickles, P.E., Ph D., Executive Director, Institute for Public Trans., 211 East 43rd Street, New York, New York 10017.
Rueben Gross, Esquire, 30 Bay Street, Second Floor, Staten Island, New York 10301.
Ms. Toni L. Goldfarb, 263 Pine Street, Teaneck, New Jersey 07666.
Thaddeus Raczkowski, Esquire, New Jersey Motor Truck Assoc., Benedict and Orban, The Castle, 433 River Road, Highland Park, New Jersey 08904.
Mr. Charles J. Murphy, Automobile Club of New York, 28 East 78th Street, New York, New York 10021.
Mrs. Julia F. Lamb, 301 Lydecker Street, Englewood, New Jersey 07631.
Honorable John M. Murphy, House of Representatives, Washington, D.C. 20515.
Mr. George W. Hofmann, 166 Lafayette Avenue, Chatham, New Jersey 07928.
Ms. Phoebe Hahn, 964 Mountain Avenue, Berkeley Heights, New Jersey 07922.
Mr. Roy E. Frenzke, 706 Ellington Road, Ridgewood, New Jersey 07450.
Mr. Sol Weil, 18 Linderwood Court, Washington Township, Westwood, New Jersey 07675.
Francis A. Mulhern, Esquire, Deputy General Counsel, Port Authority of New York and New Jersey, One World Trade Center, New York, New York 10048.
Brian T. Ketcham, P.E., Vice President & Staff Engineer, Citizens for Clean Air, Inc., 25 Broad Street, New York, New York, 10004.
Mr. James J. Stapleton, Assistant Chief Counsel for Motor Carrier and Highway Safety Law, Federal Highway Transportation, Department of Transportation, Washington, D.C. 20590.
Mr. Gerald M. Tierney, Office of Chief Counsel, Federal Highway Administration, Department of Transportation, Washington, D.C. 20590.

[FR Doc.76-14095 Filed 5-12-76;8:45 am]

Federal Railroad Administration

CAPITAL NEEDS STUDY

Guidelines for Submission of the Delayed Capital Expenditures

1. *General.* Section 504(a) of the Railroad Revitalization and Regulatory Reform Act of 1976 (Pub. L. No. 94-210) ("Act") provides that each Class I railroad (other than a railroad subject to reorganization pursuant to the Regional Rail Reorganization Act of 1973, as amended, 45 U.S.C. 701 et seq.), as designated by the Interstate Commerce Commission ("ICC"), shall submit to the Secretary of Transportation within 180 days after the date of enactment (August 3, 1976), a full and complete statement (1) of such railroad's deferred maintenance and delayed capital expenditures as of December 31, 1975, and (2) of the projected amounts of appropriate maintenance to be performed and capital expenditures to be made for its facilities during each of the years 1976 through 1985. On April 13, 1976, there was published in the FEDERAL REGISTER (41 Fed. Reg. 15439) a document entitled "Guidelines for Submission of Deferred Maintenance Statement." That document indicated that the information required by section 504(a) of the Act should be submitted in three parts: (1) deferred maintenance as of December 31, 1975, (2) delayed capital expenditures as of December 31, 1975, and (3) projected maintenance and capital expenditures for each of the years 1976 through 1985. It also provided a format for the submission by each Class I railroad of the deferred maintenance information required as the first part. The second part, delayed capital expenditures, is to be submitted pursuant to the format set forth herein.

2. *Purposes and Applicability.* These guidelines are issued to ensure that all Class I railroads that are required by section 504(a) of the Act to prepare and submit a statement of their delayed capital expenditures follow a standard format.

3. *Format for Submission of Delayed Capital Expenditures.* For the purposes of these guidelines, delayed capital expenditures shall include all projects for which capital expenditures have been delayed as of December 31, 1975 due to capital and financial limitations and which the railroad's management has determined and still finds to be (a) profitable (submit the methodology for computing the profitability threshold used to determine such projects; for example, if a level of 25 percent internal rate of return was used, indicate why the 25 percent level was chosen and how internal rate of return is computed) and desirable or (b) necessary to assure compliance with Federal, State, and local health, safety, or environmental standards. Each Class I railroad shall submit to the Federal Railroad Administration on or before August 3, 1976, a list of such projects identifying them as falling within category (a) or (b) above, or both. The projects shall be further identified by the following project categories: (1) yards and terminals; (2) freight cars by car type; (3) locomotives by general service category; (4) shops; (5) enginehouses; (6) communications and signals; (7) computers; (8) line relocation and construction; (9) bridges; (10) tunnels; and (11) other. The list should encompass all of those facilities, as defined in section 501(3) of the Act, not covered in the railroad's deferred maintenance statement provided earlier.

For each project the following information shall be provided:

(1) Location, if appropriate;

(2) Its total cost in Fourth Quarter 1975 dollars, with the capital and expense portions, as determined by the ICC's Uniform System of Accounts for

Railroad Companies, broken out separately;

(3) The period of time required for completion of the project; and

(4) The major benefits to be derived therefrom.

4. *Submission of Section 504(a) Statements.* Information submitted pursuant to these guidelines should be addressed to Mr. James L. Newkirk, Chief, Railroad Development Division, Office of Policy and Program Development, Federal Railroad Administration, Room 5100, 400 Seventh Street, S.W., Washington, D.C. 20590. He can be reached at (202) 426–0771 to answer any questions regarding these guidelines and the statements required by section 504(a).

(Section 504(a), Pub. L. 94–210, 45 U.S.C. 834(a))

Issued in Washington, D.C., on May 10, 1976.

ASAPH H. HALL,
Administrator.

[FR Doc.76–13965 Filed 5–12–76;8:45 am]

National Highway Traffic Safety Administration

[Docket 75–29; Notice 2]

MOTORIZED BICYCLES

Comment Closing Date

This notice establishes a closing date of June 15, 1976, for comments in response to Docket 75–29; Notice 1, Motorized Bicycles.

On November 28, 1975, the National Highway Traffic Safety Administration (NHTSA) published in the Federal Register a request for comments concerning the safety aspects of motorized bicycles commonly known as mopeds (40 FR 55375). No comment closing date was set forth at the time the notice was issued. Because the NHTSA now desires to ensure that those consulting the docket may be aware of of the views of all interested groups, it has determined to establish a closing date of June 15, 1976 for comments to Docket 7529; Notice 1.

Persons interested in commenting on the subject are invited to submit their views in writing to the Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590. Reference should be made to Docket Number 75–29. Comments filed after the comment closing date will be placed in the appropriate docket, but may not be included in the analysis of docket submissions.

(Sec. 101, Pub. L. 89–564, 80 Stat. 731; 23 U.S.C. 402; delegations at 49 CFR 1.50(b) and 49 CFR 501.8(d).)

Issued: May 10, 1976.

FRED W. VETTER, Jr.,
Associate Administrator for Traffic Safety Programs.

[FR Doc.76–13971 Filed 5–12–76;8:45 am]

HIGHWAY SAFETY PROGRAM

Amendment of Qualified Products List of Evidential Breath Measurement Devices

● The purpose of this notice is to amend the Qualified Products List, issued November 21, 1974 (39 FR 41399) and amended August 5, 1975 (40 FR 33484), of devices which have been found to qualify under the Standard for Devices to Measure Breath Alcohol (November 5, 1973 (38 FR 30459)) and which therefore may be purchased with Federal funds under the Highway Safety Act, Pub. L. 89–564, 80 Stat. 731, 23 U.S.C. 402, 403. ●

In accordance with the Breath Measurement Standard, semi-annual testing of devices was conducted during September and December 1975. At this testing two devices not on the previous lists, the S–11 Breath Tester and the Alert J3AD Breath Tester (battery powered), met all performance requirements, including those for Mobile Evidential Breath Testers. One device, the Gas Chromatograph Intoximeter Mark IV, which did not previously meet the requirement for Mobile Breath Testers, now meets those requirements as well. To reflect this, the Qualified Products List is hereby amended to read as follows:

QUALIFIED PRODUCTS LIST

The qualified products meeting all performance requirements, including those for Mobile Evidential Breath Testers, are as follows, listed alphabetically by manufacturer:

DEVICE AND MANUFACTURER

1. Alert J3AD Breath Tester (battery powered)—Borg-Warner Corporation, Des Plaines, Illinois.
2. S–11 Breath Tester—Borg-Warner Corporation, Des Plaines, Illinois.
3. Alco-limiter—Energetics Science, Inc., New York, New York.
4. Gas Chromatograph Intoximeter Mark IV—Intoximeters, Inc., St. Louis, Missouri.
5. Mark II Gas Chromatograph—Intoximeters, Inc., St. Louis, Missouri.
6. Intoxilyzer Model 4011—Omicron Systems Corp., Palo Alto, California.
7. Breathalyzer Models 900A, 1000—Smith & Wesson Electronics Co., Eatontown, New Jersey.
8. Roadside Breath Tester—U.S. Dept. of Transportation, Washington, D.C.

The qualified products meeting all performance requirements, excluding those for Mobile Evidential Breath Testers, are as follows, listed alphabetically by manufacturer:

DEVICE AND MANUFACTURER

1. Alco-Tester Model 500—Decatur Electronics, Decatur, Illinois.
2. Photo-Electronics Intoximeter—Intoximeters, Inc., St. Louis, Missouri.
3. Alco-Analyzer Model 1000—Luckey Laboratories, Inc., San Bernadino, California.

(23 U.S.C. 402, 403)

Issued on May 10, 1976.

FRED W. VETTER, Jr.,
Associate Administrator, Traffic Safety Programs.

[FR Doc.76–13972 Filed 5–12–76;8:45 am]

AMERICAN REVOLUTION BICENTENNIAL ADMINISTRATION

NATIONAL BICENTENNIAL MEDAL

Sales Outside the Continental United States

The American Revolution Bicentennial Administration under specific authority of Congress has designed and offered for sale January 1, 1976 the official national commemorative of the Bicentennial—the National Bicentennial Medal. The American Revolution Bicentennial Administration would like everyone to have the opportunity to acquire this official national commemorative of the Bicentennial. The medals are:

Solid gold	(0.900 fine) 3-in diameter.	$4,000
Solid gold (proof quality)	(0.900 fine) 1 5/16-in diameter.	400
Quarter size solid gold (proof quality).	(0.900 fine) 0.906-in diameter.	100
Sterling silver (antiqued)	3-in diameter	150
Sterling silver (proof quality).	1½-in diameter	25
Gold electroplated bronze	do	15
Bronze	do	5

It would be highly desirable to market the National Bicentennial Medal abroad and the American Revolution Bicentennial Administration would like offers from marketing organizations with capacity to sell in international markets.

The American Revolution Bicentennial Administration will discount medals in lots of 100 at 15% and permit add on costs to compensate for additional costs such as import duties and shipping. The American Revolution Bicentennial Administration may consider offers for exclusive sales rights in specified areas when determined to be in the best interests of the American Revolution Bicentennial Administration.

Send inquiries to: Henry v. Z. Hyde, Jr., Director of Commemorative Sales ARBA, 2401 E Street N.W., Washington, D.C. 20276, Phone: (202) 634–1971.

JOHN W. WARNER,
Administrator.

MAY 6, 1976.

[FR Doc.76–13981 Filed 5–12–76;8:45 am]

CIVIL AERONAUTICS BOARD

[Order 76–5–28 Docket 26494 Agreement C.A.B. 25465 R–1 and R–3; Agreement C.A.B. 25513; Agreement C.A.B. 25514 R–1 through R–3; Agreement C.A.B. 25516 R–1 and R–2; Agreement C.A.B. 25562; Agreement C.A.B. 25563 R–2 through R–6; Agreement C.A.B. 25626 Docket 27573; Agreement C.A.B. 25465 R–2, R–4, R–6, R–7; Agreement C.A.B. 25517; Agreement C.A.B. 25569 Docket 27813; Agreement C.A.B. 25563 R–1, R–7, R–8]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Passenger Fare and Cargo Rate Matters

● Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 10th day of May, 1976.

Agreements have been filed with the Board, pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of the Traffic Conferences of the International Air Transport Association (IATA). The agreements, adopted either by mail vote or at the Composite Passenger Traffic Conference at Cannes, have been assigned the above C.A.B. agreement numbers. They variously propose 3 percent fuel-related rate and fare increases in most geographical regions.

Since their filing, a number of the above-referenced agreements have either expired on their own terms or have been superseded by new agreements now before the Board. Accordingly, we will treat as moot and as requiring no further action, those agreements which have expired, namely, Agreements C.A.B. 25465, R-1 and R-3; C.A.B. 25513; C.A.B. 25514, R-3; C.A.B. 25516, R-1 and R-2; C.A.B. 25562; and C.A.B. 25626 which concern South Pacific, Intra-Pacific, U.S.-Mexico, and JT23/123 passenger fares. We will disapprove the proposed 3 percent increases in U.S.-South/Central America and U.S.-Caribbean passenger fares, (Agreement C.A.B. 25514, R-1 and R-2), because that agreement has been superseded by separate agreements which incorporate the 3 percent increases and which have been approved by the Board.[1] The agreement proposing a 3 percent increase in North/Central Pacific cargo rates (Agreement C.A.B. 25465, R-6) has been superseded by a new agreement for May 1, 1976 effectiveness, which is still pending before the Board. Accordingly, we will herein defer action on the 3 percent increase in North/Central Pacific cargo rates and related agreements.

We have before us agreements proposing 3 percent fuel-related increases in cargo rates between the United States and (1) points in the Western Hemisphere (Mexico/Caribbean/South/Central America) and (2) over the South Pacific; and (3) between American Samoa, on the one hand, and other points in the Pacific and points in TC2 on the other hand.[2] An additional agreement permits renegotiation of first-class fares within the Western Hemisphere in the event a carrier introduces supersonic aircraft in the area, permits application of various U.S./Canada-Caribbean promotional fares during April 1976 and specifies two new GIT fares in Cuba-South/Central America markets.

American Airlines, Inc. (American), Braniff Airways, Inc. (Braniff), Eastern Air Lines, Inc. (Eastern), and Pan American World Airways, Inc. (Pan American) have submitted economic justification in support of the South Pacific and Western Hemisphere rate increases.

In general comments relating to all areas, Pan American states that, while the increases were partially triggered by the announced increase in crude oil prices last fall, there is also an attempt to offset other recently experienced cost increases. The carrier maintains that its own fuel prices continue to escalate and have more than tripled since late 1973; that past fuel-related and other rate and fare increases have failed to fully compensate carriers for fuel or other cost increases; that any recovery of cost increases has lagged from 3 months to one year; and that it was against this background of inadequate cost recovery and the overall severe and precarious financial position of many carriers that the senior executives of IATA carriers, meeting in Oslo and Stockholm in September 1975, realized that the latest crude oil price increase had to be treated in a stronger, more expedited fashion and requested issuance of the mail votes which resulted in the instant agreements.

All of the four carriers providing Western Hemisphere cargo services, except Eastern, contend that the proposed 3 percent increases are justified, not only by rising fuel costs, but also by inflation in other items of cost such as labor and landing fees. All the carriers forecast rates of return on investment below the Board's 12 percent benchmark even with the proposed increases with the exception of Pan American for its scheduled cargo operations to both Mexico and South America.

In the South Pacific, Pan American, the only U.S. cargo operator in the area, contends that the proposed 3 percent fuel-related increase is justified in terms of soaring fuel and labor costs as well as by increased landing fees. The carrier forecasts a return on investment of 21.95 percent and 23.95 percent, respectively, under present and proposed cargo rates for the year ending September 1976.

Upon full consideration of the agreements, the carriers' justifications and other relevant matters, the Board has decided to approve the increases proposed in U.S.-Caribbean cargo rates and to disapprove the increases in South Pacific, U.S.-Mexico, and U.S.-South Central American cargo rates.

While the instant agreements were negotiated against the background of a 10 percent increase in crude oil prices, all of the carriers, except Eastern, contend the increases are warranted in terms of total cost increases. The Board agrees that requests for revenue increases should be considered on the basis of all costs in a particular ratemaking area and has considered the instant increases in terms of the carriers' overall revenue-cost experience, including contractual cost increases, as adjusted to reflect fuel costs reported to the Board through December 1975. As shown in the attached appendix,[3] the adjusted carrier data indicate that the carriers' composite return on investment, with the proposed increases, will be significantly below the Board's 12 percent return guideline for U.S.-Caribbean cargo service and, accordingly, we conclude that this increase is warranted. However, in the case of U.S.-South/Central America, U.S.-Mexico and South Pacific cargo services, the carrier data indicate composite returns in substantial excess of the Board's benchmark.[4] Therefore, we will disapprove the rate increases proposed in these areas.

At this point, we reiterate our position that with the leveling-off of the rate off fuel price increases, carrier recourse to fuel-related revenue increase agreements is no longer warranted. The Board will expect any future increases in rates and fares to be premised on the carriers' system need and *ad hoc* agreements related to particular elements of cost will not be considered.

The Board, acting pursuant to sections 102, 204(a) and 412 of the Act, makes the following findings:

1. It is not found that the following resolutions, incorporated in the agreements as indicated, are adverse to the public interest or in violation of the Act provided that approval is subject, where applicable, to conditions previously imposed by the Board:

---

[1] See Order 76-4-145, April 27, 1976, and Order 76-5-7, May 5, 1976 approving new U.S.-South/Central America and U.S.-Caribbean passenger fare structures, respectively.

[2] The cargo rate increases would remain in effect through September 30, 1976.

[3] Appendix filed as part of the original document.

[4] In view of Braniff's minimal cargo revenues in its U.S.-Mexico service, the carrier cannot be considered a viable competitor in this market. Accordingly, Braniff's cargo operations are not considered in determining the carriers' revenue need for cargo services in the U.S.-Mexico market.

Agreement CAB	IATA resolution	Application
25517	100(Mail 990)003dd (to the extent it would increase United States-Caribbean cargo rates).	1

Agreement CAB	IATA No.	Title	Application
25563:			
R-1	001nn	EXPEDITED Special TC1 Escape for First-Class Fares and Conditions of Service.	1
R-2	070bb	EXPEDITED TC1 Excursion Fares—USA/Mexico-Bermuda/Caribbean/Venezuela and within Caribbean (Amending).	1
R-4	080L	EXPEDITED TC1 10-Day Individual Inclusive-Tour Fares—United States-Bermuda/Bahamas/Caribbean (Amending).	1
R-6	084i	EXPEDITED TC1 14-Day Group Inclusive-Tour Fares Netherlands Antilles (Amending).	1

2. It is not found that the following resolutions, incorporated in the agreements as indicated and which have indirect application in air transportation as defined by the Act, are adverse to the public interest or in violation of the Act:

Agreement CAB	IATA resolution	Application
25465:		
R-7	JT12(Mail 879)003dd	1/2 South Atlantic.

Agreement CAB	IATA No.	Title	Application
25563:			
R-3	070l	EXPEDITED TC1 21-Day Excursion Fares Canada-Bermuda/Caribbean (Amending).	1
R-5	080p	EXPEDITED TC1 10/14-Day Individual Inclusive-Tour Fares Canada and Bermuda/Bahamas/Caribbean (Amending).	1

3. It is found that the following resolutions, incorporated in the agreements as indicated, are adverse to the public interest and in violation of the Act insofar as they would apply in air transportation to/from American Samoa:

Agreement CAB	IATA resolution	Application
25465:		
R-4	300(Mail 461)003dd	3.
25569	JT23(Mail 372)003dd, JT123 (Mail 767)003dd.	2/3; 1/2/3.

4. It is found that the following resolutions, incorporated in the agreements as indicated, are adverse to the public interest and in violation of the Act insofar as they would apply in air transportation as defined by the Act:

Agreement CAB	IATA resolution	Application
25465:		
R-2	JT31(Mail 297)003dd	3/1 South Pacific.

Agreement CAB	IATA No.	Title	Application
25514:			
R-1	003d I	EXPEDITED General Increases in Passenger Fares (New)	1 (Long-Haul).
R-2	003d II	EXPEDITED General Increases in Passenger Fares (New)	1 (Caribbean).

Agreement CAB	IATA resolution	Application
25517	100 (Mail 990) 003dd (to the extent it would increase United States-Mexico and United States-South/Central America cargo rates).	1

5. It is not found that the following resolutions, incorporated in Agreement C.A.B. 25563 as indicated, affect air transportation within the meaning of the Act:

Agreement CAB	IATA No.	Title	Application
25563:			
R-7	084ii	EXPEDITED TC1 5/21-Day Group Inclusive-Tour Fares—Lima/Panama-Havana (New).	1
R-8	084v	EXPEDITED TC1 5/21-Day Group Inclusive-Tour Fares to/from Havana (New).	1

Accordingly, *It is ordered*, That: 1. Those portions of Agreements C.A.B. 25465, C.A.B. 25517, and C.A.B. 25563 set forth in finding paragraphs one and two above be and hereby are approved, subject, where applicable, to conditions previously imposed by the Board;

2. Those portions of Agreements C.A.B. 25465 and C.A.B. 25569 set forth in finding paragraph three above be and hereby are disapproved insofar as they would apply in air transportation to/from American Samoa;

3. Those portions of Agreements C.A.B. 25465, C.A.B. 25514, and C.A.B. 25517 set forth in finding paragraph four above be and hereby are disapproved;

4. Action on Agreements C.A.B. 25465, R–4 and C.A.B. 25569 be and hereby is deferred insofar as they would apply in air transportation to/from Guam;

5. Action on Agreement C.A.B. 25465, R–6 be and hereby is deferred; and

6. Jurisdiction be and hereby is disclaimed with respect to those portions of Agreement C.A.B. 25563 set forth in finding paragraph five above.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc.76–14020 Filed 5–12–76;8:45 am]

[Order 76–5–21 Docket 21162]

OHIO/INDIANA POINTS NONSTOP SERVICE INVESTIGATION

Order Granting Consolidation and Denying Petitions for Reconsideration

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 7th day of May, 1976.

By Order 69–7–32, July 7, 1969, the Board instituted the *Ohio/Indiana Points Nonstop Service Investigation*, Docket 21162, to consider the need for first competitive nonstop service between (a) Cincinnati, Columbus, Dayton, and Indianapolis, on the one hand, and Philadelphia and Los Angeles, on the other, and (b) Indianapolis, on the one hand, and Cleveland and Pittsburgh, on the other.[1] By Order 70–2–1, February 2, 1970, a number of applications were consolidated with Docket 21162, to the extent that they requested authority within the scope of the issues in the proceeding.[2] By

	Docket
Allegheny Airlines, Inc	21250
American Airlines, Inc	21247
Continental Air Lines, Inc	21252
Delta Air Lines, Inc	21244
Eastern Air Lines, Inc	21248
Mohawk Airlines, Inc	21253

[1] Order 70–2–1 amended the scope of the proceeding by substituting "Los Angeles-Ontario-Long Beach" for "Los Angeles."

[2] They were, as follows:

	Docket
National Airlines, Inc	21208
North Central Airlines, Inc	21254
Northwest Airlines, Inc	21245
Ozark Air Lines, Inc	21242
United Air Lines, Inc	21243

Order 76-2-34, February 11, 1976, the Board set the instant investigation for hearing and provided a time frame for the filing of motions to consolidate and petitions for reconsideration.[3]

TWA has filed a Motion to Dismiss all applications and terminate the proceeding. In support of its motion, TWA states, in pertinent part, that the instant proceeding was instituted in 1969 and that during the intervening years traffic growth rates have declined drastically; that the ten markets at issue in this investigation are not large markets when measured in terms of the capacity in today's aircraft; and that the four long-haul markets (Los Angeles-Cincinnati, Los Angeles-Columbus, Los Angeles-Dayton, and Los Angeles-Indianapolis) are small for competitive nonstop service and the traffic in those markets is well accommodated on a single-carrier basis.

Answers opposing TWA's motion were filed by the Cincinnati Parties; the Indianapolis Airport Authority; the City of Dayton and the Dayton Area Chamber of Commerce; the City of Philadelphia and the Greater Philadelphia Chamber of Commerce; Allegheny; American; and the Bureau of Operating Rights.

Allegheny has filed a petition for reconsideration requesting the Board to restructure this proceeding. Allegheny states that the case as presently constituted involves three different types of issues (the Ohio/Indiana-Philadelphia markets, the Ohio/Indiana-Los Angeles markets, and the Pittsburgh-Indianapolis/Cleveland markets). Allegheny suggests that the Pittsburgh-Indianapolis/Cleveland issues should be set down as a separate proceeding and that similar treatment could logically be accorded the four Ohio/Indiana-Philadelphia markets. Allegheny states that the primary focus in this case would necessarily be on the long-haul west coast routes thus subordinating and delaying disposition of the short-haul issues, which according to Allegheny can easily be heard on a separate basis.

Allegheny's petition is opposed by the Cincinnati Parties, Ozark, Western, and the Bureau. The petition is supported by Delta which indicates that it prefers to have its Indianapolis-Cleveland application heard separately; by North Central which supports Allegheny's petition insofar as Allegheny suggests that the Board hear separately the four long-haul markets; and by the Indianapolis Airport Authority which alleges that the Indianapolis-Cleveland market needs improved service more than the other nine markets.

American has also filed a petition for reconsideration in which it requests the Board to expand the scope of the case by (a) adding Pittsburgh on the east as the city to be served from California, (b) adding San Francisco as a California city to be permitted nonstop service with Pittsburgh, Indianapolis, Cincinnati, Columbus, and Dayton, and (c) adding the possibility of allowing both the California terminals to be served on flights serving the eastern cities just named. According to American, the expansion of the case as suggested by that carrier will give recognition to the size of the Pittsburgh-Los Angeles market and the various San Francisco markets, and to the need for flexibility in combining traffic flows to serve the public.

Answers opposing American's petition were filed by Allegheny, TWA, United and Western and the Bureau. The Columbus Parties filed an answer supporting American's petition and alleging, in pertinent part, that the markets named by American need improved service and that those service issues can logically be heard herein. The Cincinnati Parties oppose American's request to add the Pittsburgh-Los Angeles market to the case on the grounds that such an issue would divert attention from the four Ohio and Indiana points whose needs for competitive nonstop service to Los Angeles and Philadelphia are basic issues involved in this case. Cincinnati does not, however, oppose American's proposed addition of San Francisco as a west coast terminal. Indianapolis supports American's suggestion to add San Francisco to the case and to combine Los Angeles and San Francisco for service on the same flight to the Ohio and Indiana cities.

American has filed a Motion to Consolidate its amended application in Docket 21247. No answers were filed to American's motion.

Delta has filed a Motion to Consolidate Amendment No. 1 to its application in Docket No. 21244 with the instant investigation. The amendment in question seeks authority in the Indianapolis-Cleveland market. No answers were filed to Delta's motion.

Wright Airlines has also filed a Motion to Consolidate its application in Docket 28926. Wright's application seeks authority to engage in air transportation between Columbus and Philadelphia; Cleveland and Indianapolis; and Columbus and Los Angeles. No answers were filed to Wright's motion.

Finally, Hughes Air Corp., d/b/a Hughes Airwest filed a Motion to Consolidate its application in Docket 29061. Hughes Airwest's application seeks authority between Los Angeles, on the one hand, and Cincinnati, Columbus, Dayton, and Indianapolis, on the other hand, and between the Ohio/Indiana cities and Philadelphia, Pittsburgh, and Cleveland, on the other hand.

Upon consideration of the pleadings and all the relevant facts, we have decided to deny TWA's motion and deny the petitions filed by Allegheny and American. We will also consolidate the applications of American (to the extent that it conforms to the issues herein), Delta, Hughes Airwest, and Wright.

With respect to TWA's motion to dismiss, that carrier's arguments deal essentially with matters which relate to the merits of the issues herein; and TWA has not made any persuasive showing that the Board should not investigate the need for competitive nonstop service in the ten markets in issue. In short, TWA has not demonstrated any sound basis for terminating this investigation.

We are not persuaded that Allegheny's suggestion that the case be divided into two or perhaps three separate parts will result in a more efficient or more logical way of doing business. If the Board were to follow Allegheny's suggestion, there would be two or three proceedings involving some of the same parties, possibly related issues, multiple hearings and initial decisions, and ultimately multiple Board decisions.

American's petition involves a substantial expansion and consequent delay of the proceeding. American has not shown that there is any necessary economic relationship between the markets which it would add and the markets presently in issue. The expansion of the case suggested by American would as a result simply make the case much larger without any particular economic justification for doing so.

We will consolidate American's amended application (to the extent it conforms to the issues herein), Delta's amended application, and the applications of Hughes Airwest and Wright. These applications meet the criteria for consolidation set forth in Rule 12 of the Board's Rules of Practice. Thus, consolidation of the applications listed above with the instant investigation would be conducive to the dispatch of the Board's business and to the ends of justice, and will not unduly delay the proceeding.

Accordingly, *It is ordered:*

1. That the motion to dismiss filed by Trans World Airlines, Inc., and the petitions for reconsideration filed by Allegheny Airlines, Inc., and American Airlines, Inc., be and they hereby are denied;

2. That the motion on Hughes Airwest to late file a document be and it hereby is granted;

3. That the amended application of American Airlines, Inc., Docket 21247 (to the extent that it conforms with the issues herein); the amended application of Delta Air Lines, Inc., Docket 21244; the application of Hughes Airwest, Docket 29061; and the application of Wright Air Lines, Inc., Docket 28926, be and they hereby are consolidated for hearing and decision with the Ohio/Indiana Points Nonstop Service Investigation, Docket 21162; and

4. That, except to the extent granted herein, all petitions, motions, and requests be and they hereby are denied.

[3] Subsequently by Orders 76-3-50 and 76-3-56, dated March 8, 1976 and March 9, 1976, respectively, the applications of Northwest and Continental were dismissed at the requests of the carriers.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc.76-14019 Filed 5-12-76;8:45 am]

[Docket 27573; Agreement C.A.B. 25815; Order 76-5-11]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Specific Commodity Rates

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carries embodied in the resolutions of the Joint Traffic Conferences of the International Air Transport Association (LATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement names an additional specific commodity rate as set forth below, reflecting reductions from general cargo rates, and was adopted pursuant to unprotested notices to the carriers and promulgated in IATA letter dated April 27, 1976.

Specific Commodity Item No.	*Description and Rate*
2260	Clothing, Footwear, Outerwear, Undergarments, Finished or semi-finished,[1] 136 cents per kg., minimum weight 500 kgs., From Malta to New York.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14, it is not found that the subject agreement is adverse to the public interest or in violation of the Act, provided that approval is subject to the conditions hereinafter ordered.

Accordingly, IT IS ORDERED THAT:

Agreement C.A.B. 25815 is approved, provided that approval shall not constitute approval of the specific commodity description contained therein for purposes of tariff publications; provided further that tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing.

Persons entitled to petition the Board for review of this order, pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc.76-14018 Filed 5-12-76;8:45 am]

[1] See applicable tariffs for complete commodity description.

THE COMMISSION OF FINE ARTS

AMENDED MEETING

MAY 7, 1976.

The open meeting of the Commission of Fine Arts which was originally scheduled for Tuesday, May 18, 1976, has been changed to Thursday, May 20, 1976, at 10:00 a.m. in the Commission offices at 708 Jackson Place NW., Washington, D.C. 20006.

This amends the notice of meeting published in the FEDERAL REGISTER on May 4, 1976.

CHARLES H. ATHERTON,
Secretary.

[FR Doc.76-14008 Filed 5-12-76;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 541-5; OPP-50134]

BORAX RESEARCH CORPORATION

Issuance of Experimental Use Permit

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), an experimental use permit has been issued to U.S. Borax Research Corporation, Anaheim, California 92801. Such permit is in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

This experimental use permit (No. 1624-EUP-18) allows the use of 320 pounds A.I. of the herbicide N³, N³-diethyl-2,4-dinitro-6-(trifluoromethyl)-m-phenylenediamine on sunflowers, peas, green beans, lima beans, and lentils to evaluate control of annual grasses and broadleaf weeds. A total of 929 acres is involved; the program is authorized only in the States of California, Colorado, Georgia, Idaho, Illinois, Michigan, Minnesota, New Jersey, New York, North Dakota, Oregon, South Dakota, Tennessee, Texas, Washington, and Wisconsin. The experimental use permit is effective from April 7, 1976, to April 7, 1977. Permanent tolerances for residues of the active ingredient in or on sunflowers, peas, green beans, lima beans, and lentils have been established.

Interested parties wishing to review the experimental use permit are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., S.W., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: May 6, 1976.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

[FR Doc.76-13833 Filed 5-12-76;8:45 am]

[FRL 541-7; OPP-50136]

ELANCO PRODUCTS COMPANY

Issuance of Experimental Use Permit

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), an experimental use permit has been issued to Elanco Products Company, Indianapolis, Indiana 46206. Such permit is in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

This experimental use permit (No. 1471-EUP-40) allows the use of 1,000 pounds of the herbicide trifluralin and 250 pounds of the herbicide 4-amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5(4H)-one on soybeans to evaluate control of annual grasses and broadleaf weeds. A total of 800 acres is involved; the program is authorized only in the States of Alabama, Arkansas, Georgia, Illinois, Indiana, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, Ohio, Oklahoma, South Carolina, and Tennessee. The experimental use permit is effective from April 11, 1976, to April 11, 1977. Permanent tolerances for residues of both active ingredients in or on soybeans have been established.

Interested parties wishing to review the experimental use permit are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., S.W., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: May 6, 1976.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

[FR Doc.76-13834 Filed 5-12-76;8:45 am]

[FRL 541-6; OPP-50135]

HERCULES INCORPORATED

Issuance of Experimental Use Permit

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), an experimental use permit has been issued to Hercules Incorporated, Wilmington, Delaware 19899. Such permit is in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

This experimental use permit (No. 891-EUP-29) allows the use of 48 pounds A.I. of the insecticide dialifor on walnuts for control of the codling moth, aphids, mites, scale insects, and the walnut husk

fly. A total of 4 acres is involved; the program is authorized only in the State of California. The experimental use permit is effective from April 5, 1976, to April 5, 1977. Any crops treated under this permit will be destroyed or used for research purposes only.

Interested parties wishing to review the experimental use permit are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., S.W., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: May 6, 1976.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

[FR Doc.76-13835 Filed 5-12-76;8:45 am]

[FRL 541-3; OPP-240009A]

STATES OF ARIZONA, ARKANSAS, NEW HAMPSHIRE, OKLAHOMA, AND VERMONT

Approval of Requests for Interim Certification To Register Pesticides To Meet "Special Local Needs"; Correction

In FR Doc. 76-10933 beginning on page 15910 in the issue of April 15, 1976, the following correction should be made.

The eighth (8th) paragraph is corrected to read:

"The State agencies which have been designated responsible for issuance of such registrations are, respectively, the Office of the State Chemist (Arizona), the Arkansas State Plant Board, the Oklahoma Department of Agriculture, and the Vermont Department of Agriculture. All these agencies, except the Office of the State Chemist were notified on March 25, 1976, that their Requests had been approved. The Arizona agency was notified of such approval on March 26, 1976".

Dated: May 7, 1976.

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

[FR Doc.76-13832 Filed 5-13-76;8:45 am]

[FRL 540-3; OPP-42018]

FLORIDA

Submission of State Plan for Certification of Pesticide Applicators

In accordance with the provisions of Section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136) and 40 CFR Part 171 [39 FR 36446 (October 9, 1974) and 40 FR 11698 (March 12, 1975)] the Honorable Reubin O'Dell Askew, Governor of the state of Florida, has submitted a state plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides to the Environmental Protection Agency (EPA) for approval.

Notice is hereby given of the intention of the Regional Administrator, EPA, Region IV to approve this plan as amended, pending promulgation and passage of Rules and Regulations modifying and changing Florida Statute 487, Florida administrative code chapters 5E-2 and 5E-9; Florida Statute 388, Florida administrative code, chapters 10D-54.03, 10D-54.14; Florida Statute 482, Florida administrative code chapters 10D-55.06, 10D-55.40 and 10D-55.42 and implementation of procedures proposed in letter from Department of Health and Rehabilitative Services to Florida Department of Agriculture and Consumer Services dated 3/2/76. Copies of these changes are attached to the plan.

The entire plan, together with all attached appendices (except for sample examinations), may be examined during normal business hours at the following locations:

Mayo Building, South Calhoun Street, Tallahassee, Fla. 32304, Division of Inspection, Florida Department of Agriculture (904) 488-3731.

Room 110, 1421 Peachtree St. NE., Atlanta, Ga. 30309, (Pesticide Branch, Air & Hazardous Materials Division, EPA, Region IV (404) 526-3222).

Room 401, East Tower, Waterside Mall, 401 M Street SW., Washington, D.C. 20460, (Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA (202) 755-4854).

SUMMARY OF FLORIDA STATE PLAN

The Florida Department of Agriculture and Consumer Services has been designated the state lead agency and has been authorized to cooperate with and enter into formal agreements with other agencies and/or educational institutions for purposes of implementing the Florida Pesticide Application Act of 1974 (FS 487.151).

The Division-of Inspection is the organization of the Florida Department of Agriculture and Consumer Services charged with the responsibility for unification of the Plan into a workable unit for the purpose of carrying out the provisions of FIFRA, Section 4 and Florida Statute related to pesticide application.

Formal agreements have been made between the Florida Department of Agriculture and Consumer Services and (1) Department of Health and Rehabilitative Services, (2) Department of Natural Resources, (3) Department of Environmental Regulation, and (4) Institute of Food and Agricultural Services, University of Florida.

The functions and responsibilities of the Department of Agriculture and Consumer Services will be certification of all private applicators and commercial applicators other than those specified in chapters 482, 388, 10D-54 and 10D-55 FS, Enforcement of chapter 487, Florida Statutes and coordination of the state plan.

The Department of Health and Rehabilitative Services will examine, certify, license, regulate and otherwise administer pest control operators (482, Florida Statute); train, examine, certify, license and regulate mosquito control applicators regulated by chapter 388, Florida Statute as well as train, examine, and assist in enforcement of regulations governing mosquito control applicators not regulated by chapter 388, Florida Statutes. This Department will also assist in the enforcement of applicable laws and rules.

The Department of Natural Resources wil train, examine and recommend for certification by Florida Department of Agriculture and Consumer Services Aquatic Pest Control Applicators and assist in enforcement activities of Aquatic Pest Control Applicators.

The Institute of Food and Agricultural Sciences of the University of Florida will prepare and conduct training programs for private and commercial applicators and examine all commercial applicators except those regulated by the Department of Health and Rehabilitative Services and the Department of Natural Resources.

This agency will also inform certifying agencies (Department of Agriculture and Consumer Services and Department of Health and Rehabilitative Services) of changes in technique and knowledge relating to pesticides and recommend and institute procedures for assuring that applicators maintain their level of competency. They will also prepare, and where appropriate, conduct the procedures outlined for competency determination of private applicators.

The Department of Environmental Regulation will provide technical assistance to all agencies regarding environmental considerations and pollution control regulations and review certification examinations for control and accuracy relating to environmental considerations.

An Interagency Committee has been appointed by the Governor and consists of representatives from the Department of Agriculture and Consumer Services, Department of Pollution Control, Department of Natural Resources, Department of Health and Rehabilitative Services, Institute of Food and Agricultural Sciences, Game and Fresh Water Fish Commission and Department of Administration. This committee will meet annually to review state programs and compile an annual report for the administrator. The lead agency will schedule additional meetings as necessary to consider category changes, evaluate certification qualifications, plan and implement maintenance structures, and consider other relevant matters.

Legal authority for Florida's Certification Program is contained in the following laws:

1. Florida Pesticide Law, Chapter 487, Florida Statutes, Section 487.151—487.166.

2. Florida Pest Control Act, Chapter 482, Florida Statutes.

3. Florida Pest Control Regulations 10D-55.

4. Florida Mosquito Control: Chapter 388, Florida Statutes.

5. Florida Mosquito Control Program Administration Regulations 10D–54.

Copies of the above laws are attached to the plan. Regardless of which law an applicator is certified under, he will be subject to the same standards, testing, record keeping provisions, criminal prohibitions and other requirements which Federal regulations require.

The plan indicates that the state lead agency and cooperating agencies have sufficient qualified personnel and funds necessary to carry out the proposed programs.

The state estimates that 4,358 commercial applicators and 16,000 private applicators will need to be certified. All certified applicators will be furnished certificates.

The Florida Department of Agriculture will submit an annual report to EPA in October of each year and special reports to meet specific needs.

Florida will adopt the 10 categories of commercial applicators listed in 40 CFR 171.3. Florida also wishes to amend categories 7, 8 and 10 by adding subcategories. These subcategories are necessary for conformance with Florida Statutes and Regulations. New subcategories are as follows:

Category 7—Industrial, Institutional, Structural and Health Related Pest Control.—Subcategory (a) Fumigation; (b) General household pest control; (c) Termites and other wood-infesting organisms control; (d) Lawn and ornamental pest control.

The above subcategories of category 7 are necessary to conform with Florida Statute, Chapter 482, Pest Control and Chapter 10D–55, Pest Control Regulations.

Category 8—Public Health Pest Control.—(a) Mosquito Control.

Category 10—Demonstration and Research Pest Control.—(a) County Pesticide Trainer.

In addition one new category (aerial application) is proposed. This category has been proposed because the nature of aerial application inherently involves an infinitely greater environmental hazard potential than ground application, therefore, these applicators should demonstrate a more comprehensive competency and be certified in a commercial category separate from ground commercial applicators.

In order to become certified, commercial applicators must pass a written examination covering the standards of competency for the appropriate category (s) as well as the general standards for all categories. (40 CFR 171.4(b) and (c) and 171.6)

The Department of Natural Resources will train and test category 5, Aquatic Pest Control. Certification will be done by Department of Agriculture and Consumer Services. The Department of Health and Rehabilitative Services will test those individuals in category 3, Lawn and Ornamental, that are regulated by chapter 482, FS. All individuals in this category will be trained by the Institute of Food and Agricultural Sciences and those not regulated by chapters 482, FS will be tested by Institute of Food and Agricultural Science.

The Department of Health and Rehabilitative Services will test those individuals in category 7, Industrial, Institutional, Structural, and Health related pest control, that are regulated by chapter 482, FS. These individuals will be trained by the Institute of Food and Agricultural Science. All individuals in this category not regulated by 482, FS will be trained and tested by the Institute of Food and Agricultural Sciences.

The initial training sessions will be conducted prior to October 1976 and will be held in several areas of the state in order to most effectively reach the persons of the state desiring to attend. The programs will consist of two phases, a general (core) phase and a specific category phase and will require two to three days. Follow-up programs and competency maintenance programs will be instituted as the need arises.

The Department of Agriculture and Consumer Services will issue proper credentials for certification upon receipt of a written statement from the Institute of Food and Agricultural Science and/or the Department of Natural Resources that an applicant has successfully completed the competency requirements, for all categories other than those regulated by chapters 482 FS and 388 FS.

The Department of Health and Rehabilitative Services will certify individuals in categories 7 and 10 that are governed by Florida Statutes 482, FS and 388 FS.

EPA has reviewed the current program for those applicators who have passed a written examination under Florida Statutes 482 and 388 and has determined that such individuals have met the competency requirements of 40 CFR 171 for the subcategories in which they were examined.

PRIVATE APPLICATORS

Private applicators will be certified by one of the following options:

Option 1—By written or oral response to the question section of the application for a restricted use pesticide permit.

Applicants certified under this option will have available from the County Extension Office and Department of Agriculture and Consumer Services a private applicator training pack containing application and reference materials that may be used in completing the questions section of the application. After completing the application including the question section, the applicant will forward the completed form to the Department of Agriculture and Consumer Services for processing and certification.

If the applicant elects to take the oral answer option to the question section, he must do so in the presence of a County Extension Agent or a designated agent of the Department of Agriculture and Consumer Services. The official agent will record the applicant's participation in this process of certification.

Option 2—By participation in a state approved training program.

Applicants who elect this option will attend a training program conducted by the Cooperative Extension Service. One or more of these programs will be conducted in each county by County Extension Agents certified as County Pesticide Trainers.

The procedures to be used in obtaining the general objective will include lectures, slide presentations, and question review sessions conducted by the trainer. In addition each applicant will have a private applicator pack containing review materials.

Applicants will demonstrate competency by completing a review of questions based on the information presented in the program. The trainer will discuss the correct answers with the applicant. The review question sheet, along with a completed restricted pesticide application will be forwarded to the Department of Agriculture and Consumer Services for processing and certification.

Option 3—Certification of applicators unable to read pesticide label information.

Certification of applicators unable to read pesticide label information will be limited to the purchase and use of pesticides which have been recommended for his use by a county pesticide trainer and subsequently approved by the Department of Agriculture and Consumer Services.

Applicants will apply to the County Pesticide Trainer and inform him of the specific pesticide(s) they wish to use. The trainer will discuss with the applicant the use and handling of pesticides and ask questions which will serve as a guide for the evaluation of the applicant's understanding.

Following the general tutoring session, the trainer will read and discuss the specific label instructions for the pesticide(s) the applicant wishes to purchase. Finally the trainer will ask specific questions concerning label instructions. The applicant's understanding of the specific label instructions will be demonstration of competency and the trainer will send his recommendation, along with the restricted pesticide permit application, to the Department of Agriculture and Consumer Services for approval and limited certification.

This limited certification may be amended for additional products by the same procedure.

The Florida State Plan indicates that within 60 days of the approval of the Government Agency Plan by EPA, Florida will submit a statement in accordance with 40 CFR 171.7(e)(4)(i).

The lead agency is currently working with the Governor's Council on Indian Affairs concerning applicators on Indian reservations. As soon as the Indian governing bodies indicate their decisions, a copy of this will be made a part of the state plan.

Feasibility of reciprocal agreements with other states will be determined by the Interagency committee. In the event reciprocity is feasible and in the interest of both parties, procedures will be instituted for issuance of appropriate documents verifying certification and en-

forcement procedures to cover out-of-state applicators.

Other regulatory activities listed in the state plan which will supplement the certification program are pesticide product registration, dealer licensing, purchase and use permits for private and/or commercial applicators, enforcement, inspection, sampling and analysis of pesticides.

Applicator certification for commercial and private applicators will be maintained through an enforcement program involving inspections of certified applicators to determine their compliance with existing laws and regulations. In addition certification renewal will be required every three years. Renewal will be without examination except in situations where new knowledge in the use of pesticides is deemed by the Department of Agriculture and Consumer Services to be of a nature which compels examination for proof of competency. Applicators certified by the Department of Health and Rehabilitative Services will be required to renew their certification annually but will not be reexamined.

Enforcement will be carried out by Inspectors of the Department of Agriculture and Consumer Services and the Department of Health and Rehabilitative Services.

PUBLIC COMMENTS

Interested persons are invited to submit written comments on the proposed state plan for the state of Florida to the Chief, Pesticides Branch, Region IV, Environmental Protection Agency, Room 110, 1421 Peachtree Street, N.E., Atlanta, Georgia 30309. The comments must be received on or before June 13, 1976 and should bear the identifying notation (OPP-42018). All written comments filed pursuant to this notice will be available for public inspection at the above mentioned locations, from 8:30 a.m. to 3:30 p.m., Monday through Friday.

Dated: April 8, 1976.

JOHN A. LITTLE,
Deputy Regional Administrator,
Region IV.

[FR Doc.76-13828 Filed 5-12-76;8:45 am]

[FRL 541-4; OPP-33000/407]

NOTICE OF RECEIPT OF APPLICATION FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (39 FR 31862) its interim policy with respect to the administration of Section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended ["Interim Policy Statement"]. On January 22, 1976, EPA published in the FEDERAL REGISTER a document entitled "Registration of a Pesticide Product—Consideration of Data by the Administrator in Support of an Application" [41 FR 3339]. This document described the changes in the Agency's procedures for implementing Section 3(c)(1)(D) of FIFRA, as set out in the Interim Policy Statement, which were effectuated by the enactment of the recent amendments to FIFRA on November 28, 1975 [P.L. 94-140], and the new regulations governing the registration and reregistration of pesticides which became effective on August 4, 1975 [40 CFR Part 162].

Pursuant to the procedures set forth in these FEDERAL REGISTER documents, EPA hereby gives notice of the applications for pesticide registration listed below. In some cases these applications have recently been received; in other cases, applications have been amended by the submission of additional supporting data, the election of a new method of support, or the submission of new "offer to pay" statements.

In the case of all applications, the labeling furnished by the applicant for the product will be available for inspection at the Environmental Protection Agency, Room EB-31, East Tower, 401 M Street, S.W., Washington DC 20460. In the case of applications subject to the new Section 3 regulations, and applications not subject to the new Section 3 regulations which utilize either the 2(a) or 2(b) method of support specified in the Interim Policy Statement, all data citations submitted or referenced by the applicant in support of the application will be made available for inspection at the above address. This information (proposed labeling and, where applicable, data citations) will also be supplied by mail, upon request. However, such a request should be made only when circumstances make it inconvenient for the inspection to be made at the Agency offices.

Any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after January 1, 1970, is being used to support an application described in this notice, (c) desires to assert a claim under Section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data or the status of such data under Section 10 must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Information Coordination Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW, Washington DC 20460. Every such claimant must include, at a minimum, the information listed in the Interim Policy Statement of November 19, 1973.

The Interim Policy Statement requires that claims for compensation be filed on or before July 12, 1976. With the exception of 2(c) applications not subject to the new Section 3 regulations, and for which a sixty-day hold period for claims is provided, EPA will not delay any registration pending the assertion of claims for compensation or the determination of reasonable compensation. Inquiries and assertions that data relied upon are subject to protection under Section 10 of FIFRA, as amended, should be made on or before June 14, 1976.

Dated: May 6, 1976.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

APPLICATIONS RECEIVED (OPP-3,3000/407)

EPA Reg. No. 3737-0. American Water Purification, 1025 Contra Costa Blvd., Pleasant Hill CA 94523. SILVERATOR SUPER STRAW. Active Ingredients: Silver 0.624%. Method of Support: Application proceeds under 2(a) of interim policy. PM33

EPA File Symbol 5185-ETE. Bio-Lab, Inc., PO Box 1489, Decatur GA 30031. BIO-QUAT 50-60. Active Ingredients: Alkyl (C14 60%, C12 25%, C16 15%) dimethyl benzyl ammonium chloride 50.00%; Ethanol 10.00%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM31

EPA File Symbol 4715-GLE. Colorado International Corp., 5321 Dahlia St., Commerce City CO 80022. BEST 4 SERVIS BRAND TECHNICAL DDVP. Active Ingredients: O,O-Dimethyl-O-(2,2-dichlorovinyl) Phosphate 93.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM13

EPA File Symbol 11598-RI. Connecticut Aerosals, Inc., 85 Furniture Row, Milford CT 06460. OUTDOOR REPELLENT FOR DOGS AND CATS. Active Ingredients: Methyl nonyl ketone 1.9%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM11

EPA File Symbol 11598-ER. Connecticut Aerosals, Inc. INDOOR REPELLENT FOR DOGS AND CATS. Active Ingredients: Methyl nonyl ketone 1.9%. Method of Support: Application proceeds under 2(c) of interim policy. PM11

EPA File Symbol 35968-E. Consumer Ecology Products, Inc., 101 S.W. 5th Court, Pompano Beach FL 33060. GUARDENE. Active Ingredients: Silver (as elemental) 0.186%. Method of Support: Application proceeds under 2(b) of interim policy. PM33

EPA Reg. No. 3040-17. Edco Chemical Co., Inc., 1048 Key Rd., Columbia SC 29205. EDCO-BOWL CLEANER SOL. Active Ingredients: Hydrogen Chloride 23.00%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA File Symbol 1414-IG. Hampden Color & Chemical Co., PO Box 558, Springfield MA 01101. SODIUM HYPOCHLORITE 10%. Active Ingredients: Sodium Hypochlorite 10.0%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM34

EPA File Symbol 8780-UI. High Point Mills, Inc., 1225 Lehigh Station Rd., Henrietta NY 14467. ARTHROBAN COMBO. Active Ingredients: Chlorpyrifos 0,0-diethyl O-3,5,6-trichloro-2-pyridyl) phosphorothioate 0.70% 2,4-dichlorophenoxyacetic acid, sodium salt monohydrate 0.83%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM12

EPA File Symbol 8780-UA. High Point Mills, Inc. ARTHROBAN TRIPLE ACTION 3 FORMULA FOR ESTABLISHED LAWNS. Active Ingredients: Chlorpyrifos 0,0-diethyl O-(3,5,6-trichloro-2-pyridyl) phosphorothioate 0.70%; N-butyl-N-ethyl-a,a,a-trifluoro-2,6-dinitro-p-toluidene 0.53%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM12

EPA File Symbol 407-GTO. Imperial Inc., PO Box 423, Shenandoah Iowa 51601. SOD WEBWORM AND BILLBUG CONTROL NO. 1. Active Ingredients: 0,0-diethyle O-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate 12.5%; Aromatic petroleum derivative Solvent 73.0%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM15

EPA Reg. No. 37291-10. Red Devil Paints & Chemicals, 30 North West St., Mount Vernon NY 10550. RED DEVIL STAIN AND WOOD #410 MAHOGANY PRESERVATIVE. Active Ingredients: Bis (Tributyltin) Oxide 0.3%. Method of Support: Application proceeds under 2(c) of interim policy. PM22

EPA Reg. No. 37291-8. Red Devil Paints & Chemicals. RED DEVIL POLYURETHANE STAIN AND WOOD #406 CEDAR GRAY PRESERVATIVE. Active Ingredients: Bis (Tributyltin) Oxide 0.3%. Method of Support: Application proceeds under 2(c) of interim policy. PM 22

EPA Reg. No. 37291-4. Red Devil Paints & Chemical. RED DEVIL NO. 401 CLEAR WOOD PRESERVATIVE. Active Ingredients: Zinc Naphthenate 16.25%. Method of Support: Application proceeds under 2(c) of interim policy. PM22

EPA Reg. No. 37291-3. Red Devil Paints & Chemicals, 30 North West St., Mount Vernon NY 10550. RED DEVIL POLYURETHANE STAIN AND WOOD #403 REDWOOD PRESERVATIVE. Active Ingredients: Bis (Tributyltin) Oxide 0.3%. Method of Support: Application proceeds under 2(c) of interim policy. PM22

EPA Reg. No. 3791-2. Red Devil Paints & Chemicals. RED DEVIL POLYURETHANE STAIN AND WOOD #409 TEAK WOOD PRESERVATIVE. Active Ingredients: Bis (Tributyltin) Oxide 0.3%. Method of Support: Application proceeds under 2(c) of interim policy. PM22

EPA Reg. No. 37291-1. Red Devil Paints & Chemicals. RED DEVIL POLYURETHANE STAIN AND WOOD #404 CHESTNUT BROWN PRESERVATIVE. Active Ingredients: Bis (Tributyltin) Oxide 0.3%. Method of Support: Application proceeds under 2(c) of interim policy. PM22

EPA Reg. No. 38055-E. International Water Systems, Inc., 6497 Proprietors Rd., Worthington OH 43085. CENTURION 21 BACTERIOSTATIC WATER FILTER REPLACEMENT CARTRIDGE. Active Ingredients: Metallic Silver 1.05%. Method of Support: Application proceeds under 2(b) of interim policy. PM33

EPA Reg. No. 37532-G. Mogul Maintenance Systems, Div. of The Mogul Corp., Pine & Mogul Sts., Chagrin Falls OK 44022. MOGUL-CIDE 64-128. Active Ingredients: Didecyl dimethyl ammonium chloride 4.5%; Tetrasodium ethylenediamine tetraacetate 2.0%; Sodium carbonate 1.0%; Sodium metasilicate, anhydrous 0.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM33

EPA Reg. No. 8503-9. Products Chemical Co., 3045 E. 87th St., Cleveland OH 44104. CLING & CLEAN TRIPLE ACTION TOILET BOWL CLEANER. Active Ingredients: Hydrogen Chloride 9.45%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted, PM32

EPA File Symbol 178-RG. N. B. Purdy Products Co., PO Box 304, Wauconda IL 60084. STERA-SHEEN ALL DAIRY SANITIZER NO. 2. Active Ingredients: Sodium Dichloro-S-Triazinetrione Dihydrate 11.25%; Sodium Dodecylbenzene Sulfonate 0.50%; Tetrasodium Ethylenediamine Tetraacetate 3.50%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 572-GAU. Rockland Chemical Co., Inc., Box 809, Passaic Ave., West Caldwell NJ. ROCKLAND ORAL LARVICIDE. Active Ingredients: 2-chloro-1-(2,4,5-trichlorophenyl) vinyl dimethyl phosphate 7.76%. Method of Support: Application proceeds under 2(b) of interim policy. PM15

EPA Reg. No. 2155-30. I. Schneid, Inc., PO Box 93188, Martech Station, Atlanta GA 30318. POWER CONCENTRATE EMULSION BOWL CLEANER. Active Ingredients: Hydrogen Chloride 24%. Method of Support: Application proceeds under 2(a) of interim policy. PM32

EPA Reg. No. 491-103. Selig Chemical Industries, PO Box 43106, Atlanta GA 30336. VIXOL. Active Ingredients: Hydrogen Chloride 24.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA Reg. No. 37756-1. Water Safe Products, Inc., 8337 Nieman Rd., Lenexa KS 66214. RECHARGE PAK. Active Ingredients: Metallic Silver 1.05%. Method of Support: Application proceeds under 2(a) of interim policy. PM33

EPA Reg. No. 1270-175. Zep Manufacturing Co., PO Box 2015, Atlanta GA 30301. ZEPSECURE. Active Ingredients: n-alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chloride 3.00%; n-alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chloride 3.00%; Tetrasodium ethylene-diamine tetraacetate 2.30%; Sodium metasilicate 0.50%. Method of Support: Application proceeds under 2(a) of interim policy. PM33

EPA File Symbol 7698-I. Hubbard Milling Co., 424 N. Front St., Mankato MN 56001. HUBBARD SUPER 13 ROL MINERAL. (originally published with incorrect symbol number). PM15 (41 FR 14815; 4-7-76)

[FR Doc.76-13836 Filed 5-12-76;8:45 am]

[FRL 540-6]

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 (Public Law 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 all 27 source categories.

The Administrator, after evaluating available information, has determined that carbon black is an additional category of point sources which meets 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

37. Carbon Black

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: April 30, 1976.

RUSSEL E. TRAIN,
Administrator.

[FR Doc.76-13829 Filed 5-12-76;8:45 am]

[FRL 541-1]

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 (Public Law 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 all 27 source categories.

The Administrator, after evaluating available information, has determined that gum and wood chemicals is an additional category of points suorces which meets 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

38. Gum & Wood Chemicals

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: April 30, 1976.

RUSSELL E. TRAIN,
Administrator.

[FR Doc.76-13830 Filed 5-12-76;8:45 am]

[FRL 541-2]

WEST VIRGINIA IMPLEMENTATION PLAN

Technical Document Supporting the Administrator's Proposed Reaffirmance of His Original Approval of West Virginia Regulations II and X

Notice is hereby given that the technical document supporting the Administrator's March 4, 1976 (41 FR 9381) proposed reaffirmance of his original approval of West Virginia Regulations II and X is available for public inspection at the following locations:

Environmental Protection Agency, Wheeling Field Office, 303 Methodist Building, 11th and Chapline Streets, Wheeling, W. Va. 26003.

Environmental Protection Agency, Region III, 6th and Walnut Streets, Room 206, Philaphia, Pa. 19106.

Public Information Reference Unit, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Copies of the West Virginia Implementation Plan and the March 4, 1976, proposed rulemaking document also are available at these three locations.

Interested parties are invited to submit comments upon the Administrator's proposed action by submitting written comments, preferably in triplicate to Norman W. Spindel, EN-341, Division of Stationary Source Enforcement, Room 3202-Q. Waterside Mall, 401 M Street SW., Washington, D.C. 20460. Relevant comments received within 60 days of publication of this notice will be considered and acknowledged.

Dated: May 7, 1976.

S. W. LEGRO,
Assistant Administrator for Enforcement.

[FR Doc.76-13831 Filed 5-12-76;8:45 am]

[FRL 539-7]

HAZARDOUS AIR POLLUTANTS

Notice of Delegation of Authority to Commonwealth of Massachusetts

On December 23, 1971 (36 FR 24876), March 8, 1974 (39 FR 9308), August 6, 1975 (40 FR 33152), and September 23, 1975 (40 FR 43850), pursuant to Section 111 of the Clean Air Act, as amended, the Administrator of the Environmental Protection Agency (EPA) promulgated regulations establishing Standards of Performance for New Stationary Sources (NSPS) for eighteen categories of stationary sources. On April 6, 1973 (38 FR 8820), pursuant to Section 112 of the Clean Air Act, as amended, the Administrator promulgated National Emission Standards for Hazardous Air Pollutants (NESHAPS) for three pollutants. Sections 111(c) and 112(d) direct the Administrator to delegate his atuhority to implement and enforce NSPS and NESHAPS to any State which has submitted adequate procedures. Nevertheless, the Administrator retains concurrent authority to implement and enforce the standards following delegation of authority to the State.

On September 5, 1973, the Regional Administrator, Region I, EPA, forwarded to the Commonwealth of Massachusetts information setting forth the requirements for an adequate procedure for implementing and enforcing the standards for NSPS and NESHAPS. On October 16, 1975, the Commonwealth of Massachusetts submitted a draft request for delegation of authority. On October 23, 1975, EPA Region I personnel met with representatives from the Massachusetts Department of Environmental Quality Engineering (DEQE) to discuss the legal and technical issues involved in the delegation. As a result of this meeting, and at the request of EPA, the Commonwealth of Massachusetts, Department of the Attorney General, rendered a formal opinion on December 18, 1975, concerning the adequacy of the DEQE's authority to accept delegation of the enforcement of NSPS and NESHAPS. On November 4, 1975, the State submitted a second draft request which incorporated EPA's comments as outlined during the October 23 meeting. However, several issues remained unresolved.

Chapter 164, Section 69H of the Massachusetts General Laws authorized the Energy Facility Siting Council (EFSC) to exempt certain energy producing sources from certain environmental restrictions. In order to assure that MGLA ch. 164 § 69H would not be construed to exempt sources from compliance with Federal NSPS or NESHAPS, EPA requested that the DEQE include in their final delegation request specific assurances concerning this matter. In addition, DEQE secured a letter from the EFSC dated December 15, 1975, assuring DEQE's notification in the event that any NSPS or NESHAPS is placed in issue before the EFSC.

Before formally requesting delegation, the DEQE also desired to amend their regulations pertaining to criteria for facility plan approval by specifying the necessity of a facility's compliance with Federal NSPS and NESHAPS. This amendment, Regulation 2.1.2, was adopted December 31, 1975.

On January 7, 1976, David Standley, Commissioner of the Massachusetts DEQE, submitted to the EPA Region I Administrator a request for delegation of authority. The request letter cited the appropriate Massachusetts statutes and DEQE regulations which demonstrated the adequacy of the state's procedures. After a thorough review of Massachusetts' request, the Regional Administrator has determined that for the source categories set forth in paragraphs (A) and (B) of the following official letter to Commissioner David Standley, delegation is appropriate subject to the conditions set forth in items (1) through (11) of that letter.

MR. DAVID STANDLEY,
Commissioner, Department of Environmental Quality Engineering, Leverett Saltonstall Bldg., 100 Cambridge St., Boston, Mass. 02202

DEAR MR. STANDLEY: This is in response to your letter received by EPA on January 7, 1976, requesting delegation of authority for implementation and enforcement of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS) to the Commonweath of Massachusetts, Department of Environmental Quality Engineering (DEQE).

The Environmental Protection Agency, Region I, (EPA) has reviewed the pertinent laws of the Commonwealth of Massachusetts and the rules and regulations of the DEQE, and has determined that they provide an adequate and effective procedure for implementation and enforcement of the NSPS and NESHAPS by the Commonwealth of Massachusetts. Therefore, we hereby grant delegation of the NSPS and NESHAPS to the Commonwealth of Massachusetts Department of Environmental Quality Engineering as follows:

(A) Authority for all sources located in the Commonwealth of Massachusetts subject to the following Standards of Performance for New Stationary Sources as promulgated in 40 CFR Part 60 as of January 7, 1976: fossil fuel-fired steam generators; incinerators; portland cement plants; nitric acid plants; sulfuric acid plants; asphalt concrete plants; petroleum refineries; storage vessels for petroleum liquids; secondary lead smelters; secondary bronze and brass ingot production plants; iron and steel plants; sewage treatment plants; wet process phosphoric acid plants; superphosphoric acid plants; diammonium phosphate plants; triple superphosphate plants; granular triple superphosphate storage facilities; and electric arc furnaces in the steel industry.

(B) Authority for all sources located in the Commonwealth of Massachusetts subject to the following National Emission Standards for Hazardous Air Pollutants as promulagted in 40 CFR Part 61 as of January 7, 1976: beryllium, mercury, and asbestos.

This delegation is based upon the following conditions:

1. The DEQE will continue to submit semi-annual reports as required to EPA.

2. Enforcement of NSPS and NESHAPS in the Commonwealth of Massachusetts will be the primary responsibility of the DEQE. If the DEQE determines that such enforcement is not feasible and so notifies EPA, or where the DEQE acts in a manner inconsistent with the terms of this delegation, EPA will exercise its concurrent enforcement authority pursuant to Section 113 of the Clean Air Act, as amended, with respect to sources within the Commonwealth of Massachusetts subject to NSPS and NESHAPS.

3. Acceptance of this delegation of enumerated presently promulgated NSPS and NESHAPS does not commit the Commonwealth of Massachusetts DEQE to request or accept delegation of future standards and requirements. However, if the Commonwealth desires delegation of authority for any standard not included in the request received by EPA on January 7, 1976, or for any standard which is revised subsequent to that date, a new request for delegation will be necessary. EPA will develop a simple mechanism by which minor amendments to the Federal regulations could be routinely delegated.

4. Upon approval of the Regional Administrator of Region I, the Commissioner, Massachusetts DEQE, may subdelegate his authority to implement and enforce the NSPS and NESHAPS to air

pollution control authorities in the Commonwealth when such authorities have demonstrated that they have equivalent or more stringent programs in force.

5. The DEQE will at no time grant a variance or waiver from compliance with applicable NSPS and NESHAPS (40 CFR Parts 60 and 61). Should the DEQE grant such a variance or waiver, EPA will consider the source receiving such relief to be in violation of the applicable Federal regulation and may initiate enforcement action against the source pursuant to Section 113 of the Clean Air Act. The granting of such relief by the DEQE shall also constitute grounds for revocation of the delegation by EPA.

6. This delegation to the Commonwealth of Massachusetts does not include the authority to implement and enforce NSPS and NESHAPS for sources located in the Commonwealth which are owned or operated by the United States. This condition in no way relieves any Federal facility from meeting the requirements of 40 CFR Parts 60 and 61.

7. If at any time the Energy Facility Siting Council (MGLA ch. 164 § 69H) notifies DEQE that it has received an application for a certificate which would, if granted, exempt the source from, or modify the terms of any NSPS or NESHAPS permit condition imposed by DEQE, DEQE will immediately notify EPA in order that EPA may exercise its concurrent enforcement authority.

8. The DEQE and EPA will develop a system of communication sufficient to ensure that each office is fully informed regarding the current compliance status of subject sources in the Commonwealth of Massachusetts and regarding interpretation of applicable regulations. EPA will make determinations regarding unique questions of applicability of delegated standards when requested by the DEQE or at other times as determined by EPA. EPA will provide technical assistance as necessary to the DEQE. The DEQE will provide the following information, as a minimum, to EPA: the name and address of each facility subject to NSPS or NESHAPS, the operational status of each facility; the compliance status of each facility with accompanying explanations of non-compliance where applicable; notice of enforcement actions brought against facilities subject to delegated NSPS and NESHAPS; surveillance actions undertaken for each facility; and the results of all reports relating to emission data.

9. If at any time there is a conflict between a State regulation and a Federal regulation (40 CFR Parts 60 and 61), the Federal regulation must be applied if it is more stringent than that of the State. If the State does not have the authority to enforce the more stringent Federal regulation, this portion of the delegation may be revoked.

10. The DEQE will utilize the methods specified in 40 CFR Parts 60 and 61 in performing source tests pursuant to the regulations.

11. If the Regional Administrator determines that a State procedure for enforcing or implementing the NSPS or NESHAPS is inadequate, or is not being effectively carried out, this delegation may be revoked in whole or in part. Any such revocation shall be effective as of the date specified in a Notice of Revocation to the DEQE.

A Notice announcing this delegation will be published in the FEDERAL REGISTER in the near future. The Notice will state, among other things, that effective immediately, all reports required pursuant to the Federal NSPS and NESHAPS from sources located in the Commonwealth of Massachusetts should be submitted to the Department of Environmental Quality Engineering, as well as to EPA.

Since this delegation is effective immediately, there is no requirement that the State notify EPA of its acceptance. Unless EPA receives written notice of objections from the State within 10 days of the receipt of this letter, the State will be deemed to have accepted all the terms of this delegation.

Sincerely yours,

JOHN A. S. MCGLENNON,
Regional Administrator.

Therefore, pursuant to the authority delegated to him by the Administrator, the Regional Administrator notified Commissioner Standley on January 23, 1976, that authority to implement and enforce specified Standards of Performance for New Stationary Sources and National Emission Standards for Hazardous Air Pollutants was delegated to the Commonwealth of Massachusetts Department of Environmental Quality Engineering. By letter of February 3, 1976, Commissioner Standley reaffirmed the DEQE's intention to release as public information all emission data; and in any instance where such requirement conflicts with State law, to immediately notify EPA Region I so that EPA may exercise its concurrent authority.

Copies of the request for delegation of authority and related material are available for public inspection at the Environmental Protection Agency, Region I Office, J. F. Kennedy Federal Building, Boston, Massachusetts 02203.

Effective immediately, all reports required pursuant to the National Emission Standards for Hazardous Air Pollutants and the Standards of Performance for New Stationary Sources listed in the above letter should be submitted to the EPA Region I Office and should also be submitted to the State Agency at the following address: Massachusetts Department of Environmental Quality Engineering, Division of Air Quality Control, 600 Washington Street, Boston, Massachusetts 02111.

This notice is issued under the authority of Sections 111 and 112 of the Clean Air Act, as amended, 42 U.S.C. 1857c-6 and 7.

Dated: April 20, 1976.

JOHN A. S. MCGLENRAN,
Regional Administrator.

[FR Doc.76-13827 Filed 5-12-76;8:45 am]

[FRL 539-4]

HAZARDOUS AIR POLLUTANTS

Notice of Delegation of Authority to State of New Hampshire

On December 23, 1971, (36 FR 24876), March 8, 1974 (39 FR 9308), August 6, 1975 (40 FR 33152), and September 23, 1975 (40 FR 43850), pursuant to Section 111 of the Clean Air Act, as amended, the Administrator of the Environmental Protection Agency (EPA) promulgated regulations establishing Standards of Performance for New Stationary Sources (NSPS) for eighteen categories of stationary sources. On April 6, 1973, (38 FR 8820), pursuant to Section 112 of the Clean Air Act, as amended, the Administrator promulgated National Emission Standards for Hazardous Air Pollutants (NESHAPS) for three pollutants. Sections 111(c) and 112(d) direct the Administrator to delegate his authority to implement and enforce NSPS and NESHAPS to any State which has submitted adequate procedures. Nevertheless, the Administrator retains concurrent authority to implement and enforce the standards following delegation of authority to the State.

On September 5, 1973, the Regional Administrator, Region I, EPA, forwarded to the State of New Hampshire information setting forth the requirements for an adequate procedure for implementing and enforcing the standards for NSPS and NESHAPS. On March 19, 1975, representatives from EPA and the New Hampshire Air Pollution Control Agency (NHAPCA) met to discuss these requirements, at which time certain questions arose regarding the adequacy of legal authority for accepting delegation under New Hampshire law. On December 18, 1975, the New Hampshire Office of the Attorney General formally responded to the Director of the NHAPCA concerning the adequacy of New Hampshire's legal authority. On January 8, 1976, representatives from EPA and NHAPCA met and agreed upon the wording and contents of a formal delegation request.

On January 16, 1976, Meldrim Thomson, Jr., Governor of New Hampshire, submitted to the Regional Administrator of EPA Region I, a request for delegation of authority on behalf of the NHAPCA which he, the Governor, designated as the agency responsible for implementation and enforcement of the delegated authority. Appended to the state's request was the December 18, 1975 opinion from the State Attorney General's Office. After a thorough review of New Hampshire's request, the Regional Administrator has determined that for the source categories set forth in paragraphs (A) and (B) of the following official letter to the Honorable Meldrim Thomson, delegation is appropriate subject to the conditions set forth in items (1) through (9) of that letter:

Hon. MELDRIM THOMSON,
Governor of New Hampshire,
State House, Concord, N.H.

DEAR GOVERNOR THOMSON: This is in response to your January 16, 1976 letter requesting delegation of authority for implementation and enforcement of the New Source Performance Standards (NSPS) and the National Emission Standards for Hazardous Air Pollutants (NESHAPS) to the State of New Hampshire, Air Pollution Control Agency (the Agency).

The Environmental Protection Agency, Region I, (EUA), has reviewed the pertinent laws of the State of New Hampshire and the regulations of the Agency and has determined that they provide an adequate and effective procedure for implementation and enforcement of the NSPS and NESHAPS by the State of New Hampshire. Therefore, we hereby grant delegation of the NSPS and NESHAPS to the State of New Hampshire Air Pollution Control Agency as follows:

A. Authority for all sources located in the State of New Hampshire subject to the fol-

lowing Standards of Performance for New Stationary Sources as promulgated in 40 CFR Part 60 as of January 16, 1975: fossil fuel-fired steam generators, incinerators, asphalt concrete plants, petroleum refineries, storage vessels for petroleum liquids, secondary lead smelters, secondary brass and bronze ingot production plants, iron and steel plants, sewage treatment plants and electric arc furnaces.

B. Authority for all sources located in the State of New Hampshire subject to the following National Emission Standards for Hazardous Air Pollutants as promulgated in 40 CFR Part 61 as of January 16, 1976: asbestos, including demolition and renovation; beryllium; and mercury.

This delegation is based upon the following conditions:

1. The Agency will continue to submit to EPA semi-annual reports as required.

2. Enforcement of the NSPS and NESHAPS in the State of New Hampshire will be the prime responsibility of the Agency. If the Agency determines that such enforcement is not feasible and so notifies EPA, or where the Agency acts in a manner inconsistent with the terms of this delegation, EPA will exercise its concurrent enforcement authority pursuant to Section 113 of the Clean Air Act as amended, with respect to sources within the State of New Hampshire subject to the NSPS and NESHAPS.

3. Acceptance of this delegation of enumerated presently promulgated NSPS and NESHAPS does not commit the State of New Hampshire to request or accept delegation of future standards and requirements. However, if the State desires delegation of authority for any standard not included in their request of January 16, 1976, or for any standard which is revised subsequent to this date, a new request for delegation will be necessary. EPA will develop a simple mechanism by which minor amendments to the Federal regulations could be routinely delegated.

4. The Agency agrees that, at no time, will it grant a variance, exemption, or waiver from compliance with applicable Federal NSPS and NESHAPS (40 CFR Parts 60 and 61). If at any time State law requires the Agency to grant a variance in contravention of this agreement, a source receiving such relief will be considered to be in violation of the applicable Federal regulations and will be subject to Federal enforcement action; moreover, the Agency agrees to immediately notify EPA in order that EPA may exercise its concurrent enforcement authority.

5. If at any time there is a conflict between State and Federal law other than that outlined in condition 4, Federal law must be applied if it is more stringent than that of the State. If the State does not have the authority to enforce the more stringent Federal standard, this portion of the delegation may be revoked and EPA may exercise its concurrent enforcement authority.

6. This delegation to the State of New Hampshire does not include the authority to implement and enforce NSPS and NESHAPS for sources located in the State which are owned or operated by the United States. This condition in no way relieves any Federal facility from meeting the requirements of 40 CFR Parts 60 and 61.

7. The Agency and EPA will develop a system of communication sufficient to guarantee that each office is always fully informed regarding the current status of subject sources in the State and regarding interpretation of applicable regualtions. EPA will make determinations regarding unique questions of applicability of delegated standards when requested by the Agency or at other times as determined by EPA. EPA will provide technical assistance to the Agency as necessary.

The Agency will provide the following information, as a minimum, to EPA: the name and address of each facility subject to NSPS or NESHAPS; the operational status of each facility; the compliance status of each facility with accompanying explanations of non-compliance where applicable; notice of enforcement actions brought against facilities subject to delegated NSPS and NESHAPS; surveillance actions undertaken for each facility; and the results of all reports relating to emission data. The method by which the Agency shall report such information to EPA will be established by mutual agreement as expeditiously as practicable.

8. The Agency will utilize the methods specified in 40 CFR Parts 60 and 61 in performing source tests pursuant to the regulations.

9. If the Regional Administrator determines that a State procedure for enforcing or implementing the NSPS or NESHAPS is inadequate, or is not being effectively carried out, or that the Agency is not complying with the conditions of this delegation, this delegation may be revoked in whole or in part. Any such revocation shall be effective as of the date specified in a Notice of Revocation to the Governor and the Agency.

A Notice announcing this delegation will be published in the FEDERAL REGISTER in the near future. The Notice will state, among other things, that, effective immediately, all reports required pursuant to the Federal NSPS and NESHAPS by sources located in the State of New Hampshire should also be submitted to the New Hampshire Air Pollution Control Agency, Department of Health and Welfare, State Laboratory Building, Hazen Drive, Concord, New Hampshire 03301.

Since this delegation is effective immediately, there is no requirement that the state notify EPA of its acceptance. Unless EPA receives from the state written notice of objections within 10 days of the receipt of this letter, the state will be deemed to have accepted all the terms of the delegation.

Sincerely yours,

JOHN A. S. MCGLENNON,
Regional Administrator.

Therefore, pursuant to the authority delegated to him by the Administrator, the Regional Administrator notified Governor Thomson on February 17, 1976, that authority to implement and enforce specified Standards of Performance for new Stationary Sources and National Emission Standards for Hazardous Air Pollutants was delegated to the State of New Hampshire Air Pollution Control Agency.

Copies of the request for delegation of authority are available for public inspection at the Environmental Protection Agency, Region I Office, J. F. Kennedy Federal Building, Boston, Massachusetts 02203.

Effective immediately, all reports required pursuant to the National Emissions Standards for Hazardous Air Pollutants and the Standards of Performance for New Stationary Sources listed in the above letter should be submitted to the EPA Region I Office and should also be submitted to the State agency at the following address: Air Pollution Control Agency, Department of Health and Welfare, State Laboratory Building, Hazen Drive, Concord, New Hampshire 03301.

This notice is issued under the authority of Sections 111 and 112 of the Clean Air Act as amended, 42 U.S.C. 1857c-6 and 7.

Dated: April 20, 1976.

JOHN A. S. MCGLENNON,
Regional Administrator.

[FR Doc.76-13826 Filed 5-12-76;8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

FISCAL YEAR 1977 UNDERGROUND NUCLEAR TESTING PROGRAM AT THE NEVADA TEST SITE

Determination Not To Prepare an Environmental Statement

On February 2, 1976, the Energy Research and Development Administration published (41 FR 4847) a notice announcing its intention (1) to rely upon the applicability of the Final Supplement to WASH-1526 for coverage of the environmental impact of the underground nuclear testing program activities proposed for the Nevada Test Site (NTS) during FY 1977 and (2) to therefore refrain from preparing a separate environmental statement covering these activities. This intention was based on ERDA's environmental assessment of these activities.

In the notice ERDA requested public comments and views concerning the environmental assessment and ERDA's intent not to prepare an environmental statement. One comment was received; this comment, submitted by the Department of State, concurred in ERDA's intention not to prepare an environmental statement but proposed several editorial changes in the environmental assessment which have been reflected in the final document.

Accordingly, notice is hereby given that the environmental assessment confirms the conclusions presented in the environmental statement, WASH-1526, and its Final Supplement, WASH-1526S, which covers the FY 1976 test program. On the basis thereof, ERDA hereby determines to rely upon the applicability of the Final Supplement to WASH-1526 for the coverage of the FY 1977 program, and to refrain from preparing a separate environmental statement for the continued operation of the NTS during this stated period.

Copies of the final environmental assessment, "Nevada Test Site Program—FY 1977," which incorporates the Department of State's comments, are available for public inspection in ERDA's public document rooms at:

ERDA Headquarters, 20 Massachusetts Avenue, NW., Washington, D.C.
Albuquerque Operations Office, Kirtland Air Force Base East, Albuquerque, New Mexico.
Chicago Operations Office, 9500 South Cass Avenue, Argonne, Illinois.
Idaho Operations Office, 550 Second Street, Idaho Falls, Idaho.
Oak Ridge Operations Office, Federal Building, Oak Ridge, Tennessee.
Nevada Operations Office, 2753 South Highland Drive, Las Vegas, Nevada.
Richland Operations Office, Federal Building, Richland, Washington.

San Francisco Operations Office, 1333 Broadway, Oakland, California.
Savannah River Operations Office, Savannah River Plant, Aiken, South Carolina.

Dated at Germantown, Maryland, this 7th day of May 1976.

For the Energy Research and Development Administration.

JAMES L. LIVERMAN,
Assistant Administrator for Environment and Safety.

[FR Doc.76-13955 Filed 5-12-76;8:45 am]

FEDERAL MARITIME COMMISSION

LYKES BROS. STEAMSHIP CO., INC. AND CAPITAL CITY STEVEDORES, INC.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

R. J. Finnan, Pricing Analyst, Lykes Bros. Steamship Co., Inc., 300 Poydras Street, New Orleans, Louisiana 70130.

Agreement No. 10240, between the above named parties, is an agency agreement whereby Lykes appoints Capital City to act as its agent at the ports of Baton Rouge/Port Allen and down river to a point just above but not including Gramercy, Louisiana, on the terms and conditions and to the extent set forth therein.

By Order of the Federal Maritime Commission.

Dated: May 10, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-14026 Filed 5-12-76;8:45 am]

LYKES BROS. STEAMSHIP CO., INC. AND CHAS. KURZ CO.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

R. J. Finnan, Pricing Analyst, Lykes Bros. Steamship Co., Inc., 300 Poydras Street, New Orleans, Louisiana 70130.

Agreement No. 10239, between Lykes Bros. Steamship Co., and Chas. Kurz Co., is an agency agreement whereby Lykes appoints Kurz to act as its agent in the Port of Philadelphia, Pennsylvania on the terms and conditions and to the extent set forth therein.

By Order of the Federal Maritime Commission.

Dated: May 10, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-14025 Filed 5-12-76;8:45 am]

LYKES BROS. STEAMSHIP CO., INC. AND PEABODY & LANE INC.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

R. J. Finnan, Pricing Analyst, Lykes Bros. Steamship Co., Inc., 300 Poydras Street, New Orleans, Louisiana 70130.

Agreement No. 10238, between Lykes Bros. Steamship Co., Inc. and Peabody & Lane Inc., is an agency agreement whereby Lykes appoints Peabody to act as its agent in the Port of Boston, Massachusetts on the terms and conditions and to the extent set forth therein.

By Order of the Federal Maritime Commission.

Dated: May 10, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-14024 Filed 5-12-76;8:45 am]

LYKES BROS. STEAMSHIP CO., INC. AND STRACHAN SHIPPING COMPANY

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, within 7 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

R. J. Finnan, Pricing Analyst, Lykes Bros. Steamship Co., Inc., 300 Poydras Street, New Orleans, Louisiana 70130.

Agreement No. 10195, between the above named parties, is an agency agreement whereby Lykes appoints Strachan to act as its agent in the ports of Jacksonville and Fernandino Beach, Florida, on the terms and conditions and to the extent set forth therein. Notice of the filing of this Agreement was originally published in the FEDERAL REGISTER on November 25, 1975, Volume 40, Number 228. The Agreement has since been revised to provide the agent with the authority to solicit and book cargo at the aforementioned ports.

By Order of the Federal Maritime Commission.

Dated: May 10, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-14023 Filed 5-12-76;8:45 am]

SIDARMA-COSTA JOINT SERVICE AGREEMENT

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Armin U. Kuder, Esquire, Kuder, Sherman, Fox, Meehan & Curtin, P.C., Suite 601, 1900 M Street, N.W., Washington, D.C. 20036.

Agreement No. 10120-6, between the above-named carriers, amends the basic agreement to add to the geographic scope of the agreement inland points in Iran, Iraq, Jordan, Kuwait, Quatar, Saudia Arabia, Syria and the United Arab Emirates served through Mediterranean ports covered by the agreement.

By Order of the Federal Maritime Commission.

Dated: May 10, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-14022 Filed 5-12-76;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. R-472]

FPC FORM NO. 69

Order Directing the General Counsel To Procure Data

MAY 7, 1976.

Before Commissioners: Richard L. Dunham, Chairman; John H. Holloman III, and James G. Watt.

On June 25, 1975, the Commission issued Order No. 531,[1] which promulgated new Form No. 69 to collect from jurisdictional natural gas pipelines information respecting the availability of alternate fuels to end-use customers whose requirements cannot be met by natural gas in the future due to increasing curtailment. Along with Form No. 69, the Commission noted that it was arranging with the Federal Energy Administration (FEA) for that agency to collect similar information from distribution companies and end-users of natural gas that were not subject to the jurisdiction of the Commission.

It is clear from the language of Order No. 531 that the Commission considered the collection of the required data to be a coordinated effort between it and FEA and that the total data source, not just the Form No. 69 information, was necessary to satisfy the Commission's responsibilities under the Natural Gas Act.[2] As evidence of the need for FEA–FPC cooperation, the Commission determined that the public interest outweighed any claims of confidentiality presented on behalf of the Form No. 69 data.[3] Therefore, the Commission held that the information thus collected would be made available to FEA, other governmental agencies, or the public, without restriction.

Pursuant to the agreement of cooperation, FEA promulgated its Form No. G–101–Q–O directing entities that are not subject to FPC jurisdiction to submit to FEA data similar to that which is filed with the Commission in Form No. 69. FEA further agreed to process the raw data submitted by the companies on the FEA–FPC forms for the purpose of analysis. On October 31, 1975, FEA released its report entitled "Natural Gas Curtailments, 1975–1976 Heating Season". This document presents the information collected by FEA and FPC from individual companies in an aggregate form by state.

Since the FEA report, is an aggregation by state rather than by individual company, it may not be sufficient by itself for the purposes of the Commission as expressed in Order No. 531.

* * * [t]his Commission has a need for information in order to meet its responsibilities under the Natural Gas Act where it has a mandate to require that those pipeline companies subject to its jurisdiction adopt curtailment plans that are in the national and public interest. The Commission requires this information in support of its continuing endeavor to develop curtailment plans for interstate pipelines and their customers that are required and in the public interest and to determine both in specific cases and on a general basis how to minimize the harmful impact that the gas supply deficiency may have on the various sectors of the nation's industrial complex.[4]

Thus, if the Commission Staff or the general public is to be able to analyze a curtailment plan proposed by an individual natural gas pipeline in a curtailment proceeding or if the Staff or other party were to desire to present direct evidence on the questions of end-use and alternate fuel capability in these such proceedings, it will be necessary to have access to the individual company submittals filed with FEA on its Form No. G–101–Q–O.

[1] Order Adding Section 260.165 To Part 260, Statement And Reports (Schedules), Order No. 531, Docket No. R-472, — FPC — (June 25, 1975).

[2] See, F.P.C. v. Louisiana Power and Light Co., 406 U.S. 621.

[3] Citing, F.C.C. v. Schreiber, 381 U.S. 279, 298 (1965).

[4] Order No. 531, mimeo p. 3.

Pursuant to this Commission need, we have requested FEA to release to the Commission the individual company Form No. G–101–Q–O filed with FEA. That agency has agreed, by letter of February 20, 1976, from John Hill, Deputy Administrator, to release the data without any cover of confidentiality to the Commission pursuant to Section 11 of the Energy Supply and Environmental Coordination Act of 1974. Subsection (d) of Section 11 makes it clear that the release of this information to the Commission is for our internal use and, therefore, FEA advised that the Commission should make its own inquiry on the question of confidentiality. In addition, FEA has determined not to release some of the Form No. G–101–Q–O information to the public due to possible conflict with the provisions of 5 U.S.C. § 552(b)(4) and 18 U.S.C. § 1905, which concern trade secrets. The data to be withheld from the public relates to (1) deliveries, curtailments and alternate fuel use for large end-users in the commercial and industrial categories (Section C of Schedules 1 and 1B, items 17 to 29) and (2) deliveries, curtailments and alternate fuel use of aggregated small end-users in the commercial and industrial categories, when two or fewer users are reported on a single form (Section C, Schedules 2 and 2B, items 14 to 26, Column D of Schedule 2C).

Under Section 14(a) of the Natural Gas Act, this Commission is vested with discretion to authorize the disclosure of information relating to the enforcement of the provisions of that Act. The proper standard for determining the promulgation of data such as that in the instant proceeding is the balancing test established by the Supreme Court in *F.C.C.* v. *Schreiber*.[5]

In *Schreiber* a respondent attacked a Federal Communications Commission order on the ground that it required the company to disclose confidential business information to competitors but the Court held that respondents had not sustained their burden of demonstrating that the private interest involved outweighed the public interest in disclosure.

There are several precedents for application of the *Schreiber* standard in proceedings before this Commission. In an order issued March 2, 1973, in Docket No. R–432,[6] the Commission used a "weighing of interests" test. That proceeding involved a Commission order requiring regulated electric utilities to report certain fuel price data on Form 423. Although petitioners argued that if public disclosure of such data were required they would be at a competitive disadvantage in negotiating contracts, and urged that they be permitted to report only average fuel costs, the Commission refused to grant confidential treatment saying, in effect, that even if injury occurred, petitioners must show that such injury outweighs the public benefit from full disclosure. Similar action was taken by the Commission in Opinion No. 687,[7] where the Commission found that its need for uncommitted reserve data outweighed potential damage to private proprietary interests. Thus, we have concluded that there is ample authority for the Commission to decide whether to release the FEA data on the basis of balancing the private proprietary interests in confidentiality against the public interest in disclosure through the use of the data in FPC proceedings.

The arguments for release can be readily demonstrated. Curtailments of firm contract obligations of interstate pipeline companies have steeply increased since November 1970, when such curtailments began. The projected level of curtailments for the current winter period, November 1975, through March 1976, exceeded the curtailment level during the prior winter period by approximately 300 Bcf, which amounts to a 30 percent increase in volumes curtailed. Actual curtailments of firm requirements for the 1974–1975 winter were 1,019 Bcf compared to projected curtailments for the 1975–1976 winter of about 1,300 Bcfs.

Increased curtailments would, presumably, engender the filing with the Commission of greater numbers of petitions for extraordinary relief, but such has not been the case during the recent winter period. One possible explanation for this anomaly would be the conversion of industrial equipment from the use of natural gas to an alternate fuel. The data available on Form No. 69 does not adequately explore the extent of conversions, which is an important item in the computation of future levels of curtailment.

Furthermore, if a curtailment program is to be workable, it must allocate available supply to (1) essential users, such as residential and small commercial where safety considerations require continued deliveries, (2) large commercial and industrial requirements, where substitution of natural gas with other fuels is not technically feasible, and (3) to other industrial concerns so as to minimize dislocations in the remaining industrial and commercial economy where alternate fuel capacity can be developed. The FEA data contain essential information regarding natural gas curtailments and alternate fuel consumption by ultimate end-users and natural gas distribution companies not subject to the specific data gathering authority of the Commission, which information is not available from any other government or private source. Thus, the FEA data are required both for an appraisal of existing cultairment programs and for the formulation of future programs through contested proceedings.

To be weighed against these public interest considerations are the private proprietary interests of the responding customers. Concern that such private interests required confidential treatment of the Form No. 69 responses was expressed by two parties in their comments on the Commission proposal to publicly release those responses. In Order No. 531, we considered assertions that data on fuel usage was confidential and that some of the Form No. 69 data might be competitive information, but we concluded there that "the comments received on this issue do not demonstrate that the dissemination of data from Form No. 69 by this Commission to the FEA, or other Federal and state agencies, or the public would be necessarily detrimental to private interests." [8]

In addition, FEA notes that part of the claim for confidential treatment may result from the revelation on the Form No. G–101–Q–O data as to what processes are used by a particular company and the actual or projected changes in fuel costs that will result in changes in production costs for individual companies.

While we recognize that the release of such commercial information may result in competitive injury in some instances, we conclude that the Form No. G–101–Q–O data should be available not only to all other government agencies but the public as well, in appropriate circumstances, since the value to the public of this information far outweighs the indicated pecuniary interest in confidentiality. As demonstrated above, there is a great public interest in the potential alternative energy requirements of this nation's industries. Through analogous reasoning, our comments in Opinion No. 687–A concerning gas reserve data are similarly applicable here:

* * * In Opinion No. 687 we explained that we could not guarantee the confidentiality of the data as against Congressional Demands and stated our opinion that the data should be placed in the public file where it would be available to the natural gas industry and to the Federal and State agencies, as well as the general public. We now take notice that at the present time because of the gas shortage and energy crisis there is great public interest in the potential energy supplies of the United States, who owns them and what use is being made of them. Without this knowledge the public would be unable to apprise and react intelligently towards the actions of government agencies having a responsibility in the field of energy, including this Commission. In our opinion the public, which is asked to curtail the use of energy and to pay at a higher rate for small supplies, has the right and the need to know who is or is not responsible for the present situation so that it may understand and judge the measures which this Commission and other government agencies are taking to alleviate the situation. Such knowledge, in our opinion, will be directly contributory to the effectiveness of regu-

[5] *Supra*, note [3].

[6] *Monthly Report of Cost and Quality of Fuels for Steam Electric Plant—Form 423*, 49 FPC ____, Docket No. R–432, issued March 2, 1973.

[7] *Reliability of Electric and Gas Services*, issued February 4, 1974, in Docket No. R–405–A.

[8] Order No. 531, (slip) p. 6.

latory steps taken by this Commission within its statutory responsibilities.[9]

Therefore, the General Counsel is directed to accept on the Commission's behalf the Form No. G–101–Q–O data from FEA.[10] The Secretary, after consultation with the General Counsel and the Chief of the Bureau of Natural Gas, will determine whether to release this information to any party in a pending curtailment proceeding upon the receipt of a written request therefor where the requesting party can demonstrate its need for the data and the relevance of the data to the subject proceeding.

The Commission finds: It is in the public interest for the Commission to direct its General Counsel to accept from FEA the Form No. G–101–Q–O submittals filed with that agency and to release this information to any interested party that so requests in a pending curtailment proceeding upon the recommendation of this Commission's General Counsel and Chief of the Bureau of Natural Gas so that the Commission may perform its assigned duties under the Natural Gas Act with respect to the curtailment of natural gas deliveries by interstate pipelines subject to Commission jurisdiction.

The Commission orders: The General Counsel of the Commission is directed to work out with FEA the procedures necessary to accept for the Commission access to the individual company submittals to FEA on its Form No. G–101–Q–O. The Secretary, after consultation with the General Counsel and the Chief of the Bureau of Natural Gas, will determine whether to release this information to any party to a pending curtailment proceeding that files such a written request with the Commission, provided that party demonstrates a need for the data and the relevance of the data to the subject proceeding.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.76–13992 Filed 5–12–76;8:45 am]

[Docket No. ER76–110]

ARKANSAS POWER & LIGHT CO.

Conference

MAY 6, 1976.

Take notice that on May 18, 1976, Staff is convening an informal conference of all interested persons for the purpose of discussing the issues in the above referenced docket at the offices of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. The informal conference will follow the prehearing conference to be convened by Presiding Judge Samuel Kanell on May 18, 1976. Public notice of the prehearing conference was issued on April 23, 1976.

Customers and other interested persons will be permitted to attend the informal conference, but if such persons have not previously been permitted to intervene by order of the Commission, attendance at the conference will not be deemed to authorize intervention as a party in the proceedings.

All parties will be expected to come fully prepared to discuss the merits of all issues concerning the lawfulness of the proposed rate increase and any procedural matters preparatory to a full evidentiary hearing or to make commitments with respect to such issues and any offers of settlement or stipulations discussed at the conference.

Letters concerning this conference are being mailed to all parties to the proceeding, and all of the jurisdictional customers.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–13935 Filed 5–12–76;8:45 am]

[Docket No. ER76–647]

CENTRAL HUDSON GAS & ELECTRIC CORP.

Rate Schedule Filing

MAY 6, 1976.

Take notice that on April 28, 1976, Central Hudson Gas & Electric Corporation (Central Hudson) tendered for filing its development of actual costs for 1975 related to transmission service provided to Consolidated Edison Company of New York, Inc. and Niagara Mohawk Power Corporation in accordance with the provisions of the Roseton Transmission Agreement.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 21, 1976. Protests will be considered by the Commision 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.76–13940 Filed 5–12–76;8:45 am]

[Docket No. CP73–329 (PGA76–5)]

CHATTANOOGA GAS CO.

Proposed PGA Rate Adjustment

MAY 6, 1976.

Take notice that on April 26, 1976, Chattanooga Gas Company, A Division of Jupiter Industries, Inc., (Chattanooga) tendered for filing proposed changes to Original Volume No. 1 of its FPC Gas Tariff to be effctive on May 1, 1976, consisting of the following revised tariff sheets:

Eighteenth Revised Sheet No. 6, and, alternatively, Alternate Eighteenth Revised Sheet No. 6.

Chattanooga states that the sole purpose of these Revised Tariff Sheets is to adjust Chattanooga's LNG rates pursuant to the PGA provision in Section 5 of the General Terms and Conditions of its FPC Tariff to reflect increased purchased gas costs resulting from PGA rate increases by its suppliers, Southern Natural Gas Company, (Southern) in Docket No. RP73–64 and East Tennessee Natural Gas Company, (East Tennessee) in Docket No. RP71–15 to reflect the increased purchased gas costs resulting from the increased rates for producers in accordance with the procedures established in Opinion Nos. 749 and 749–A.

Chattanooga requests that its Eighteenth Revised Sheet No. 6 be made effective on May 1, 1976, the proposed effective date of the underlying increases by Southern and East Tennessee.

Chattanooga further states that it is relying on its alternate rate increase reflected on Alternate Eighteenth Revised Sheet No. 6 to be effective on May 1, 1976, in the event Eighteenth Revised Sheet No. 6 is not accepted to be effective because of the inclusion of East Tennessee's proposed Tariff sheet contained

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[9] Opinion No. 687–A, (slip) pp. 1–2.

[10] We do not think that either 5 U.S.C. § 552(b) or 18 U.S.C. § 1905 necessarily mandate confidential treatment of the data submitted. Data which falls within an exemption to the Freedom of Information Act is simply exempted from the mandatory disclosure provisions of the Act. Section 552(b), by its terms, provides that the Act "does not apply" to data falling within the exemptions. Thus, while the agency is not mandatorily required to publish exempt data, neither is it prohibited from doing so. *Charles River Park "A", Inc.* v. *H.U.D.*, 519 F. 2d 935, 941 (D.C. Cir. 1975).

Title 18, Section 1905 makes it unlawful for any employee of the agency to divulge "in any manner or to any extent not authorized by law, any information coming to him in the course of his employment * * *". However, in this case the lawful authorization to disclose the data arises under Section 14a of the Natural Gas Act, 15 U.S.C. § 717m(a), discussed in the text, and this directive.

Finally, Order No. 509–A, 39 F.R. 31629 (August 23, 1974) does not forbid staff access to this data. That order forbids staff members from receiving data as to which a claim of confidentiality is made and permits any party to deny access to any information that is claimed to be confidential. Thus by its terms, Order No. 509–A has no application to *required* filings. As the Commission said:

> The effect of Order No. 509 is not intended to compel any party to submit confidential data to our staff upon request; any party is free to deny access to data considered to be confidential to our staff. If the data sought is considered to be essential to the proper conduct of the proceeding, our staff has ample legal procedures to seek production of the data * * *.

The data involved here is required by the FEA to be submitted on Form G–101–Q–O. Our Order No. 509 has no application to this data.

in this filing which reflects a correction of their January 15, 1976 rates.

Chattanooga states that copies of the filing have been mailed to all of its jurisdictional customers.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 19, 1976. 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.76-13931 Filed 5-12-76;8:45 am]

[Docket No. ER76-494 (Phase I and Phase II)]

DELMARVA POWER & LIGHT CO. AND SUBSIDIARIES

Order Granting Motion To Sever Issue for Expedited Hearing

MAY 7, 1976.

For the reasons discussed below, the Commission herein grants the motion of Accomack-Northampton Electric Cooperative, Choptank Electric Cooperative, Inc., Delaware Electric Cooperative, Inc., the Town of Berlin, and St. Michael's Utilities Commission (jointly, "the Cooperatives") for an expedited hearing on the deferred fuel expense surcharge issue in this docket.

On January 30, 1976, Delmarva Power & Light Company and its subsidiaries, Delmarva Power and Light Company of Maryland and Delmarva Power and Light Company of Virginia (jointly, "Delmarva") filed proposed tariff revisions which would increase revenues from jurisdictional sales and service. Delmarva proposed that its submittal become effective on March 1, 1976. By order issued February 27, 1976, the Commission accepted the proposed tariff sheets for filing and suspended their effectiveness for one month until April 1, 1976.

On February 23, 1976, the Cooperatives moved, inter alia, for summary rejection of the deferred fuel expense surcharge which had been proposed by Delmarva in its January 30, 1976, filing. The Cooperatives alleged that the surcharge should not be permitted since to allow it would be tantamount to fixing rates retroactively. By order dated April 1, 1976, the Commission found that the proposed surcharge is a proper subject for investigation in an evidentiary proceeding. Accordingly, the Commission denied the Cooperatives' motion for summary disposition of the surcharge issue, leaving the matter for development in the record of the proceeding in this docket.

In its February 27, 1976, order, the Commission conditioned its acceptance of Delmarva's proposed fuel clause upon Delmarva filing within thirty days a fuel clause with language conforming to that found in Sections 35.14(a)(2)(ii) and (iii) of the Commission's Regulations. Delmarva filed a revised fuel adjustment clause in compliance with the February 27, 1976, order on March 12, 1976. Notice of the compliance filing was issued on March 18, 1976, with protests or petitions to intervene due on or before April 5, 1975.

On April 5, 1976, the Cooperatives filed a motion styled as a "protest" to the March 12, 1976, compliance filing. The Cooperatives do not protest that the March 12, 1976, filing fails to comply with the Commission's order of February 27, 1976. Rather, they now move that the issue of the deferred fuel expense surcharge be severed from the other issues in this docket and be set for separate hearing.[1]

We find good cause exists to grant the Cooperatives' motion. The surcharge issue shall be severed from the other issues in this docket, and there shall be a separate hearing and decision on an expedited basis on that issue.[2]

The Commission order of February 27, 1976, established a prehearing conference in this docket. The procedural schedule established by the Administrative Law Judge at that conference shall govern for all issues other than that of the surcharge, and the proceedings thus instituted shall be designated "Docket No. ER76-494 (Phase II)". We shall direct the Presiding Administrative Law Judge to convene a prehearing conference for the purpose of establishing an expedited procedural schedule for the surcharge issue. The expedited proceeding regarding that issue shall be designated "Docket No. ER76-494 (Phase I)".

The Commission finds: Good cause exists to grant the April 5, 1976, motion of the Cooperatives to sever the issue of the deferred fuel expense surcharge from the other issues in this docket and to establish an expedited proceeding on the surcharge issue as hereinafter ordered.

The Commission orders: (A) The April 5, 1976, motion of the Cooperatives to sever the issue of the deferred fuel expense surcharge from the other issues in this docket and to establish an expedited proceeding on the surcharge issue is hereby granted.

(B) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge (See: Delegation of Authority, 18 CFR 3.5(d)) shall preside at an initial conference at 9:30 A.M., May 27, 1976, at the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. for the purpose of establishing a procedural schedule for an expedited proceeding onthe deferred fuel expense surcharge issue.

(C) The proceeding regarding the fuel expense surcharge issue shall be designated, "Docket No. ER76-494 (Phase I)". The proceeding regarding the remaining issues shall be designated, "Docket No. ER76-494 (Phase II)".

(D) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.76-13944 Filed 5-12-76;8:45 am]

[1] On April 23, 1976, a response to the Cooperatives' motion was filed by Delmarva opposing the motion.

[2] *See: Carolina Power & Light Company*, Docket No. ER76-495 (Phase I and Phase II), order issued April 12, 1976, mimeo ed., pp. 3-5.

[Docket No. RP76-97]

GULF ENERGY & DEVELOPMENT CORP.

Proposed Change in Rate

MAY 6, 1976.

Take Notice that on April 30, 1976, Gulf Energy & Development Corporation ("Applicant") tendered for filing a Notice of Change in Rate for the Gathering of Gas for Tennessee Gas Pipeline Company ("Tennessee") under Applicant's FPC Gas Rate Schedule No. 1 to 23.63 cents per Mcf to become effective May 31, 1976. The annual increase in revenues which will result amounts to approximately $696,958 based upon the total gas volume gathered during the test period calendar year 1975, as adjusted.

Applicant's gathering facilities are located in Zapata and Starr Counties, Texas. Applicant states that it is classified as a Class C natural gas company by the Commisson; that it performs a gathering service for Tennessee under said rate schedule; that in view of increased operation and maintenance expenses, further diminished volumes and the need for an increased overall rate of return and increased return on common equity it must now seek the increase in rate presently proposed. A copy of Applicant's filing has been mailed to Tennessee.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10) on or before May 21, 1976. 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. Applicant's proposed revised rate schedule and rate filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-13927 Filed 5-12-76;8:45 am]

[Docket No. E-9520]

ILLINOIS POWER CO.

Order on Rehearing

MAY 7, 1976.

On April 7, 1976, Illinois Power Company (IP) and the Illinois Customer Defense Group (Customer Group) filed separate applications for rehearing of the Commission's March 8, 1976 order in this docket. For the reasons hereinafter discussed, the Commission shall grant the application for rehearing filed by IP and deny the application for rehearing filed by the Customer Group.

On October 29, 1975 the Commission issued an order which accepted for filing and suspended until January 1, 1976 certain proposed changes in rates charged by IP to the Village of Ladd, City of Oglesby and Cedar Point Light and Water Company, collectively called the Illinois Customer Defense Group. IP's filing was made on June 27, 1975 and completed on September 30, 1975. In its October 29, 1975 order the Commission deferred action on certain issues raised by the Customer Group concerning the validity of the filing under the rule of Mobile-Sierra.[1] In its March 8, 1976 order the Commission decided those issues. With respect to the IP-Cedar Point Light and Water Company contract, the Commission found that the contract contemplated a "going rate". The Commission therefore rejected the contention of the customer that the proposed increase was barred under the *Mobile-Sierra* doctrine.

The Customer Group seeks rehearing of this finding and argues that the language in the IP-Cedar Point Light and Water Company contract contemplates rate relief only after a final decision of a regulatory body. In support of its contention the Customer Group points to the Commission's decision in *Southern California Edison Company*[2] wherein the Commission found a contract contemplated prospective rate charges from a final order. The Customer Group argues the IP-Cedar Point language[3] is virtually identical to the language of the South-agree. The Southern California Edison Company language clearly contemplates ern California Edison Company.[4] We disrate changes only upon a change by a regulatory body. The IP-Cedar Point contract on the other hand does not require a Commission action prior to placing the rates into effect. The pertinent contractual language includes the words "In the event of an such change" not the words "change by any regulatory body." The antecedent for "any such change" is a change by addition, amendment or substitution, not change by the Commission. Therefore the IP-Cedar Point contract, unlike the Southern California Edison Company contract, does not require an affirmative Commission change or action before the proposed rates can be made effective. We shall therefore affirm our March 8, 1976 finding and deny the Customer Group's petition for rehearing on this point.

With respect to the IP contracts with the Village of Ladd and the City of Oglesby the Commission found that the parties contemplated in their contract a procedure whereby, should the regulatory body decide to suspend a proposed rate increase, such increase should not become effective until after a decision on the increase. This conclusion was reached upon looking to the suspension authority of the Illinois Commerce Commission to construe the contracting parties intent. In the March 8, 1976 order we discussed case law which found that the state commission could either allow a proposed rate change to become effective upon thirty days notice or suspend the rate pending formal hearing, the increase not to become effective until a decision thereon.

In its application for rehearing IP contends the Commission misconstrued the intent of the parties on the issue of the effective date of the proposed increase. IP argues that the parties did not contemplate a suspension period longer than eleven months from the date of filing since that period of time is the maximum suspension authority of the state commission.

With respect to the Ladd and Oglesby contracts the Customer Group seeks rehearing of the Commission's findings that, although the rate changes would be prospective from a final decision, the burden of proof to be borne by the Company is to be a Section 205 "just and reasonable" burden. The Customer Group argues that the *Mobile-Sierra* burden must be met and that the Company, in order to increase its rates, must prove that its present rates are so low as to adversely affect the public interest.

Upon review of the parties' pleadings and applicable case law the Commission finds it is appropriate to grant the petition for rehearing filed by IP and deny the petition for rehearing of this issue filed by the Customer Group. As fully explained in the March 8, 1976 order in this proceeding, the Commission finds that the procedure for rate changes contemplated by the parties is similar to the procedure outlined in Section 205 of the Federal Power Act. The principal distinction the Commission found was that Section 205 provided for a suspension not to exceed five months while the procedure contemplated by the parties included a suspension period limited only by "hearing and decision". Upon review of the Illinois Public Utility Act the Commission finds that the Illinois legislature has, in fact, conferred upon the Illinois Commerce Commission the authority to suspend proposed rate changes by virtue of the following language:

"The period of suspension of such rate or other change * * * shall not extend for more than one hundred and twenty days beyond the time when such rate or other charge * * * would otherwise go into effect unless the Commission, in its discretion, extends the period of suspension for a further period not exceeding six months."[5]

In light of this suspension authority vested in the Illinois Commerce Commission we find that the parties contemplated that the rates would become effective no later than ten months from the proposed effective date and could be permitted to become effective earlier at the discretion of the Commission.

By order issued October 29, 1975 in this docket the Commission permitted IP's proposed rate changes to become effective, subject to refund on January 1, 1976. That order further deferred Commission action upon the *Mobile-Sierra* issue presented by the Customer Group. After full opportunity for the parties to present their contentions this Commission finds that the *Mobile-Sierra* doctrine does not bar IP from filing a notice of change in rates in order to place these proposed rates into effect subject to refund. This Commission further finds that the suspension already imposed upon the filing is consistent with the contractual intent of IP, the Village of Ladd, and the City of Oglesby. We shall therefore affirm our decision in that order to suspend the proposed rates and permit them to become effective January 1, 1976, subject to refund. The Commission further affirms its finding in its March 8, 1976 order requiring IP to meet

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[1] *United Gas Pipe Line Co.* v. *Mobile Gas Service Corp.*, 350 U.S. 332 (1956); *FPC* v. *Sierra Pacific Power Co.*, 350 U.S. 348 (1956).

[2] Order Denying Rehearing, Docket No. E-8176 (issued March 31, 1975); Order on Reconsideration, Docket No. E-8176 (issued January 23, 1975), aff'd. April 20, 1976 D.C. Cir., No. 75-1511.

[3] The pertinent Southern California Edison Company language, which the Commission found barred a unilateral rate increase is as follows:

"The rates, including terms and conditions stated in this contract, are subject to change *by any regulatory body* now in existence or hereafter created by law having jurisdiction in the matter prescribed by law. In the event of such change, the new rates and terms and conditions as prescribed shall apply to this contract for the unexpired term hereof. In the event any such regulatory body shall order a rate increase, cooperative may at its option terminate this contract at any time by written notice to the Company." (Emphasis added.).

[4] The pertinent language in the IP-Cedar Point Light and Water Company contract is as follows:

"It is understood that Utility's Electric Rate Schedule which consists of all Service Classifications, any Riders thereto, the Standard Terms and Conditions, and the Rules, Regulations and Conditions Applying to Electric Service, or any part thereof (including but not limited to portions thereof fixing charges for service to the Customer) is subject to change, from time to time, by addition, amendment or substitution, all as provided by law. In the event of any such change * * * the Customer agrees to accept and pay for service thereafter * * * at the charges provided for by the Rate Schedule as changed and such Rate Schedule as changed * * * shall thereupon be incorporated in and made a part of this contract the same as fully set forth herein."

[5] Illinois Public Utilities Act, Section 36, Laws 1913, § 36; See *Streator Aqueduct Co.* v. *Smith*, 295 F.2d 385 (S.D. Ill. 1923); *Central Illinois Public Service Co.* v. *Illinois Commerce Commission*, 125 N.E.2d 269 (195).

the Section 205 "just and reasonable" burden of proof in this proceeding. The Customer Group's petition for rehearing seeking the imposition of the *Mobile-Sierra* burden is hereby denied.

The Commission finds: (1) Good cause exists to deny the petition for rehearing of the Illinois Customer Defense Group tendered in this docket on April 7, 1976.

(2) Good cause exists to grant the petition for rehearing of Illinois Power Company tendered in this docket on April 7, 1976 insofar as it seeks rehearing of the Commission's finding that the proposed rate changes for the Village of Ladd and the City of Oglesby could become effective only upon hearing and final decision.

(3) The Commission's October 29, 1975 order in this docket should be affirmed insofar as it permitted the proposed rate changes of Illinois Power Company to become effective January 1, 1976.

The Commission orders: (A) The April 7, 1976 petition for rehearing of the Commission's March 8, 1976 order in this docket filed on behalf of the Illinois Customer Defense Group is hereby denied.

(B) The April 7, 1976 petition for rehearing of the Commission's March 8, 1976 order in this docket filed on behalf of Illinois Power Company is hereby granted insofar as the petition seeks rehearing of the Commission's finding that the proposed rate changes for the Village of Ladd and the City of Oglesby could become effective only upon hearing and final decision.

(C) The Commission's October 29, 1975 order in this docket is hereby affirmed insofar as it permitted the proposed rate changes of Illinois Power Company to become effective January 1, 1976.

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

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.76-13945 Filed 5-12-76;8:45 am]

[Docket No. CI73-715]

INEXCO OIL CO.

Amended Petition for Certificate of Public Convenience and Necessity

MAY 6, 1976.

Take notice that on March 29, 1976, Inexco Oil Company, (Applicant), 1100 Esperson Building, Houston, Texas 77002 filed an amended application for a certificate of public convenience and necessity pursuant to the Natural Gas Act, as amended, and the Commission's Rules and Regulations. Applicant hereby amends its application for a certificate of public convenience and necessity by filing as a supplement to its subject rate schedule a Ratification and Amendment Agreement dated January 7, 1976, by and between Applicant and Southern Natural Gas Company amending the contract. The 1976 Amendment provides, inter alia, for a different price schedule for gas produced and sold from Applicant's wells commenced on or after July 1, 1975, than for gas produced and sold from Applicant's wells commenced prior to July 1, 1975.

Any person desiring to be heard or to make any protest with reference to said petition should on or before May 28, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-13938 Filed 5-12-76;8:45 am]

[Docket No. ER76-658]

IOWA POWER & LIGHT CO.

Proposed Rate Change

MAY 6, 1976.

Take notice that on April 30, 1976, Iowa Power and Light Company (Iowa Power) tendered for filing Iowa Power Rate Schedule No. 811, a proposed rate increase to the cities of Carlisle and Neola, Iowa.

On December 22, 1975, Iowa Power submitted for filing proposed changes in its rate schedules FPC Nos. 9 and 13, under which wholesale electric service for retail is provided to the cities of Carlisle and Neola, Iowa. The proposed changes set forth in that filing would increase revenues from jurisdictional sales and service by $189,840.00, based on the twelve month period ended September 30, 1975. By letters dated January 29 and 30, 1976, the Commission requested further cost of service data and submission of case-in-chief testimony and informed the Company that no filing date would be assigned to its submittal pending receipt of the requested information.

Iowa Power states that in light of the fact that updated cost of service data is now available which demonstrates the need for increased rates in order for the Company to earn a reasonable return on its investment, it is withdrawing its rate schedule filing of December 22, 1975, and submitting for filing in place thereof Iowa Power Rate Schedule No. 811. Iowa Power estimates that the proposed change in rates will increase revenues from jurisdictional sales and service by $336,262 over the rates presently in effect in the cities of Carlisle and Neola, Iowa, based on the twelve month period ending December 31, 1976. Iowa Power states that it has submitted a proposed energy cost adjustment in conformance with the principles set forth at Section 35.14 of the Commission's regulations. Iowa Power further states that the proposed increased rates and energy cost adjustment are necessary to attain a fair rate of return on the investment dedicated to serving these customers.

Iowa Power requests that the Commission waive the prior notice requirements of Sections 35.13(b)(4)(i) and 35.13(b)(5)(i) of the regulations and accept the rate schedule for filing with an effective date of May 31, 1976.

Copies of this filing have been served by first class mail upon the cities of Carlisle and Neola, Iowa, their attorneys of record, and the Iowa State Commerce Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 24, 1976. 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.76-13934 Filed 5-12-76;8:45 am]

ORANGE & ROCKLAND UTILITIES, INC.

Rate Filing

[Docket No. ER76-646]

MAY 6, 1976.

Take notice that Orange and Rockland Utilities, Inc. (O&R) on April 26, 1976, tendered for filing as an Initial Rate Schedule an Electric Generating Capability Exchange Agreement with Consolidated Edison Company of New York, Inc. (Con Ed). O&R states that the Agreement provides for the exchange of 200 MW of electric generating capability between O&R and Con Ed during the period April 25, 1976, to October 23, 1976, unless sooner terminated by Con Ed in accordance with the terms of the Agreement.

O&R requests waiver of the notice requirements of the Commission's Regulations to permit the Exchange Agreement to become effective as of April 25, 1976.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 20, 1976. Protests will be considered by the Commission in determining the appropriate action to be tak-

en, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-13936 Filed 5-12-76;8:45 am]

LANDS WITHDRAWN IN PROJECT NO. 150—ARIZONA

Finding and Order Vacating Land Withdrawal Under Section 24 of the Federal Power Act

MAY 6, 1976.

The Bureau of Land Management, Department of the Interior, has requested that the land withdrawal for transmission line Project No. 150 be vacated in its entirety, thereby requiring Commission consideration under Section 24 of the Federal Power Act. The lands affected by the withdrawal lie in Maricopa and Yavapai Counties, Arizona, and are listed in the Attachment hereto.

Project No. 150 consisted of a 40 kv line, approximately 80 miles long, which extended from the Sycamore substation (in sec. 5, T. 11 N., R. 4 E., Gila and Salt River Meridian) to a substation in Phoenix. The 50-year license for the project, held by the Arizona Public Service Company (APSC), expired on April 30, 1972.

By letter dated September 9, 1970, the Commission staff advised APSC that the subject transmission line is not a primary line or part of a "project" as defined in Section 3(11) of the Federal Power Act and, therefore, is not within the licensing authority of the Commission. Consequently, APSC obtained authorization from the Bureau of Land Management and the Forest Service for the continued occupancy of the Federal lands traversed by the line.

The Commission finds: That the land withdrawal for Project No. 150 no longer serves a useful purpose.

The Commission orders: The land withdrawal for Project No. 150 is hereby vacated in its entirety.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

GILA AND SALT RIVER MERIDIAN, ARIZONA

Portions (totaling about 300 acres) of the following described lands were withdrawn pursuant to the filing on May 16, 1921, as supplemented August 23, 1921, of an application for license for Project No. 150 for which the Commission gave notice of land withdrawal to the General Land Office (now Bureau of Land Management) by letters dated May 24, 1921, June 25, 1921, August 26, 1921, September 12, 1921, and May 12, 1922. Descriptions in T. 6 N., R. 2 E., secs. 26 and 34 of T. 7 N., R. 2 E., and Tps. 9½ and 10 N., R. 4 E., have been adjusted to conform to surveys made subsequent to the issuance of said notices.

T. 3 N., R. 2 E.,
Sec. 11, SE¼SE¼; sec. 14, NE¼NE¼.

T. 4 N., R. 2 E.,
Sec. 1, W½W½; sec. 12, W½W½; sec. 13, W½W½; sec. 25, W½NW¼.

T. 5 N., R. 2 E.,
Sec. 3, lot 1, SE¼NE¼, NE¼SE¼; sec. 11, W½NW¼, SW¼; sec. 14, E½W½; sec. 23, E½W½; sec. 26, SW¼NE¼, E½NW¼, NE¼SW¼, W½SE¼; sec. 35, NW¼NE¼, S½NE¼, N½SE¼, SE¼SE¼.

T. 6 N., R. 2 E.,
Sec. 3, lots 1, 2, S½NE¼, W½SE¼; sec. 10, W½NE¼, SE¼NW¼, E½SW¼; sec. 15, N½NW¼, SW¼NW¼, W½SW¼; sec. 22, W½W½, SE¼SW¼; sec. 27, E½W½; sec. 34, lots 3, 4, E½NW¼, NE¼SW¼, NW¼SE¼.

T. 7 N., R. 2 E.,
Sec. 3, lots 2, 3, S½NE¼, NE¼SE¼;
Sec. 11, E½W½;
Sec. 14, W½NE¼, E½NW¼, W½SE¼;
Sec. 23, lot 2, SW¼NE¼, SE¼SW¼, W½SE¼;
Sec. 26, lots 4, 5, 6, 11, 12, 22, 23, 25, 26, E½NW¼;
Sec. 34, lots 8, 9, 10, 15, 16, 18, 19, 30, 31, 35, 36, 53, 54;
Sec. 35, NW¼NW¼.

T. 8 N., R. 2 E.,
Sec. 3, lot 1;
Sec. 10, E½NW¼, N½SW¼, SW¼SW¼;
Sec. 15, W½;
Sec. 22, NW¼, W½SW¼;
Sec. 27, W½NW¼, W½SW¼, SE¼SW¼;
Sec. 34, E½NW¼, SW¼.

T. 9 N., R. 2 E.,
Sec. 25, NE¼SE¼, S½SE¼;
Sec. 34, SE¼SE¼;
Sec. 35, S½NE¼, NE¼SW¼, S½SW¼, NW¼SE¼.

T. 9 N., R. 3 E.,
Sec. 19, SE¼SE¼;
Sec. 20, S½NE¼, NE¼SW¼, S½SW¼, NW¼SE¼;
Sec. 30, lots 2, 3, N½NE¼, E½NW¼;
And that portion of the township which is unsurveyed.

T. 9½ N., R. 3 E.,
Sec. 25, E½N¼, NE¼SE¼, S½SE¼;
Sec. 36, W½NE¼, E½SW¼, NW¼SE¼.

T. 9½ N., R. 4 E.,
Sec. 19, lots 1, 2, 5, 6;
Sec. 30, lot 1.

T. 10 N., R. 4 E.,
Sec. 5, lots 2, 3, SW¼NE¼, SE¼NW¼, E½SW¼;
Sec. 8, E½W½, SW¼SW¼;
Sec. 17, N½NW¼, SW¼NW¼;
Sec. 18, E½NE¼, SW¼SE¼, E½SE¼;
Sec. 19, NE¼, E½SE¼, W½SE¼;
Sec. 30, lots 2, 3, 4, E½NW¼, NE¼SW¼, SE¼SW¼, SW¼SE¼;
Sec. 31, lots 1, 2.

T. 11 N., R. 4 E.
Sec. 5, SW¼NE¼, NW¼SE¼, S½SE¼;
Sec. 8, NE¼NE¼;
Sec. 9, W½NW¼, N½SW¼, SE¼SW¼;
Sec. 16, E½W½;
Sec. 21, E½NW¼, NE¼SW¼, S½SW¼;
And that portion of the township which is unsurveyed.

[FR Doc.76-13924 Filed 5-12-76;8:45 am]

[Docket Nos. RP74-100 and RP76-4 (PGA76-7)]

NATIONAL FUEL GAS SUPPLY CORP.

Proposed PGA Rate Adjustment

MAY 6, 1976.

Take notice that on April 30, 1976, National Fuel Gas Supply Corporation (National) tendered for filing as part of its FPC Tariff, Original Volume No. 1, Substitute Seventh Revised Sheet No. 4, proposed to be effective June 1, 1976.

National states that the sole purpose of this revised tariff sheet is to adjust National's rates pursuant to the PGA provisions in Section 17 of the General Terms and Conditions. National further states that such tariff sheet reflects an adjustment in National's rates of (.71¢) per MCF on Substitute Seventh Revised Sheet No. 4.

It is stated that copies of the filing have been mailed to all of its jurisdictional customers and effected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 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 May 25, 1976. 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.76-13925 Filed 5-12-76;8:45 am]

[Docket No. CP76-356]

MICHIGAN WISCONSIN PIPE LINE CO.

Application

MAY 6, 1976.

Take notice that on April 30, 1976, Michigan Wisconsin Pipe Line Company (Applicant), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP76-356 an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction, during the 12-month period commencing July 13, 1976, and operation of gas-purchase facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to enable Applicant to act with reasonable dispatch in constructing facilities to connect the facilities of an independent producer or other similar seller, authorized to make a sale for resale of natural gas in interstate commerce, with the system of Applicant or the system of another natural gas company authorized to transport natural gas for the account of or exchange natural gas with Applicant.

Applicant states that the cost of construction of all facilities would not exceed $12,000,000 and that no single offshore project would exceed a cost of $2,500,000 and no single onshore project would exceed a cost of $1,500,000. These amounts would be financed with cash on hand, it is stated.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 1, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accord-

ance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-13932 Filed 5-12-76;8:45 am]

[Docket No. ER76-645]

MISSISSIPPI POWER & LIGHT CO.

Interconnection Agreement

MAY 6, 1976.

Take notice that on April 23, 1976 Mississippi Power & Light Company (MP&L) tendered for filing an Interconnection Agreement between it and Greenwood Utilities Commission dated September 19, 1975. This Agreement incorporates Service Schedules: (A) Reserve Capacity, (B) Unintentional Energy, (C) Firm Capacity, (D) Economy Energy.

MP&L requests that the Agreement become effective on the date initial service may be rendered. At present MP&L estimates that effective date to be May 31, 1976. MP&L states it will notify the Commission of the date of initial service.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 25, 1976. 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.76-13941 Filed 5-12-76;8:45 am]

[Docket No. CP76-330]

NORTHERN NATURAL GAS CO.

Application

MAY 6, 1976.

Take notice that on April 9, 1976, Northern Natural Gas Company (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP76-330 an application pursuant to Section 7 of the Natural Gas Act for permission and approval to abandon and remove certain mainline and branchline facilities and for a certificate of public convenience and necessity authorizing the construction and operation of certain mainline facilities in order to effect the relocation of facilities, all in Marquette County, Michigan, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The application indicates that pursuant to Commission authorization Applicant constructed and operates 16.7 miles of 12-inch and 5.5 miles of 10-inch mainline (Marquette Mainline), 0.3 mile of 6-inch branchline and the sales measuring station designated Empire Plant Measuring Station for initial gas service to Empire Iron Mining Company (Empire) and the upper Peninsula of Michigan. It is asserted that right-of-way easement for portions of these facilities was granted to Applicant by Volunteer Ore Company (Volunteer) under terms of a license agreement, dated July 7, 1965, and that as successor in interest to the ownership of certain mining properties of Volunteer, Empire notified Applicant that under terms of the license agreement, the rights and privileges granted to Applicant with respect to rights-of-way occupied by certain of the facilities were terminated as of September 1, 1975, to provide for expanded mining operations.

Accordingly, Applicant states that it is required to abandon and remove approximately 1.82 miles of 12-inch and 0.38 mile of 10-inch Marquette Mainline and 0.30 mile of 6-inch Empire Plant branchline and remove for relocation the facilities of the Empire Plant Measuring Station. Applicant proposes to complete the relocation of the facilities by installing as replacement approximately 1.34 miles of 12-inch, 1.02 miles of 10-inch mainline facilities and relocate the facilities of Empire Plant Measuring Station, all in Marquette County.

Applicant estimates the cost of relocating the mainline and sales measuring facilities as $586,000, which cost Applicant proposes to finance from cash on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 2, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-13942 Filed 5-12-76;8:45 am]

[Docket No. CP76-348]

NORTHERN NATURAL GAS CO.

Application

MAY 6, 1976.

Take notice that on April 26, 1976, Northern Natural Gas Company (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP76-348 an application pursuant to Section 7 (c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Austin Utilities of Austin, Minnesota, in lieu of to Applicant's Peoples Natural Gas Division (Peoples) for resale and distribution in the City of Austin, all as more fully set forth in the application on file with the Commission and open to public inspection.

The application states that an area adjacent to the City of Austin which presently receives natural gas service from Peoples has been annexed by the City of Austin and is within the franchised area served by Austin Utilities. The application states further that Austin Utilities has agreed to purchase from Peoples the distribution facilities in the annexed area and to continue service in

said area. Accordingly, Applicant proposes to sell and deliver 56 Mcf per day of contract demand gas to Austin Utilities in lieu of to Peoples, for resale and distribution in the annexed area, at existing Austin Town Border Station No. 1 (West Station).

Any person desiring to be heard or to make any protest with reference to said application should on or before May 26, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-13930 Filed 5-12-76;8:45 am]

[Docket No. CP76-355]

NORTHERN NATURAL GAS CO.

Application

MAY 6, 1976.

Take notice that on April 29, 1976, Northern Natural Gas Company (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP76-355 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to deliver natural gas to Northern Illinois Gas Company (NI-Gas) under a rescheduling of deliveries arrangement, to deliver natural gas to Natural Gas Pipeline Company of America (Natural) for transportation and exchange, and to construct and operate metering facilities in Mills County, Iowa, to receive natural gas from Natural, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that it is currently in the first year of a two-year rescheduling of deliveries arrangement with NI-Gas, a partial requirement customer of Applicant, said to be authorized in Docket No. CP75-336, which arrangement provides for reduced deliveries by Applicant to NI-Gas during each of the winter periods of 1975-76 and 1976-77 by an annual volume of 3,600,000 Mcf of gas at daily rates of up to 60,000 Mcf of gas. The application states that NI-Gas presently purchases 127,250 Mcf per day of contract demand under Applicant's Rate Schedule PL-1. It is stated that Applicant and NI-Gas have agreed to increase the rescheduled volumes and to extend the arrangement.

Under an amendment dated March 29, 1976, to the rescheduling agreement of March 25, 1975, between Applicant and NI-Gas, Applicant would reduce its deliveries to NI-Gas or cause a third party to reduce its deliveries to NI-Gas by an aggregate amount equal to 12,000,000 Mcf during each of the 1976-77 and 1977-78 heating seasons at a daily rate, as allowed by NI-Gas, of up to 160,000 Mcf of gas. Applicant would deliver or cause to be delivered to NI-Gas during each of the summer periods (April 1 through September 30) of 1977 and 1978 a volume of gas equal to that by which deliveries to NI-Gas were reduced the previous heating season.

The application states that under the amended agreement Applicant would reduce its deliveries to NI-Gas or cause a third party to reduce its deliveries to NI-Gas by an aggregate amount equal to 12,000,000 Mcf of 1,000 Btu gas from October 1, 1976, through March 31, 1977, and October 1, 1977, through March 31, 1978 (winter periods), for use elsewhere on Applicant's system. During each of the months of December through March of each winter period NI-Gas would reduce its takes from Applicant by the equivalent of up to 3,000,000 Mcf of 1,000 Btu gas (monthly quantity) at daily rates determined by NI-Gas; and Applicant might request reductions in NI-Gas' takes during October and November that would otherwise be reduced during December through March and might request NI-Gas during any month of the winter period to reduce deliveries to NI-Gas in an amount greater than the monthly quantity, however, such requests would be on a best-efforts basis by NI-Gas. The application states further that during the summer periods of 1977 and 1978, applicant would deliver or cause to be delivered to NI-Gas an amount of gas equal to the total volume of equivalent 1,000 Btu gas by which deliveries to NI-Gas were reduced during the preceding winter period. Applicant might request the right to make predeliveries of gas and NI-Gas might accept such predeliveries to the extent that it considers that it could do so during the 1976 and 1977 summer periods. Deliveries to NI-Gas by Applicant during the summer periods would be through an existing point of interconnection near Dubuque, Iowa.

Applicant states that it would pay NI-Gas for rescheduling of deliveries under the amended agreement a rescheduling charge of $1,020,000 per month, multiplied by a fraction determined as follows:

For the period, October 1, 1976, through September 30, 1977, NI-Gas' computed average per Mcf cost of all storage service taken from Natural as computed on March 1, 1976, for the calendar year 1975 at a load factor identical to that achieved by NI-Gas for the same service in calendar year 1974 divided by $1.02 per Mcf; and

For the period, October 1, 1977, through September 30, 1978, NI-Gas' computed average per Mcf cost of all storage service taken from Natural as computed on March 1, 1977, for the calendar year 1976 at a load factor identical to that achieved by NI-Gas for the same service in calendar year 1974 divided by $1.02 per Mcf.

It is stated that to accommodate the proposed rescheduling of deliveries with NI-Gas, Applicant has entered into a seasonal exchange agreement with Natural dated April 8, 1976, which provided for the exchange of natural gas with and the transportation of natural gas by Natural. Under the agreement, the application states, Natural would deliver to Applicant up to 4,500,000 Mcf of 1,000 Btu gas during the 1976-77 winter period at a daily rate as Applicant might direct but not in excess of 160,000 Mcf. It is stated that the exchange volumes would be made available to Applicantt as a result of a rescheduling agreement between Natural and NI-Gas. During the 1977 summer period Applicant would redeliver to Natural for transportation and delivery to NI-Gas a volume of 1,000 Btu gas equal to that delivered to Applicant by Natural during the preceding winter period. Deliveries by Applicant to Natural during such period would not exceed 90,000 Mcf per day during April, 145,000 Mcf per day during May, and 200,000 Mcf per day during June through September. Applicant states that it might elect to continue the arrangement with Natural in effect from October 1, 1977, through October 31, 1978. Applicant would pay Natural 12.0 cents per Mcf of gas redelivered to and transported by Natural during the summer period with an annual minimum bill of $270,000.

Deliveries by Natural to Applicant and redeliveries to Natural would be at an existing interconnection of Applicant's and Natural's facilities in Mills County, Iowa. The application states that additional metering capacity would be required due to the need to measure up to 160,000 Mcf of gas per day from Natural's 712 psig system into Applicant's 500 psig system. Therefore, Applicant proposes to relocate an existing 12-inch orifice run and to install a new 12-inch orifice run in parallel, all at a cost of $134,810 which

would be financed with cash on hand and funds generated through operations.

Applicant states that it is in a position of not having sufficient deliverability from traditional sources of gas supply to meet existing peak day and seasonal requirements of its high priority markets. Without the proposed arrangements for the rescheduling of deliveries, it is stated, Applicant would be an additional 100,000 Mcf deficient in meeting firm peak day requirements during the 1976–77 heating season and an additional 160,000 Mcf deficient during the 1977–78 heating season.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 2, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-13933 Filed 5-12-76;8:45 am]

[Docket No. ER76-607]

PENNSYLVANIA ELECTRIC CO.

Order Accepting for Filing and Suspending Proposed Fuel Adjustment Clause and Establishing Procedure

MAY 7, 1976.

On April 8, 1976, Pennsylvania Electric Company (Penelec) tendered for filing revised fuel cost adjustment clauses [1] for all-requirements service to six investor-owned electric utilities,[2] to six boroughs,[3] and a supplement to Exhibit B of Penelec's Wheeling and Supplemental Power Agreement with Allegheny Electric Cooperative, Inc. (Allegheny). Penelec is proposing a temporary fuel adjustment surcharge to recover fuel costs which remain unbilled as a result of the termination, effective February 26, 1976, of Penelec's previous fuel clause. Penelec requests an effective date of May 9, 1976. For the reasons set forth below, the Commission will suspend the proposed fuel adjustment clause for five months and set the matter for hearing.

Penelec states that a proposed temporary surcharge of 1.8 mills per kilowatt hour would be levied on service to the tariff customers in order to recover $330,662 over about 12 months. A proposed surcharge of 2.7 mills per kilowatt hour would be levied on service to Allegheny in order to collect $1,088,067 over about ten months. Penelec notes that these amounts represent unbilled fuel costs incurred during the last two months of 1975, January 1976, and the first 25 days of February 1976, which would have been recovered under fuel adjustment clauses providing for "billing lag" which were superseded effective February 26, 1976, pursuant to Commission Order issued December 24, 1975, in Docket No. ER76-301. Penelec states that the fuel costs which the temporary surcharges are designed to recover would not be recovered under the revised rates made effective by that order.

Penelec's instant filing concerns the proposed temporary surcharges only and does not deal with Penelec's revised wholesale fuel adjustment clauses, which were accepted by Commission Order of December 24, 1975, in Docket No. ER76-301.

Notice of Penelec's filing was issued on April 19, 1976, with responses due on or before May 3, 1976.

On May 3, 1976, a Protest and Petition to Intervene was filed by Allegheny Electric Cooperative, Inc. and the six Boroughs (Petitioners). Petitioners move for rejection of the rate schedule revisions, alleging that Penelec's proposed fuel adjustment surcharges would result in a double recovery of the fuel costs that Penelec claims will go unrecovered unless the surcharge is granted, and would furthermore constitute an illegal retroactive rate increase. In addition, Petitioners contend that the surcharges are erroneously calculated.

The facts and allegations set forth by Petitioners do not constitute sufficient grounds to grant their motion to reject Penelec's rate schedule revisions. However, the Commission's review of the instant filing indicates that Penelec's proposed surcharge provision has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. Accordingly, the Commission shall accept for filing and suspend for five months Penelec's proposed surcharge provision, to become effective as of October 8, 1976, subject to refund as hereinafter ordered.

The Commission finds: (1) Good cause exists to accept for filing Penelec's rate schedule provisions providing for temporary surcharges, submitted April 8, 1976, and to suspend their operation for five months when they shall be permitted to become effective, subject to refund.

(2) It is proper and necessary in the public interest and to aid in the enforcement of the Federal Power Act that a hearing concerning the lawfulness of Penelec's proposed surcharge provisions be commenced.

(3) Good cause exists to allow Petitioners to intervene in this proceeding.

(4) Good cause has not been shown to grant Petitioners' motion to reject Penelec's instant filing.

The Commission orders: (A) Pending a hearing and decision thereon, Penelec's proposed surcharge provisions are hereby accepted for filing and suspended from operation for five months, to become effective October 8, 1976, subject to refund.

(B) 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 initial conference in this proceeding on May 27, 1976, at 9:30 a.m., e.s.t., in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. Said Presiding Administrative Law Judge is hereby authorized to establish all procedural dates and to rule upon all motions (with the exceptions of petitions to intervene, motions to consolidate and sever, and motions to dismiss, as provided for in the Rules of Practice and Procedure.

(D) Petitioners are 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 the rights and interests specifically set forth in their petition to intervene; and *Provided, further,* That the admission of such intervenors shall not be construed as recognition that they might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(E) Petitioners' motion for the Commission to reject the instant filing is hereby denied.

(F) Penelec shall file monthly with the Commission the report on billing determinants and revenues collected under the presently effective rates and the proposed surcharge filed herein, as required by Section 35.19(a) of the Commission Regulations, 18 CFR Section 35.19(a).

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[1] The filing is designated as: Pennsylvania Electric Company, Original Sheet No. 16 to FPC Electric Tariff, Original Volume No. 1.

[2] Waterford Electric Light Co., Wellsboro Electric Co., Elkland Electric Co., Rockingham Electric Co., Windber Electric Co., and West Penn Power Co. (at Lobo Substation).

[3] Boroughs of Berlin, East Conemaugh, Hooversville, Smethport, Summerhill, and Girard, Pennsylvania.

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

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.76-13943 Filed 5-12-76;8:45 am]

[Docket No. RI76-122]

R. J. PATRICK & JACK H. VAUGHN

Petition for Special Relief

MAY 6, 1976.

Take notice that on April 23, 1976, R. J. Patrick and Jack H. Vaughn (Petitioners), 1220 Liberty Tower, Oklahoma City, Oklahoma 73102, filed a petition for special relief in Docket No. RI76-122, pursuant to Sections 1.7(b) and 2.76 of the Commission's Rules of Practice and Procedure. Petitioner seeks a price of 35 cents per Mcf for the sale of gas to Northern Natural Gas Company from the Harvey B No. 1 Well, Section 19, Township 33 South, Range 32 West Hugton Gas Field), Seward County, Kansas. The petition is based on the reworking and remedial work upon the said well.

Any person desiring to be heard or to make any protest with reference to said petition should on or before May 27, 1976, 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). Al protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-13937 Filed 5-12-76;8:45 am]

[Docket No. CP74-33]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Supplement

MAY 6, 1976.

Take notice that on April 9, 1976, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP74-33 a supplement to its petition to amend the Commission's order, issued February 26, 1975, in said docket pursuant to Section 7(c) of the Natural Gas Act to reflect a change in the method of determining the cost of injected base gas in the Washington Storage Field in order to conform to the treatment prescribed in the Commission's order on rehearing, issued March 26, 1976, in Transco's rate proceeding in Docket Nos. RP74-48 and RP75-3, all as more fully set forth in the supplement which is on file with the Commission and open to public inspection.

Transco states that in order to conform the data contained in the petition to amend to the treatment prescribed in the order on rehearing in the rate proceeding, the determination of injected base gas cost has been adjusted and Transco submits Revised Exhibits K, N, and P, prescribed by Section 157.14 of the Regulations under the Natural Gas Act (18 CFR 157.14), which reflect the changes caused by such adjustment to the cost of injected base gas. It is said such change results in a reduction of the capitalized cost of injected base gas and a consequent reduction in the initial charges for storage service. Transco asserts that the estimated cost of facilities is now $91,775,000 and the monthly storage capacity volume charge is 4.94 cents per Mcf.

Any person desiring to be heard or to make any protest with reference to said supplement should on or before June 3, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Persons who have heretofore filed petitions to intervene, notices of interventions or protests with respect to the petitions to amend need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-13929 Filed 5-12-76;8:45 am]

[Docket No. RP75-84]

SOUTHERN NATURAL GAS CO.

Informal Conference

MAY 6, 1976.

Take notice that on May 12, 1976, an additional informal conference will be held commencing at 10:30 a.m., in a hearing or conference room of the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. This conference will be between Southern Natural Gas Company, the Commission Staff, and all interested persons and will be for the purpose of discussing the possibility of settlement of issues presented in this proceeding.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-13928 Filed 5-12-76;8:45 am]

[Docket No. RP72-133; (PGA 76-1)]

UNITED GAS PIPE LINE

Comments Concerning Emergency Purchases

MAY 5, 1976.

Take notice that on March 29, 1976, United Gas Pipe Line Company (United) submitted in this docket comments concerning certain emergency purchases made under Section 2.79 of the Commission's Rules and Regulations. The subject comments were submitted by United in response to the Commission's order issued on February 27, 1976 in Docket Nos. RP72-133, *et al.*

Any person wishing to do so may submit comments in writing concerning the submittal by United. All such comments should be addressed to the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, and should be filed or mailed on or before May 28, 1976. United's comments are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-13923 Filed 5-12-76;8:45 am]

[Docket No. ER76-654]

UTAH POWER & LIGHT CO.

Tariff Change

MAY 6, 1976.

Take notice that Utah Power & Light Company (Utah) on April 29, 1976, tendered for filing proposed changes in its FPC Electric Service Tariff, Original Volume No. 1. Utah states that the proposed changes would increase revenues by $4,500,000 from jurisdictional sales and service based on the 12-month period ending December 31, 1976.

Utah states that the increases are necessary because of inflationary increases in all categories of costs, and to attain a reasonable rate of return on these sales for resale.

Utah states that copies of the filing were served upon the Company's jurisdictional customers, and regulatory commissions for the states of Utah, Idaho and Wyoming.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 21, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the

Commission and available for public inspection.

KENNETH G. PLUMB,
Secretary.

[FR Doc.76-13939 Filed 5-12-76;8:45 am]

[Docket Nos. ER76-496; and ER76-396]

BANGOR HYDRO-ELECTRIC CO.

Order Accepting for Filing and Suspending Proposed Rate Schedule, Granting Intervention, Denying Motion To Reject, and Instituting Investigation

MAY 7, 1976.

On January 30, 1976, the Bangor Hydro-Electric Company (Bangor) tendered for filing a proposed rate increase for firm power service to six wholesale customers located in Maine.[1] On February 13, 1976, Bangor filed supplemental data amending its filing. By letter dated March 29, 1976, the Commission's Secretary advised Bangor Hydro that its filing had been assessed as deficient and that a filing date would not be assigned until the deficiency is cured. On April 8, 1976, Bangor Hydro filed supplemental data accompanied by a motion to amend its original filing in response to the Commission's deficiency letter. This proposal would increase jurisdictional revenues by $187,914 representing a 26.3% rate increase for the 12 months immediately following the proposed effective date of April 1, 1976, based on a test period of 12 months ended June 30, 1975. The specific changes in the present rate schedules are as follows: (1) an increase in the demand charge from $3.00/kW of billing demand to $4.75/kW; (2) an increase in the energy charge from 8 mills/kWh to 10.3 mills/kWh; and (3) the monthly minimum charge is changed to $356.25 per month. A transmission service agreement between Bangor and Eastern Maine Electric Cooperative, Inc. (Eastern Maine) accompanied the filing. Bangor is also seeking an increase in its rate for wheeling service to Eastern Maine from $11 per kW per year to $20 per kW per year, representing reserve factors and line losses.

Public notices of the original and supplemental filings were issued on March 1, 1976 and April 16, 1976, respectively.

On March 15, 1976, the Eastern Maine Electric Cooperative, Inc. (Eastern Maine) filed a timely Petition to Intervene and Motion to Reject based on the following grounds:

(1) the filing does not comply with Section 35.13(b)(iii) Statement M(3) of the Regulations under the Federal Power Act in that monthly system demand information has not been provided; (2) it does not comply with Section 35.13(b)(1) of the Regulations in that no revenue and billing data has been provided in regard to the wheeling service for the 12 months preceding and 12 months succeeding the proposed effective date of the filed increase; (3) none of the required Statement O data has been provided as required by Section 35.13(b)(4)(iii) Statement O; and (4) it does not comply with Section 35.13(b)(4)(iii) Statement F which requires that the components of the claimed working capital be given using the 13 months average. Eastern Maine alleges that the absence of such data would prevent the Commission from being able to properly analyze the rate increase proposal, as it alleges that such an analysis bears on the length of the suspension period.

On April 12, 1976, Bangor filed its Answer to this petition and motion stating that it had no objection to the granting of Eastern Maine's intervention. Bangor requested that the Motion to Reject be denied or, in the alternative, that a deficiency letter be issued so as to allow Bangor time to comply with the Commission's requirements. Bangor also stated that its supplemental filing of April 8, 1976 renders moot the grounds on which Eastern Maine's Motion to Reject was based.

The Commission's review of Bangor's filing, as supplemented, indicates that it is in substantial compliance with this Commission's filing requirements as set forth in Section 35.13 of the Regulations. Accordingly, Eastern Maine's motion to reject shall be denied. However, the Commission's review indicates that the proposed rates, charges, terms, and conditions of service of the proposed rate schedule have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential or otherwise unlawful. Accordingly, we shall accept the proposed rate increase for filing and suspend it for 3 months or until August 9, 1976, when it will be permitted to become effective subject to refund, and shall institute an investigation into the lawfulness of the proposed rate schedule pursuant to the Commission's authority under Section 205 of the Federal Power Act.

The Commission also notes that the energy charges in the proposed rates are subject to a fuel adjustment clause which Bangor submitted on December 29, 1975 in Docket No. ER76-396, to conform with Order No. 517. On March 8, 1976, this filing was completed by the submittal of supplemental data. By order dated April 7, 1976 issued in Docket No. ER76-396, the Commission suspended the proposed fuel clause for one day and allowed it to become effective April 9, 1976, subject to refund. Since the fuel adustment clause contained in this filing is the same as that filed in Docket No. ER76-396, the Commission deems it appropriate to consolidate Docket No. ER76-396 with Docket No. ER76-496 for purposes of hearing and decision.

A search of Commission's records indicates that a rate schedule is not on file for Swan Island Electric Cooperative, one of the customers to whom the proposed rate increase is applicable. Bangor shall file such rate schedule within 15 days of the issuance of this order.

The Commission finds: (1) It is necessary and proper in the public interest and to aid in the enforcement of the Federal Power Act, that the Commission institute a Section 205 investigation and hearing concerning the lawfulness of the proposed rate increase tendered by Bangor in Docket No. ER76-496 and that such rate schedule be accepted for filing and suspended as hereinafter provided.

(2) The appropriate rate schedule for Swan Island Electric Cooperative shall be filed within 15 days of the issuance of this order.

(3) This proceeding should be consolidated with the proceedings in Docket No. ER76-396.

(4) Good cause exists to deny Eastern Maine's motion to reject Bangor's filing.

(5) Participation by Eastern Maine in this proceeding may be in the public interest.

The Commission orders: (A) Bangor's filing tendered on January 30, as completed on February 13 and April 8, 1976, is hereby accepted for filing and suspended for three months, until August 9, 1976, when it will be permitted to become effective, subject to refund.

(B) Eastern Maine's motion to reject Bangor's filing is denied.

(C) Eastern Maine is hereby permitted to intervene in this proceeding, subject to the rules and regulations of the Commission; *Provided, however,* that participation of such intervenor 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 intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(D) Pursuant to the authority of the Federal Power Act, particularly Section 205 thereof, and the Commission's Rules and Regulations, a hearing shall be held concerning the lawfulness and reasonableness of the subject increased rate.

(E) The appropriate rate schedule for Swan Island Cooperative shall be tendered for filing within 15 days of the issuance of this order.

(F) Bangor shall file monthly with the Commission the report on billing determinants and revenues collected under the presently effective rates and the proposed increased rates filed herein, as required by Section 35.19a of the Commission's Regulations, 18 CFR Section 35.19a.

(G) The Staff shall prepare and serve top sheets on all parties for settlement purposes on or before November 9, 1976. (See Administrative Order No. 157).

(H) The proceedings herein are hereby consolidated with those in Docket No. ER76-396, to be docketed as ER76-496.

(I) 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 convene a settlement conference in this proceeding on a date certain within 10 days after the service of top sheets by the Staff, in a hearing or conference room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426. Said Presiding

[1] See Appendix A.

Administrative Law Judge is hereby authorized to establish all procedural dates and to rule upon all motions (with the exceptions of petitions to intervene, motions to consolidate and sever, and motions to dismiss), as provided for in the Rules of Practice and Procedure.

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

By the Commission.

KENNETH F. PLUMB,
Secretary.

APPENDIX A—BANGOR HYDRO-ELECTRIC CO.

Filed: January 30, 1976. Requested Effective Date: April 1, 1976. Description: Class E–1 Rate.

Other Party	*Designation*
Stonington and Deer Isle Light Co	Supplement No. 3 to rate schedule FPC No. 1 (supersedes supp. No. 2)
Maine Public Service Co	Supplement No. 3 to rate schedule FPC No. 2 (supersedes supp. No. 2)
Lubec Water & Electric District	Supplement No. 3 to rate schedule FPC No. 4 (supersedes supp. No. 2)
Union River Electric Cooperative, Inc	Supplement No. 3 to rate schedule FPC No. 5 (supersedes supp. No. 2)
Eastern Maine Electric Cooperative, Inc	Supplement No. 3 to rate schedule FPC No. 7 (supersedes supp. No. 2)
Swans Island Electric Cooperative [1]	
Eastern Maine Electric Cooperative, Inc. (transmission service).	Supplement No. 4 to rate schedule FPC No. 26 (supersedes supp. No. 3)

[1] Although the company states that it filed Rate Schedule FPC No. 8 pertaining to Swans Island Electric Cooperative, that particular schedule made no reference to that cooperative. Bangor is advised herein to file the appropriate rate schedule.

[FR Doc.76–13987 Filed 5–12–76;8:45 am]

[Docket Nos. CI75–191; CI75–489; CI75–205; CI75–479]

CITIES SERVICE OIL CO. AND CONTINENTAL OIL CO.

Order Amending Order

MAY 7, 1976.

On April 12, 1976, an Order Modifying Initial Decision, Permitting Abandonment, Granting Temporary Certificates Of Public Convenience and Necessity, Granting Intervention, Consolidating Proceedings and Setting Matters For Hearing was issued in this proceeding. The language required by Section 2.83 (d) of the Commission's Rules should have been included therein but was inadvertently omitted from the order.

Cities and Continental accepted the temporary certificates on April 21, 1976. In fairness to the producers we will permit them to redetermine whether they will accept the temporary certificates as amended herein. However, as stated in the order of April 12, 1976, the abandonment permitted in Docket Nos. CI75–191 and CI75–205 is conditional upon the acceptance of the temporary certificates granted in Docket Nos. CI75–479 and CI75–489.

The Commission finds: The order issued April 12, 1976, in the above-styled matter should be amended to conform to the requirements of Section 2.83(d) of the Commission's Rules.

The Commission orders: (A) The order issued April 12, 1976, in this proceeding is amended to add ordering paragraph (H) as follows:

(H) Applicant natural gas company's attention is directed to Commission Order No. 539 issued October 14, 1975, 40 FR 49571, and to the provisions of Section 2.83 General Policy and Interpretations, 18 CFR 2.83. Moreover, issuance of this certificate authorization is conditioned to require Applicant, within 30 days of the initial reserve determination or any subsequent redetermination thereof, to report the results of each such initial or redetermination study to the Commission. An original reserve estimate or any redetermination thereof, submitted pursuant to Section 2.83(d) will be maintained by the Commission on a confidential basis and will be made public only after due notice to all interested parties. The certificated minimum daily delivery obligation of the seller (1) shall be determined in accordance with applicable provisions specifically set forth in seller's contract unless otherwise changed by the certificate authorization, (2) shall be without regard to any contractual reservations contrary to the certificate authorization, and (3) shall remain in full force and effect unless and until changed by appropriate certificate authorization amendment based upon Applicant's full documentation of, inter alia, the reasons for any such proposed amendment, the sales production history, the amount of remaining connected reserves of Applicant dedicated under the contract and the status of Applicant's nondeveloped reserves dedicated under the contract. The certificate authorization is further conditioned to require that Applicant, if it has not secured an appropriate certificate amendment and there are circumstances resulting in the delivery of a lesser quantity of natural gas than any certificated delivery obligation, Applicant shall file for each contract year quarter, a verified report setting out the circumstances of such lesser deliveries and the corrective actions which Applicant proposes to undertake in order to meet any experienced delivery deficiency, such verified reports to be filed within 10 calendar days after expiration of each contract year quarter.

The foregoing language will be inserted in any temporary or permanent certificate issued after the effective date of Order No. 539, unless at the time of filing such certificate application, or within the time fixed in the notice of application for filing protests or petitions to intervene, the applicant indicates in writing that it is unwilling to accept such a condition, in which event the application will be set for formal hearing to determine, inter alia, whether any grant of certificate shall be so conditioned.

(B) Cities Service Oil Company and Continental Oil Company shall notify the Commission in writing within 30 days of the issuance of this order whether they will accept the temporary certificates as conditioned by this order.

By the Commission. Commissioner Watt, concurring in part and dissenting in part, filed a separate statement appended hereto.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.76–13986 Filed 5–12–76;8:45 am]

Watt, Commissioner, concurring in part and dissenting in part:

I concur in the decision to issue this certificate. However, I dissent to the inclusion of language required by Sec. 2.83 of the Commission's General Policy and Interpretations.

These regulations were adopted without the due process of law as required by the Administrative Procedure Act.

JAMES G. WATT,
Commissioner.

[Project No. 2725—Georgia]

GEORGIA POWER CO.

Availability of Environmental Impact Statement for Inspection

Notice is hereby given that on or about May 14, 1976, as required by the Commission's Rules and Regulations under Order 415–C, issued December 18, 1972, a final environmental impact statement prepared by the Commission's staff pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 (Public Law 91–100) was placed in the public files of the Federal Power Commission. This statement deals with an application for license filed January 2, 1974, for construction, maintenance, and operation of a 675 MW pumped storage hydroelectric project to be located in Floyd County, Georgia, around 10 miles northwest of Rome; comprising a 947 acre lower reservoir on Heath Creek and a 221 acre reservoir atop Rocky Mountain, a powerhouse containing three reversible pump-generator units, a substation, and a three mile long 230 kV transmission line. The lower reservoir would be divided into a 440 acre operating pool and two auxiliary pools, 120 and 387 acres in area, around which would be developed boat launching, hiking, camping, and picnicking facilities for

use by the public. This statement is available for public inspection in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C. 20426 and its Atlanta Regional Office located at 730 Peachtree Street; Room 500; Atlanta, Georgia 30308. Copies may be ordered from the Commission's Office of Public Information, Washington, D.C. 20426.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-13991 Filed 5-12-76;8:45 am]

[Docket No. ER76-652]

IOWA POWER & LIGHT CO.

Establishment of Additional Point of Delivery and Interconnection

MAY 7, 1976.

Take notice that Iowa Power and Light Company (Iowa Power) on April 29, 1976, tendered for filing a revised Schedule A to the Electric Interchange Agreement between Iowa Power and Light Company and Northwest Iowa Power Cooperative dated March 30, 1976. The revised Schedule A is intended to replace the previous Schedule A dated June 10, 1974, and designated as Supplement No. 2 to Iowa Power and Light Company Rate Schedule FPC No. 41.

The revised Schedule A provides for the establishment of an additional point of delivery and interconnection between the two companies, and specifies the nature of the facilities to be furnished by the companies at that point.

Schedule A was revised in order to further increase the interchange and displacement capabilities between the systems of the two companies and to facilitate coordinated development of adequate transmission capacity for service to customers of the companies at minimum cost.

Iowa Power requests that the Commission waive the prior notice requirements and accept the filing with a retroactive effective date of March 30, 1976. Iowa Power states that copies of the filing have been served upon Northwest Iowa Power Cooperative and the Iowa State Commerce Commission.

Any person desiring to be heard or to protest said application should filed a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 26, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-13989 Filed 5-12-76;8:45 am]

[Docket No. ER76-655]

THE KANSAS POWER & LIGHT CO.

Tender of Service Schedule

MAY 7, 1976.

Take notice that on April 29, 1976, The Kansas Power and Light Company (KPL) tendered for filing Service Schedule G, Interim Participation Power Service, to the Interconnection Contract between KPL and Central Kansas Power Company, Inc., (Central Kansas) designated KPL Rate Schedule FPC No. 123. The requested effective date is June 1, 1976.

KPL states that under the service schedule it will furnish to Central Kansas a maximum of 73 MW of capacity from June 1, 1976 through May 31, 1977.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 27, 1976. 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.76-13990 Filed 5-12-76;8:45 am]

[Docket No. RP73-91; (PGA76-2A)]

MCCULLOCH INTERSTATE GAS CORP.

Compliance Filing

MAY 6, 1976.

Take notice that on April 19, 1976, McCulloch Interstate Gas Corporation (McCulloch) tendered for filing Substitute Seventh Revised Sheet No. 32. McCulloch states that it is being submitted pursuant to the Commission's order issued March 31, 1976, in the above-captioned matter.

McCulloch states that in Ordering Paragraph (F) of the aforementioned Commission Order of March 31, 1976, the Commission provided that "McCulloch may file revised tariff sheets to become effective April 1, 1976, which reflect those claimed increased purchased gas costs contained in McCulloch's filing, other than those claimed increased costs associated with that portion of small producer purchases in excess of the rate levels resulting from the "130% formula" prescribed by Opinion No. 742". Substitute Seventh Revised Sheet No. 32 is to accomplish the foregoing and enable the collection of the effective rate of 80.49¢ per MMBtu without refund obligation, according to McCulloch.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 17, 1976. 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.76-13926 Filed 5-12-76;8:45 am]

[Docket No. RP75-96]

MICHIGAN WISCONSIN PIPE LINE CO.

Further Extension of Time

MAY 7, 1976.

On April 29, 1976, Staff Counsel filed a motion to extend the procedural dates fixed by order issued October 31, 1975, as most recently modified by notice issued April 27, 1976, in the above-designated proceeding. The motion was filed by the staff on behalf of all of the parties.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Intervenor Testimony, June 8, 1976.
Service of Company Rebuttal, June 22, 1976.
Hearing, July 13, 1976 (10:00 A.M., EDT).

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-13983 Filed 5-12-76;8:45 am]

[Docket Nos. AR64-1, et al.]

NORTHERN NATURAL GAS CO.

Filing of Refund Report

MAY 7, 1976.

Take notice that on October 14, 1975, Northern Natural Gas Company filed in the above-designated proceedings a report of refunds made to its jurisdictional customers pursuant to the Commission's order issued herein on September 18, 1975. The refunds total $1,329,570.04.

Any person wishing to do so may submit comments in writing concerning Northern Natural's refund report. All comments should be submitted to the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before June 4, 1976. Northern Natural's refund report is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-13985 Filed 5-12-76;8:45 am]

[Docket No. ER76-221]

POTOMAC EDISON CO.

Order Granting Rehearing for Further Consideration

MAY 7, 1976.

On April 9, 1976, Potomac Edison Company (Edison) filed a petition for re-

hearing and reconsideration of the Commission's order issued March 12, 1976, insofar as it found that the Borough of Chambersburg (Chambersburg) had a fixed rate contract with Edison which prevented Edison's proposed rate increase being made effective as to Chambersburg until the just and reasonable rate has been determined following a 206 investigation. On April 12, 1976, the Boroughs of Chambersburg and Mont Alto, Pennsylvania and the City of Hagerstown, City of Thurmont and Town of Williamsport, Maryland (Cities) filed a petition for rehearing of the March 12, 1976, order stating that the Commission improperly determined that the Cities other than Chambersburg has relinquished their rights under the Sierra-Mobile doctrine[1] and that the Commission erroneously failed to reject Edison's proposed increase as discriminatory. In order to permit additional time for the necessary analysis of the issues raised in the instant petitions for rehearing will be granted for further consideration.

The Commission finds: Good cause exists to grant the petitions for rehearing, supra, for further consideration of the issues raised therein.

The Commission orders: (A) Edison's petition for rehearing, filed April 9, 1976, and Cities' petition for rehearing, filed April 12, 1976, are hereby granted in order to permit further consideration of the issues raised in the respective petitions.

(B) The Secretary shall cause prompt publication of this order to be made in the Federal Register.

By the Commission.

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

[FR Doc.76-13988 Filed 5-12-76;8:45 am]

[Docket No. RP76-84]

UNITED GAS PIPE LINE CO.

Order Accepting for Filing Proposed Tariff Changes Subject to Conditions, Suspending Use Thereof, Providing for Hearing, Granting Waiver and Establishing Procedures

MAY 7, 1976.

On April 9, 1976, United Gas Pipe Line Company (United) tendered for filing proposed changes in its FPC Gas Tariff, First Revised Volume No. 1 and Original Volume No. 2.[1] For the reasons hereinafter stated, we shall accept for filing and suspend the proposed tariff sheets subject to conditions respecting certain contested interest payments for producer loans.

The tariff changes proposed by United herein would increase jurisdictional revenues by $20,955,847 based on the twelve-month period ending December 31, 1975, as adjusted. United states that the major reasons for the rate increase proposed herein are (1) increased operating costs other than the cost of purchased gas (2) declining sales volumes as a result of the continuing decline in gas supply and (3) the need for an increase in rate of return to 11.50%. United requests that the proposed tariff changes be permitted to become effective on May 9, 1976.

Public notice of United's filing was issued on April 16, 1976 with protests or petitions to intervene due on or before April 28, 1976.

It is noted that the proposed rates are based in part on an adjustment to expense of $312,918 representing interest payments to banks which have provided capital to certain producers for the exploration and development of reserves to be dedicated to United. United's rate treatment of interest payments identical to those proposed herein has been previously proposed by United and summarily rejected by the Commission in Docket Nos. RP75-109 and RP75-30.[2] For the reasons stated in our orders in those dockets, we find that summary rejection of that portion of the proposed rates based on the subject interest payments is again appropriate. We note that United has petitioned for review of the Commission's orders in Docket Nos. RP75-109 and RP75-30[3] and that the Court on November 12, 1975, granted United's motion for stay of the Commission's orders on the condition that United segregate and hold the contested amounts in escrow. Subject to the outcome of said appeal, we shall accordingly stay our order to herein reject that portion of the proposed rates based on the subject interest payments, on the condition that United agree to likewise segregate and hold the contested amounts in escrow.

It is further noted that the proposed rates are based in part on incurred costs associated with purchases from noncertificated producers. Since the jurisdictional status of such producers has been raised in Docket No. CP76-238, the inclusion by United of these costs as non-jurisdictional costs will be subject to final disposition of that issue in Docket No. CP76-238. The appropriate level of costs to be included in United's rates has been raised in previous rate cases.

Our review indicates that the proposed tariff changes have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. Accordingly, we shall suspend the proposed tariff changes for five months and establish hearing procedures.

United requests waiver of Section 154.63(c)(2) of the Commission's Regulations, so as to permit it additional time within which to file its 1975 Form No. 2. Such waiver shall be granted.

The Commission finds: (1) Good cause exists to accept for filing the proposed tariff changes as designated in footnote 1 and to suspend the use thereof for 5 months until October 9, 1976, when they may become effective subject to refund, as hereinafter ordered and conditioned.

(2) Good cause exists to reject that portion of the proposed rates based on interest payments for producer loans but to stay such action pending the outcome of United's appeal of the Commission's orders in Docket Nos. RP75-109 and RP75-30, such stay being conditioned upon United's agreement to segregate and hold the contested amounts in escrow.

(3) 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 United's tariffs as proposed to be revised herein.

(4) Good cause exists to grant United's request for waiver of Section 154.63(c)(2) of the Commission's Regulations.

The Commission orders: (A) 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 public hearing shall be held concerning the justness and reasonableness of the rates proposed by United herein.

(B) Pending a hearing and a final decision thereon, United's proposed tariff sheets as designated in footnote 1 are hereby accepted for filing and suspended for five months until October 9, 1976, or until such time as they are made effective in the manner provided by the Natural Gas Act, subject to refund and subject to the condition in Ordering Paragraph (C) below.

(C) That portion of the proposed rates based on interest payments for producer loans is hereby rejected and United is ordered to file prior to October 9, 1976, revised tariff sheets, unless United submits within 30 days of the issuance of this order, an agreement to segregate and hold the contested amounts in escrow, in which event such rejection is stayed pending the outcome of United's appeal of the Commission's orders in Docket Nos. RP75-109 and RP75-30.

(D) That portion of the proposed rates based upon costs associated with pur-

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[1] *United Gas Pipe Line Co.* v. *Mobile Gas Service Corporation*, 350 U.S. 322 (1956); *F.P.C.* v. *Sierra Pacific Power Company*, 350 U.S. 348 (1956).

[1] Designated: Revised Sheet No. 4, Eighth Revised Sheet No. 5, Sixteenth Revised Sheet No. 21, Thirteenth Revised Sheet No. 99, and Sixth Revised Sheet No. 99-A to First Revised Volume No. 1. Fifth Revised Sheet No. 187, Fourth Revised Sheet No. 226, Fifth Revised Sheet No. 289-A, Second Revised Sheet No. 448, First Revised Sheet No. 559, and First Revised Sheet No. 574 to Original Volume No. 2.

[2] *United Gas Pipe Line Company*, Docket No. RP75-109, order issued July 7, 1975, *rehearing denied*, order issued September 3, 1975. *United Gas Pipe Line Company*, Docket No. RP75-30, order issued September 4, 1975, *rehearing and stay denied*, order issued October 22, 1975.

[3] *United Gas Pipe Line Co.* v. *F.P.C.*, Case Nos. 75-1943 *et al.* (D.C. Cir., filed Sept. 24, 1975).

chases from non-certificated producers shall be subject to refund pending Commission determination of the jurisdictional issue in Docket No. CP76-238 and the appropriate treatment of costs in the rate proceeding in Docket No. RP74-20, et al.

(E) United's request for waiver of Section 154.63(c)(2) of the Commission's Regulations is hereby granted.

(F) The Staff shall prepare and serve top sheets on all parties for settlement purposes on or before August 9, 1976. (See Administrative Order No. 157).

(G) 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 convene a settlement conference in this proceeding on a date certain within 10 days after the service of top sheets by the Staff, in a hearing or conference room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426. Said Presiding Administrative Law Judge is hereby authorized to establish all procedural dates and to rule upon all motions (with the exceptions of petitions to intervene, motions to consolidate and sever, and motions to dismiss), as provided for in the Rules of Practice and Procedure.

(H) The Secretary shall cause the prompt publication of this order in the Federal Register.

By the Commission.

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

[FR Doc.76-13982 Filed 5-12-76;8:45 am]

[Docket No. RP71-29, et ad. (Phase II)]

UNITED GAS PIPE LINE CO.

Proposed Changes in FPC Gas Tariff

Take notice that United Gas Pipe Line Company (United) on April 1, 1976, tendered for filing the following proposed tariff sheets as changes to its FPC Gas Tariff, First Revised Volume No. 1:

Original Sheet No. 70-A.
Original Sheet No. 70-B.
Fifth Revised Sheet No. 71.
Ninth Revised Sheet No. 72.
Seventh Revised Sheet No. 72-A.
Original Sheet No. 72-B.

The filing was made pursuant to Ordering Paragraph A of the Commission's "Order Approving Settlement and Establishing Phase IV," issued October 31, 1975 in Phase I of the subject proceeding.

The proposed sheets provide for United's implementation of a new permanent curtailment program when United's current interim plan expires on October 31, 1976.

United projects that it will have to curtail during the 1976-77 winter season approximately 359.5 billion cubic feet, or 51.0 percent, of the total firm requirements on its system. United states that under the present interim plan that projected level of curtailment would entail curtailment of 89 percent of the total requirements of industrial customers using 300 Mcf or less per day and 89 percent of most larger customers' process gas requirements. United states that its proposed permanent plan would ameliorate this impact by providing a sharper delineation of those limited direct market industrial requirements which need additional protection and for the curtailment of those requirements on a pro rata basis together with the Category I requirements of United's pipeline customers.

United requests that its proposed tariff sheets be accepted for filing effective June 1, 1976, and that such sheets be suspended at that time for the statutory period of five months. United makes such a request so that it might, by later motion, place the proposed tariff sheets into effect on November 1, 1976 in the event that the Commission is unable to enter a final order regarding a permanent curtailment plan prior to the commencement of the 1976-77 winter season.

United states that copies of this filing were served upon all of its customers and upon all parties to the subject proceeding.

Any person desiring to be hear or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 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 May 21, 1976. 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 proceding. 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.76-13984 Filed 5-12-76;8:45 am]

[Docket No. CS71-286]

A. C. YORK AND J. R. LORETT, JR., TRUSTEE UNDER SEPARATE TRUSTS FOR RICHARD STOLL SHANNON, III, ET AL.

Redesignation

MAY 5, 1976.

By letter dated March 23, 1976, and an accompanying transfer order, dated March 4, 1976, filed with the Commission on March 25, 1976 by the attorney for the above-named trustees, the Commission was advised that Graham B. Morrison had resigned as one of the Trustees of the subject trusts and J. R. Lorett, Jr., had been appointed a trustee in his place effective as of February 1, 1976.

According, the certificate of public convenience of necessity issued by the Commission on September 15, 1971, pursuant to Section (C) of the Natural Gas Act, is redesignated to reflect the change in one of the trustees from Graham B. Morrison to J. R. Lorett, Jr., effective February 11, 1976.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.76-13919 Filed 5-12-76;8:45 am]

[Docket No. CP76-346]

COLUMBIA GAS TRANSMISSON CORP.

Application

MAY 5, 1976.

Take notice that on April 21, 1976, Columbia Gas Transmission Corporation (Applicant), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP76-346 an application pursuant to Section 7(c) of the Natural Gas Act and Section 2.79 of the Commission's Statement of General Policy and Interpretations (18 CFR 2.79) for a certificate of public convenience and necessity authorizing a transportation service for a two-year term for West Virginia Malleable Iron Company (Malleable), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Malleable is the owner of undeveloped gas leases in Salem and Perry Townships, Columbiana County, Ohio, and that Applicant proposes to transport up to 250 Mcf of gas per day for Malleable, which gas would be received by Applicant at a mutually agreeable point in Columbiana County and redelivered for the account of Malleable at an existing point of delivery from Applicant to Columbia Gas of West Virginia, Inc., at Point Pleasant, West Virginia. Applicant states that the proposed transportation would be subject to the limits of Applicant's pipeline capacity and to its service obligations to its CD, WS, SGES, G, and SGS customers and would be further limited to only those amounts required to offset curtailment of the high priority requirements of Malleable. It is stated that Applicant's transportation charge for the proposed service would be its average system-wide unit storage and transmission costs, exclusive of company-use and unaccounted-for gas, as reflected in Applicant's FPC rate filings, and Applicant would retain for company-use and unaccounted-for gas 3.6 percent of the volumes received from Malleable.

The application shows the following information submitted by Applicant:

1. Applicant would transport for Malleable up to 250 Mcf on a peak day, up to 250 Mcf on an average day and up to 91,250 Mcf on an annual basis.

2. Applicant's capacity available to perform the proposed transportation service is 11,800 Mcf on a peak day, 11,000 Mcf on an average day, and 4,015,000 Mcf on an annual basis.

3. The proposed transportation is expected to have no adverse impact on Applicant's ability to provide system-wide deliveries for Priority 1 requirements inasmuch as the transportation agreement

is expressly subject to the limits of Applicant's pipeline capacity and its service obligations to its customers.

4. The transportation rate to be charged is 21.99 cents per Mcf.

5. The leases owned by Malleable are undeveloped and no gas is presently available from such leases.

6. The gas to be transported would be used in the manufacture of Malleable castings and would replace supplies of gas presently being curtailed and expected to be curtailed in the future.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 27, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-13915 Filed 5-12-76;8:45 am]

[Docket No. RP76-94]

COLUMBIA GULF TRANSMISSION CO.

Proposed Changes in FPC Gas Tariff

MAY 6, 1976.

Take notice that on April 29, 1976 Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing proposed changes to its FPC Gas Tariff, Original Volume No. 1.

The proposed changes would increase Columbia Gulf's revenues from jurisdictional sales and service by approximately $4,661,000, based on the 12 month period ending December 31, 1975, as adjusted. The proposed rates reflect increases in Columbia Gulf's offshore depreciation rate and rate of return. Columbia Gulf alleges that the proposed increased revenues are needed to increase internally generated funds in order to attract additional outside capital.

Columbia Gulf proposes an effective date of June 1, 1976 for the proposed changes. Columbia Gulf states copies of this filing were served upon Columbia Gas Transmission Corporation.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 24, 1976. 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.76-13920 Filed 5-12-76;8:45 am]

[Docket Nos. CP74-227, CP76-280, CP70-196, and CP76-9]

DISTRIGAS CORP.

Amendment to Applications

MAY 5, 1976.

Take notice that on April 22, 1976,[1] Distrigas Corporation (Distrigas), 125 High Street, Boston, Massachusetts 02110, filed an amendment to its applications filed March 4, 1974, and February 23, 1976, in Docket Nos. CP74-227 and CP76-280, respectively, by authorizing Distrigas pursuant to Sections 3 and 7 of the Natural Gas Act to sell imported liquefied natural gas (LNG) to Distrigas of Massachusetts Corporation (DOMAC) for resale to DOMAC's customers in Massachusetts, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Distrigas states that in Opinion No. 613 and accompanying order, issued March 9, 1972, in Docket No. CP70-196, et al. (47 FPC 752), the Commission authorized Distrigas to import certain annual volumes of LNG from Algeria and that the Commission held, among other things, that the sale of LNG to Massachusetts customers was not jurisdictional. It is asserted that by orders issued May 25 and June 20, 1973, in Docket No. CP73-78, et al., the Commission reversed its position holding that Distrigas, or an affiliate, must obtain authorization for all sales for resale of the imported LNG, including sales to Massachusetts customers. Distrigas asserts further that upon review of the orders of May 25 and June 20, 1973, the Court of Appeals in *Distrigas Corp.* v. *F.P.C.*, 495 F.2d 1057, *cert. denied*, 419 U.S. 834 (1974), (*Distrigas* case) held that the Commission could not require Distrigas to obtain certificates under Section 7 of the Natural Gas Act for sales of LNG imported pursuant to Opinion No. 613 for resale to Massachusetts customers and that the Court remanded the proceedings holding that the Commission might authorize such activities as a condition to import authorization under Section 3 of the Natural Gas Act. Distrigas states that it filed an application in Docket No. CP74-227 for authorization to sell to DOMAC the LNG imported, pursuant to Opinion No. 613, to be resold by DOMAC in interstate commerce and an application in Docket No. CP76-9 for authorization to import additional volumes of LNG from Algeria. Further, Distrigas states that an application similar to the application pending in Docket No. CP74-227 for sales to DOMAC of the LNG imported as proposed in Docket No. CP76-9 was filed in Docket No. CP76-280 and that neither of the two applications in Docket Nos. CP74-227 nor CP76-280 involved any imported LNG which Distrigas sells to DOMAC for resale by DOMAC to Massachusetts customers.

Distrigas states that by amendment to the applications pending in Docket Nos. CP74-227, CP76-280, CP70-196, and CP76-9, it hereby seeks such authorization as may be necessary to make sales to DOMAC of the volumes of imported LNG which will be resold to Massachusetts customers.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before May 28, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Persons who have heretofore filed petitions to intervene, notices of intervention, or protests need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-13916 Filed 5-12-76;8:45 am]

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[1] Although the amendment was tendered for filing on April 22, 1976, the fee required by Section 159.1 of the Commission's Regulations under the Natural Gas Act (18 CFR 159.1) was not paid until April 27, 1976, thus filing was not completed until the latter date.

DUKE POWER CO.

[Docket No. ER76-648]

Tender of Revised Supplement to Interconnection Agreement

MAY 6, 1976.

Take notice that on April 28, 1976, Duke Power Company (The Company) tendered for filing a revised supplement to the Interconnection Agreement between the Company and Yadkin, Inc., dated June 14, 1961 and designated Duke Power Company Rate Schedule FPC No. 11. The Company requests waiver of the Commission's notice requirements in order to permit the supplement to become effective May 1, 1976.

The Company states that the filing brings Service Schedule F of the Interconnection Agreement up to the same level as the resale service rate presently in effect subject to refund after a hearing in Docket No. E-9453. The Company further states that a copy of the filing will be mailed to Yadkin, Inc.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 21, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-13922 Filed 5-12-76;8:45 am]

[Docket No. RP75-89]

NORTHERN NATURAL GAS CO.

Conference

MAY 5, 1976.

Take notice that commencing on May 19, 1976, Staff is convening a conference, upon the informal request of Counsel for Northern Natural Gas Company, of all interested persons for the purpose of discussing the issues of the above-captioned docket with a view toward settling this proceeding in Room 5200 at the offices of the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426 at 1:00 p.m.

Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene by order of the Commission, attendance will not be deemed to authorize intervention as a party in the proceedings.

All parties will be expected to come fully prepared to discuss the merits of all issues concerning the lawfulness of the proposed rate increase and any procedural matters preparatory to a full evidentiary hearing or to make commitments with respect to such issues and any offers of settlement or stipulations discussed at the conference.

Letters concerning this conference are being mailed to all parties to this proceeding, and all of the jurisdictional customers and interested state commissions.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-13918 Filed 5-12-76;8:45 am]

[Docket No. CP76-351]

NORTHWEST PIPELINE CORP.

Application

MAY 5, 1976.

Take notice that on April 28, 1976, Northwest Pipeline Corporation (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP76-351 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon the transportation of natural gas for sale to Moon Lake Electric Association, Inc. (Moon Lake), and the facilities used therefor in Rio Blanco County, Colorado, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant proposes to abandon deliveries of natural gas to Moon Lake for sale for use in Moon Lake's Rangely generating station in Rio Blanco County, Colorado. The application states that Moon Lake no longer requires interruptible deliveries of natural gas at the Rangely station because active operations have ceased at that location. Applicant also proposes to remove and salvage the 3-inch standard orifice meter and appurtenant facilities used to render the service.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 27, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-13913 Filed 5-12-76;8:45 am]

[Docket No. CP76-352]

WESTERN TRANSMISSION CORP.

Application

MAY 5, 1976.

Take notice that on April 29, 1976, Western Transmission Corporation (Applicant), 250 Park Avenue, New York, New York 10017 filed in Docket No. CP76-352 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate or public convenience and necessity authorizing the transportation of natural gas for Colorado Interstate Gas Company (CIG) from Carbon County to Sweetwater County, Wyoming, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that Northwest Pipeline Corporation (Northwest) has acquired a new supply of natural gas in the Barrell Springs Area of Carbon County approximately 92 miles from the nearest point on Northwest's transmission system and that CIG and Northwest have entered into an agreement for the purchase by CIG of up to 25 percent of such gas and for the transportation by CIG and exchange with Northwest of the remainder. Northwest's gas source is said to be approximately 7.5 miles from Applicant's pipeline. Applicant would receive the gas at a point in Carbon County and would transport the gas approximately 26 miles to an existing point of interconnection with CIG in Sweetwater County where the gas would be delivered to CIG. Applicant states that no additional facilities will be required by Applicant to render the proposed service.

Applicant proposes to render the transportation service at the rate provided in its Rate Schedule F. Said rate is said to be presently 9.0 cents per Mcf.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 27, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a

proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Comission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the tie required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-13914 Filed 5-12-76;8:45 am]

[Docket No. RP72-142; PGA76-4]

CITIES SERVICE GAS CO.

Proposed Changes in FPC Gas Tariff

MAY 5, 1976.

Take notice that Cities Service Gas Company (Cities Service) on April 21, 1976, tendered for filing proposed changes in its FPC Gas Tariff, Second Revised Volume No. 1. Cities Service states that the proposed changes are based solely on increased purchase gas costs which will result from filings by two of its pipeline suppliers, Transwestern Pipeline Company (Transwestern) and Oklahoma Natural Gas Gathering Corporation (ONGG).

Transwestern's increased rate was approved by the Commission order issued March 31, 1976, to be effective April 2, 1976. ONGG's increased rate was reflected on its Eighth Revised Sheet PGA-1 approved by FPC order issued December 31, 1975, in Docket Nos. RP72-115 and PGA76-1 to be effective January 1, 1976.

Cities Service states that it has filed its Fourteenth Revised Sheet PGA-1 to reflect the rates on Transwestern's Second Alternate Substitute Revised Second Revised Sheet Nos. 5 and 6, and the rate on ONGG's Eighth Revised Sheet PGA-1.

Cities Service states that copies of its filing were served on all jurisdictional customers, interested state commissions and all parties to the proceeding in Docket Nos. RP72-142 and RP76-13.

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, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 19, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-13917 Filed 5-12-76;8:45 am]

[Docket No. RP76-95]

COLUMBIA GAS TRANSMISSION CORP.

Proposed Changes in FPC Gas Tariff

MAY 6, 1976.

Take notice that on April 29, 1975 Columbia Gas Transmission Corporation (Columbia) tendered for filing proposed changes to its FPC Gas Tariff, Original Volume No. 1.

The proposed revised tariff sheets reflect an increase in Columbia's rates to provide additional revenues of $36,786,900, which Columbia states is necessary to offset a revenue deficiency of approximately that amount based on a cost of service for the twelve months ended December 31, 1975, as adjusted, compared with revenues at underlying rates effective March 2, 1976.

Columbia states that the increase is necessitated by increases in operation and maintenance expenses, primarily increase in cost of gas transported by others; increase in rate base resulting from an increase in advance payments; an increase in cost of service applicable to certain of Columbia's Appalachian pipeline production; and, a decline in annual sales volumes.

Columbia proposes further in the proposed revised tariff sheets to limit Buyer's right to reduce its contract demand and/or Maximum Daily Quantity and to revise its Zone Z rates to reflect dekatherms. Columbia indicates that other minor tariff modifications are proposed.

Columbia requests an effective date of June 1, 1976 for its proposed changes. Columbia indicates that copies of these tariff changes have been served upon its 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, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 24, 1976. 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 intevene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-13921 Filed 5-12-76;8:45 am]

UNITED STATES INTERNATIONAL TRADE COMMISSION

[332-73]

HARMONIZED COMMODITY DESCRIPTION AND CODING SYSTEM

Public Notice of Opening of Hearings on Draft Chapters

The U.S. International Trade Commission hereby gives notice that on May 27, 1976, public hearings will open on draft chapters of the Harmonized Commodity Description and Coding System. The Commission is receiving these chapters pursuant to investigation No. 332-73 which was instituted in accordance with section 608(c)(2) of the Trade Act of 1974 (Public Law 93-618, approved January 3, 1975). These hearings will be held for the purpose of receiving the views and comments of interested persons with respect to the development of the Harmonized Commodity Description and Coding System.

TIME, PLACE, AND SUBJECT MATTER OF FIRST PUBLIC HEARING

The hearings will begin on May 27, 1976, in the Hearing Room of the U.S. International Trade Commission Building, 701 E St., NW., Washington, D.C. at 10 a.m. EDT, with a consideration of—

Chapter 48—Paper and paperboard; articles of paper pulp, of paper or of paperboard,
Chapter 82—Tools, implements, cutlery, spoons and forks, of base metal; parts thereof, and
Chapter 84—Boilers, machinery and mechanical appliances; parts thereof (Part 1)

of the Harmonized Commodity Description and Coding System.

PURPOSE OF THE COMMISSION STUDY

Under section 608(c)(2) of the Trade Act of 1974, the Commission was directed to undertake an investigation which would provide the basis for—

(2) Full and immediate participation by the United States International Trade Commission in the United States contribution to technical work of the Harmonized Systems Committee under the Customs Cooperation Council to assure the recognition of the needs of the United States business community in the development of a Harmonized Code reflecting sound principles of commodity identification and specification and modern producing methods and trading practices.

A statement with respect to the background and development of the Harmonized Commodity Description and Coding System and the Commission's participation in its development is contained in the Commission's public notice issued May 4, 1976 (F.R. 41, Page 18716, of May 6, 1976).

INSPECTION OF DRAFT CHAPTERS OF THE HARMONIZED COMMODITY DESCRIPTION AND CODING SYSTEM

Copies of draft chapters of the Harmonized System will be made available for public inspection at the offices of the Commission at 701 E Street, NW., Washington, D.C. 20436 or at 6 World Trade Center, New York, N.Y. 10048. The Commission will also send copies to interested parties who notify the Commission of their interest with respect to any particular chapter or group of chapters.

The supply of the drafts is necessarily limited and interested parties are urged to refrain from requesting personal copies of these documents and to utilize, wherever practicable, the copies on file in the aforementioned offices. However, if these copies are not readily accessible to an interested party, an effort will be made to furnish appropriate excerpts upon receipt of a request therefor, specifically identifying the particular product of interest.

WRITTEN STATEMENTS AND PUBLIC HEARINGS

Information and views may be submitted either in writing or by oral testimony at the public hearings, or both. In order to permit within the limited time and resources available, all interested parties to present information and views on the draft chapters in an orderly manner and with the least possible inconvenience to all concerned, the Commission has established the following procedure for submission of written statements and the conduct of hearings:

1. *Written statements in lieu of appearance at hearings.*—Interested parties may present information and views in writing in lieu of appearances at the hearing. Such statements will be given the same consideration as oral testimony. An original and 19 copies of written statements must be submitted. Each such statement should be submitted as early as possible, and, in order to assure due consideration, must be submitted not later than 30 days following the beginning of the hearings on the chapter to which the statement relates.

2. *Scope of written statements and oral testimony.*—Written statements and oral testimony must be limited to matters pertinent to the accomplishment of the purposes of this study. The submissions should be directed towards whether the draft chapters recognize the needs of the U.S. business community and reflect sound principles of commodity identification and specification and modern producing methods and trading practices.

3. *Appearance at public hearings.*—The following information and instructions should be carefully noted by any interested party intending to appear at the public hearings:

(a) Request to appear at the hearings on chapters 48, 82, and 84 must be filed in writing with the Secretary of the Commission not later than May 20, 1976. Any such request must include:

(1) The chapter, on which testimony will be presented, together with a description of the article or articles to which the testimony will relate.

(2) The name and represented organization of any witness who will testify, and the name, address, telephone number, and organization of the person filing the request.

(3) A careful estimate of the time desired for presentation of oral testimony by all witnesses for whom the request is filed.

NOTE.—The Commission reserves the right to set the time within which a witness must complete his statement. In this connection, experience in previous extensive hearings shows that, in most cases, essential information can be effectively presented orally in a period of from 15 to 30 minutes. Because of the limited time available, parties desiring an allowance of time in excess of such an amount should set forth the special circumstances which they believe support a grant of additional time. Witnesses may supplement oral testimony with written statements of any length.

(b) The Secretary of the Commission should be promptly notified of any changes in a request for appearance as originally filed.

4. *Conduct of hearings.*—(a) Parties who have properly entered an appearance by May 20, 1976, as indicated under paragraph 3 above, will be individually notified of the date on which they are scheduled to appear. Such notice will be sent as soon as possible after May 20, 1976 (the closing date for requests to appear). Any person who fails to receive such notification by May 24, 1976 should immediately communicate with the office of the Secretary of the Commission.

(b) Questioning of witnesses will be limited to members of the Commission and of the Commission's staff.

5. *Communications to be addressed to Secretary.*—All communications regarding these public hearings, including requests to appear at these hearings, should be addressed to the Secretary, United States International Trade Commission, 701 E Street, NW., Washington, D.C. 20436.

PUBLICATION OF REMAINING DRAFT CHAPTERS

From time to time other draft chapters will be released and public hearings thereon scheduled. Appropriate supplementary public notices regarding scheduling of hearings will be issued.

By order of the Commission.

Issued: May 10, 1976.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.76-14050 Filed 5-12-76;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 76-43]

ESTABLISHMENT OF THE LONG DURATION EXPOSURE FACILITY (LDEF) EXPERIMENT REVIEW AD HOC SUBCOMMITTEE

Notice of Determination

Pursuant to Section 9(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), and after consultation with the Office of Management and Budget, the NASA Administrator has determined that the establishment of the Long Duration Exposure Facility Experiment Review Ad Hoc Subcommittee of both the Space Technology Steering Committee and the Research and Technology Advisory Council is in the public interest in connection with the performance of duties imposed upon NASA by law.

The function of this Subcommittee is to evaluate the proposals for technology invesitgations submitted in response to the Announcement of Opportunity issued by the Office of Aeronautics and Space Technology for Long Duration Exposure Facility missions. The Subcommittee will categorize each experiment proposal as provided in the NASA Handbook entitled "Guidelines for Acquisition of Investigations" after consideration of the scientific and/or technology value or return of all proposed experiments, the probability of obtaining the desired results, and the value of the experiment, including cost, in terms of mission objectives.

WILLIAM W. SNAVELY,
Assistant Administrator for the Department of Defense and Interagency Affairs, National Aeronautics and Space Administration.

MAY 7, 1976.

[FR Doc.76-13970 Filed 5-12-76;8:45 am]

NATIONAL CREDIT UNION ADMINISTRATION

SYSTEMS OF RECORDS SUBJECT TO THE PRIVACY ACT

Proposed Routine Use of Records Contained

Pursuant to the Privacy Act of 1974, 5 U.S.C. 552a (a)(7) and (e)(11) (1974), the National Credit Union Administration proposes to add the following routine use to each of its systems of records published on pages 47427-47434 of the FEDERAL REGISTER of October 8, 1975:

Disclosure may be made to a Congressional Office from the record of an individual in response to an inquiry from the Congressional Office made at the request of that individual.

Interested persons are invited to submit written comments to the Administrator, National Credit Union Administration, 2025 M Street, NW, Washington, DC 20456, as to whether this proposal should be adopted, rejected or modified. Comments received prior to June 18, 1976, will be considered before final action is taken on this proposal. Written comments submitted will be available at the above address for public inspection during regular business hours.

By the National Credit Union Administration.

Dated: May 5, 1976.

HERMAN NICKERSON, Jr.,
Administrator.

[FR Doc.76-13911 Filed 5-12-76;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

PUBLIC MEDIA PROGRAM

Application Guidelines

The following are guidelines for Fellowship Grants made under the Public Media Program of the National Endowment for the Arts, an independent agency of the Federal government which makes grants to organizations and individuals concerned with the arts throughout the United States.

The Public Media Program Application Deadlines and Grant Calendar is included. Interested persons should contact Chloe Aaron, Director, Public Media Program, National Endowment for the Arts, Mail Stop 552, Washington, D.C. 20506 (202) 634–6300, for further information and application forms.

Signed at Washington, D.C., on May 10, 1976.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

PUBLIC MEDIA PROGRAM

Introduction

In Fiscal Year 1977 (October 1, 1976–September 30, 1977), the Public Media Program will provide support in three main areas:

REGIONAL DEVELOPMENT

Support for regional media organizations to build new audiences through regional showcases and to provide resources for research and study of film and video art.

MEDIA STUDIES

Support for: (1) filmmakers and video artists in short-term residencies, educational or other similar institutions; and (2) seminars, workshops, institutes and conferences designed to further the creation and study of film and video as art forms.

PROGRAMMING IN THE ARTS

Support for production, research and development of series designed to improve the quality of arts programming on film, television, and radio by professional individuals and organizations.

The Endowment will continue support of The American Film Institute for its work in preserving and developing the Nation's artistic and cultural resources in film. The Institute is concentrating essentially in the following areas of endeavor: archives, education, advanced filmmaker training, filmmaker grants and research and publication.

The Public Media Program also works with the Corporation for Public Broadcasting by jointly funding specific projects which foster the arts on public television.

Application deadlines

Grant category	Deadline	Announcement of rejection or grant award	Project beginning date
Media studies	May 15, 1976	Oct. 15, 1976	Nov. 15, 1976
Regional development	Aug. 1, 1976	Jan. 1, 1977	Feb. 15, 1977
Programing in the arts	Sept. 15, 1976	Mar. 15, 1977	Apr. 15, 1977

NOTE.—Applicants applying under general programs may apply under any of the above deadlines. We regret because of review procedures, applications postmarked after the deadline date cannot be considered. Applicants are encouraged to mail early. The National Endowment for the Arts is an independent agency of the Federal Government created in 1965 to encourage and assist the Nation's cultural resources. The Endowment is advised by the 26 presidentially appointed members of the National Council on the Arts. The public media program is 1 of 12 major program areas. Information about the Endowment and its other programs is contained in the Endowment's "Guide to Programs" which is available from the Program Information Office, National Endowment for the Arts, Washington, D.C. 20506. Public Media applicants may be especially interested in the architecture plus environmental arts, dance, education, expansion arts, music, and special projects programs.

Notification

In compliance with the Privacy Act of 1974, we wish to furnish you with the following information:

Section (5) of the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 954) authorizes the Endowment to solicit the requested information. This information is needed to process your grant application and for statistical research and analysis of trends. The routine uses for which this information can be used and the purposes of such use are general administration of grant review process, statistical research, congressional oversight, and analysis of trends.

Failure to provide the requested information could result in rejection of your application due to lack of sufficient facts for determining either your eligibility for a grant or the amount which should be awarded.

Resolution on Accessibility to the Arts for the Handicapped

One of the main goals of the National Endowment for the Arts is to assist in making the arts available to all Americans. The arts are a right, not a privilege. They are central to what our society is and what it can be. The National Council on the Arts believes very strongly that no citizen should be deprived of the beauty and the insights into the human experience that only the arts can impart.

The National Council on the Arts believes that cultural institutions and individual artists could make a significant contribution to the lives of citizens who are physically handicapped. It therefore urges the National Endowment for the Arts to take a leadership role in advocating special provision for the handicapped in cultural facilities and programs.

The Council hotels that the Congress of the United States passed in 1968 (P.L. 90–480) legislation that would require all public buildings constructed, leased or financed in whole or in part by the Federal Government to be accessible to handicapped persons. The Council strongly endorses the intent of this legislation and urges private interests and governments at the state and local levels to take the intent of this legislation into account when building or renovating cultural facilities.

The Council further requests that the National Endowment for the Arts and all the program areas within the Endowment be mindful of the intent and purposes of this legislation as they formulate their own guidelines and as they review proposals from the field. The Council urges the Endowment to give consideration to all the ways in which the agency can further promote and implement the goal of making cultural facilities and activities accessible to Americans who are physically handicapped. (Adopted by the National Council on the Arts, September 15, 1973.)

CATEGORIES OF FUNDING

Regional Development

Matching grants are available to regional organizations to help them exhibit high quality film and video art; conduct visiting artists programs; provide access to exhibition and production equipment and facilities; provide a resource for film and video research, study and information; train regional development personnel; and integrate and coordinate media resources on a regional basis.

ELIGIBILITY

The regional media organization may be independent or attached to a museum, university, state arts agency, or other nonprofit, tax-exempt organization. It should have had an on-going program in any of the areas listed above for at least one year.

The general purpose of this program is to encourage development or continuation of quality projects that will stimulate the interest and involvement in film and video art of as many people as possible. For this reason, support will be restricted to those facilities which maintain the following policies:

Activities are open to the public at a reasonable cost.

Provides access where practical to all materials for any person who needs access to screening, presentations, equipment, facilities and articles of information in the collection without restriction to age level, education or affiliation.

PROJECT EXAMPLES

The Public Media Program provides funds on a specific project basis; however, application may be made to strengthen existing projects. Applicants with requests for unspecified general support of on-going programs will not be considered eligible. Examples of eligible projects are:

1. Partial support for staff to program films and/or video tapes for public exhibition and/or to provide information services to the region, possibly traveling throughout the region, but maintaining headquarters at a resource center.

2. Partial support of film and/or video rentals and costs preparing program notes for a specific series, retrospective, et cetera.

3. Partial support for purchase of production equipment for public access use of artists. (Organization is asked to submit a list of equipment and procedures for selecting artists who will have access to equipment.)

4. Partial support for purchase of exhibition equipment.

The Endowment's Museum Program, under its Museum Purchase Plan, will entertain applications from museums for the purchase of films made by living independent American filmmakers. Inquiries should be addressed to the Museum Program, National Endowment for the Arts, Washington, D.C. 20506.

GRANT AMOUNTS

Matching grants will generally be for less than $50,000. Applicants are advised to apply for what they need and can match rather than the maximum amount. Each organization may submit only one application under this category. An application may include a variety of services.

DEADLINE AND ANNOUNCEMENT DATES

Applications must be postmarked no later than August 1, 1976. Applicants should not anticipate announcement of awards and rejections before January 1, 1977. Projects should not be scheduled to begin before February 15, 1977.

FACTORS FOR REVIEW

On recomendation of the National Counell on the Arts, all applications requesting assistance for purchase of equipment will be given particularly careful review/attention by the Public Media Advisory Panel. In general, assistance to regional development projects in Fiscal Year 1977 will be determined by a review of the following factors:

Evidence that, in the case of a request for partial support of an exhibition program, a policy for audience development is under active consideration (a brief description or outline of such a policy is sufficient);

Demonstrated willingness to work with all film and video related elements in the region, as well as other film and video centers in other regions;

Accessible location within a geographic region.

APPLICATION PROCEDURE

Please review the instructions on pages 9–13 and complete the forms entitled Project Grant Application NEA–3 (Rev.). Please note that irrespective of the amount requested, all budget items should be broken down on the application form. Applicants are requested to submit the following information:

1. A concise narrative response to Factors for Review listed above.
2. When and where projects will be carried out.
3. History of operation and programs. (Please attach sample notes and brochures.)
4. Description of the region, its needs and the applicant's plans for meeting those needs. This should include any existing services provided to the region and existing or proposed coordination with other organizations in the region.
5. Biographical material about the project director.

NOTE ON EQUIPMENT

Title to each item of equipment purchased under a grant from the Endowment will be vested in the grantee immediately upon acquisition with the understanding that the equipment purchased will continue to be used for the same or similar purposes as the original purpose of this project. It is understood that each item purchased will be identified in the expenditure report. Such identification shall include, as a minimum, manufacturer's name, model designation, serial number, acquisition costs, date of purchase, and permanent location.

Media Studies

Matching grants are available to assist filmmakers and video artists in short-term residencies at educational and other institutions and for seminars, workshops, institutes and conferences designed to further the creation and study of film and video as art forms. This program is divided into two categories.

FILMMAKERS AND VIDEO ARTISTS IN RESIDENCE

Grants are made to educational institutions and other organizations to invite professional filmmakers and/or video artists of national reputation who do not normally support themselves by teaching for short-term stays to instruct, influence and stimulate students, faculty and the general public while practicing their professions. Institutions select the artist(s) of their choice and work out a mutually acceptable schedule of activities. While new methods are not necessarily better, more inventive ways of bringing this contact about may be desirable; for instance, making the evolution of a work of art itself the teaching situation or engaging the students as assistants in some projects or process.

ELIGIBILITY

While aimed primarily at university and college film and media departments, other film, video and related organizations also may apply.

GRANT AMOUNTS

Grants will not exceed $5,000 and will be made on a matching basis. Project budgets should generally include only artists' fees and transportation for one round trip for the artist.

DEADLINE AND ANNOUNCEMENT DATES

Applications must be postmarked no later than May 15, 1976. Notices of approval or rejection will not be sent before October 15, 1976. Projects should not begin until receipt of an official grant letter.

APPLICATION PROCEDURE

Please review the instructions on pages 9–13 and complete the forms entitled Project Grant Application NEA–3 (Rev.).

SEMINAR WORKSHOP PROGRAM

Grants are made to support seminars, workshops, institutes, and other conferences designed to bring together professional film and video artists, scholars, and students to further the creation and study of film and video as art forms. Recording and/or publication of these programs is encouraged for possible dissemination to other interested groups.

ELIGIBILITY

While aimed primarily at university and college film and media departments, other film and video related organizations also may apply.

GRANT AMOUNTS

Grants will be available up to $15,000 and will be made on a matching basis. Grants will generally be for less than the maximum amount. Funds may not be used to replace or supplement conventional instructional programs, which are considered a normal part of an institution's budget.

DEADLINE AND ANNOUNCEMENT DATES

Applications must be postmarked no later than May 15, 1976. Notices of approval or rejection will not be sent before October 15, 1976. Projects should not begin before receipt of an official grant letter.

APPLICATION PROCEDURE

Please review the instructions on pages 9–13 and complete the forms entitled Project Grant Application NEA–3 (Rev.). Applicants are requested to submit the following information:

(1) Description of the program's broad goals with plans for the implementation of the program including an estimate of the number of participants, list of faculty and provisions for scholarships.

(2) Plans that have been made to permit members of the general public to benefit from and participate in project.

(3) Cost involved in the recording and/or publication of these programs to other interested groups should be reflected in the budget.

(4) Proposed methods for evaluating the project upon completion.

Other Residency Programs

In addition to the residency program described previously under Media Studies, there are two other residency categories.

FILMMAKERS IN RESIDENCE AT PUBLIC TELEVISION STATIONS

Jointly with the Corporation for Public Broadcasting, the Endowment will provide support for filmmakers in residence at selected public television stations. The project is designed to provide an opportunity for an experienced filmmaker and a public television station to work together creatively in the production of programming for broadcast. Interested public television stations should write: Public Media Program, National Endowment for the Arts, Washington, D.C. 20506.

FILMMAKERS IN RESIDENCE OF CABLE TELEVISION STATIONS

The Endowment through the Alternate Media Center will provide support aimed at utilizing the skills of young filmmakers with an interest in local programming in collaboration with the facilities and personnel of established cable television stations. Inquiries should be addressed to the Alternate Media-Center, New York University, Washington Square, New York, New York 10012.

Programming in the Arts

Upon recommendation of the Public Media Advisory Panel and the National Council on the Arts, this category will be open in Fiscal 1977 only to proposals aimed at developing a series of programs on the arts for national broadcast on television or radio. Matching grants will be made for production, research and development for a pilot program or an entire series. Projects may include film, television or radio series designed to showcase the work of individual artists, or performing or visual arts groups, or museums; or to present specific art works or art movements.

ELIGIBILITY

Nonprofit, tax-exempt organizations that plan to utilize the services of a project director who is a recognized professional in the field.

GRANT AMOUNTS

Matching grants generally will not exceed $50,000 for a pilot program. Grants for partial support of a full series have no set maximum. Applicants are encouraged to consider use of the Treasury Fund method (see page 7) when applying for grants of a substantial amount.

DEADLINE AND ANNOUNCEMENT DATES

Applications must be postmarked no later than September 15, 1976. Applicants should not anticipate anouncement of awards and rejections before March 15, 1977. Projects should not be scheduled to begin before April 15, 1977.

APPLICATION PROCEDURE

Please review the instructions on pages 9–13 and complete the forms entitled Project Grant Application NEA–3 (Rev.). Applicants are reminded to provide a complete concise description of their project in the space provided on the first page of the application. In addition all applicants requesting support for a project involving film, video or radio production must submit with the application the following:

1. Sample Work. For Film Project: A loan print (16mm optical) of at least one completed work by the filmmaker.

For Video Project: A ¾ inch cassette or ½ inch reel sample of work by the video artist.

For Radio Project: Sample audio tape of at least one complete program by the project director on a 7" reel, 7½ speed, head out in a tape box.

Please be sure to clearly label all materials with the name of the applicant, address, title

of work, and identification of the Artists. Please specify the artist's involvement with a sample work, such as camera-person, director, etcetera. (While every effort will be made to ensure safe handling of sample work, the Endowment will not be responsible for any loss or damage. Sample materials will be returned.) Please note that failure to submit sample work will result in rejection of your application.

2. Biographical Information. Please specify who will have primary artistic responsibility (filmmaker, video artists, etcetera) for the proposed work and include a career summary of his or her professional background.

3. Supporting Information. In the case of films or programs about an artist, a statement from the artist indicating willingness to participate must be included.

4. Distribution Plans. A statement of what arrangements, if any, have been made for distribution.

5. Supplementary Budget Information. Applicants requesting funds for film or television productions should include in their budgets the costs of providing two 16mm prints of two ¾ inch video cassettes—one to be sent to the Endowment upon completion of the project and one to be provided to the Library of Congress. Applicants requesting funds for radio productions should include the costs of providing two complete copies on 7 inch reels, 7½ speed—one to be sent to the Endowment upon completion of the project and one for the Library of Congress. This material will be used by the Endowment for internal purposes only.

General Programs

Projects which do not fit into any of the foregoing areas of support may be considered under General Programs. They may be one-time or on-going projects but in every case they must fit in with the overall Public Media Program guidelines of being responsive to the needs and aims of the field.

GRANT AMOUNTS

Grants to individuals of exceptional talent will be made occasionally on a non-matching basis. These grants will generally not exceed $10,000.

APPLICATION PROCEDURE

Organizations should review the instructions on pages 9–13 and complete the forms entitled Project Grant Application NEA–3 (Rev.). If funds are requested for productions in film, television or radio, applicants should carefully review the information provided under Programming in the Arts: Application Procedure on page 5. Applications for projects in General Programs category will not be considered unless the above mentioned information is supplied.

Individuals interested in apply in the General Programs category should contact the Public Media Program, National Endowment for the Arts, Washington, D.C. 20506 requesting Individual Grant Application NEA–2 (Rev.) forms.

NOTE.—The Endowment also supports a grant program for independent filmmakers at The American Film Institute. Inquiries should be addressed to: The American Film Institute, 501 Doheny Drive, Beverly Hills, California 90210.

Pilot Programs

In addition to the established areas of support, the Public Media Program has set up several new programs on a special pilot basis. These pilot programs will not be open to inquiries or applications in this fiscal year.

SHORT FILM SHOWCASING

With the cooperation of theatre owners and distributors, the Endowment hopes to encourage the exhibition of a limited number of outstanding short films by American filmmakers in theatres throughout the country. The Endowment will contribute print costs, including blowups from 16mm to 35mm, and a fellowship to the filmmakers who are included in the program.

POST-GRADUATE FELLOWSHIPS

The Endowment, through a pilot program with universities, is giving selected students the opportunity to gain production experience necessary to their professional careers. The pilot program will be a three-way partnership between a host university, a local public broadcast station and a filmmaker.

APPLICATION INFORMATION

Eligibility

FOR ORGANIZATIONS

By statute, the National Endowment for the Arts is limited to the support of organizations which meet the following criteria:

1. Organizations in which no part of net earnings inures to the benefit of a private stockholder or individual and to which donations are allowable as a charitable contribution under Section 170(c) of the Internal Revenue Code of 1954, as amended. A copy of the Internal Revenue Service Determination letter for tax-exempt status (under Section 501) must be submitted with each application.

2. Organizations receiving National Endowment for the Arts support must conduct their operations in accordance with the requirements of Title VI of the Civil Rights Act of 1964 and the Rehabilitation Act of 1973, as amended, which bar discrimination in federally assisted projects on the basis of race, color, national origin or handicap. Individuals or organizations receiving support from the National Endowment for the Arts who will be making payments for services to any person other than the grantee must comply with these requirements. Such grantees are required to file with the Grants Office, an Assurance of Compliance Form. The form on page 27 may be removed and completed for this purpose.

3. Organizations which compensate all professional performers, related or supporting professional personnel, laborers and mechanics at the prevailing minimum compensation level or on the basis of negotiated agreements which would satisfy the requirements of Parts 3, 5, and 505 of Title 29 of the Code of Federal Regulations for the duration of any project supported in whole or in part by the National Endowment for the Arts.

4. In addition to statutory requirements, applicants should note that the Public Media Program provides funds on a specific project basis. If the total cost of a project applied for represents a substantial portion of the organization's total fiscal activity, the application will not be considered eligible.

FOR INDIVIDUALS

By statute, individuals must be of exceptional talent to qualify for grants from the Endowment. Ordinarily, grants are made only to U.S. citizens or permanent residents of the United States. Students are not eligible.

Methods of Funding

PROGRAM FUNDS METHOD

Generally, grants will be made on at least a dollar-for-dollar matching basis. Applicants requesting assistance from Program Funds must present evidence in the proper space (Section X) on the application (Project Grant Application/NEA-3 Rev.) that at least one-half of the total cost of the project will be provided by the applicant. Anticipated source of matching must be identfiied. Budgeted funds, as well as newly raised funds, may be used for matching in all programs.

EXAMPLE:

If an applicant requests from the Endowment	$30,000
Then applicant lists match of at least	30,000
And total project budget reflects at least	60,000

TREASURY FUND METHOD

When the National Endowment for the Arts was created, Congress included a unique provision in its enabling legislation. This provision allows the Endowment to work in partnership with private and other nonfederal sources of funding for the arts. Designed to encourage and stimulate increased private funding for the arts, the Treasury Fund allows nonfederal contributors to join the Endowment in the grant-making process, generally for projects supported by the Endowment under the established program guidelines.

The Endowment encourages use of the Treasury Fund method as an especially effective way of combining federal and private support, and as an encouragement to all potential donors, particularly those representing new or substantially increased sources of funds.

The Endowment may accept gifts in the form of money and other property. Bequests may be made to the Endowment as well. Gifts to the Endowment are generally deductible for federal income, estate and gift tax purposes.

Gifts may be made to the Endowment for the support of a non-profit, tax-exempt, cultural organization which has been notified that the Endowment intends to award it a grant under its regular program guidelines—organizations such as a museum, a symphony orchestra, a dance, opera or theatre company—or for an Endowment program, such as fellowships, touring, conferences or workshops.

When a restricted gift is received, it frees an equal amount from the Treasury Fund, which is then made available to the grantee in accordance with the amount and conditions of the grant, as recommended by the National Council on the Arts and approved by the Chairman.

The Endowment also accepts unrestricted gifts to be used for projects recommended to the Chairman by the National Council on the Arts.

HOW A TREASURY FUND GRANT IS ARRANGED

Those interested in giving for a specific purpose should note the step by step process described below.

1. If a project is eligible for consideration under the Public Media Program guidelines the applicant submits to the Endowment a formal application, which may include a list of potential donors.

2. The application is reviewed first by the Public Media Advisory Panel and then by the National Council on the Arts and is recommended for approval or rejection. Based on these recommendations, the Chairman makes the final determination and notification is sent to the applicant.

3. If the grant awards is approved, the applicant then requests that the donors forward their gifts to the National Endowment for the Arts in the form of a gift transmittal letter specifying the amount and restricted purpose of the donation (i.e., the name of the applicant and specific project supported), and date by which payment will be made to the grantee organization (see below).

HANDLING PROCEDURES

In order to simplify handling procedures for restricted donations which are to be matched by the Treasury Fund, grant recipients will receive payment directly from the donor (in cash or negotiable securities) on all restricted Treasury Fund gifts to the Endowment. Under this method, the following procedures apply:

1. Gift transmittal letter is received by the Endowment from donor with above specified information.

2. Upon receipt of payment on the gifts, grantee provides the Environment with evidence of receipt of such payment as follows:

In the case of individual gifts of less than $5,000, grantee will forward to the Endowment, a list of donors' names, addresses and amounts received, certified by an official of the organization and notarized.

In the case of individual gifts of $5,000 or more, grantee will forward to the Endowment, within the grant period, a photostatic copy of the instrument of payment, i.e., the check or negotiable securities, with a covering letter.

3. In cases where benefit proceeds are to be utilized for purposes of the Treasury Fund, evidence, such as benefit announcement circulars, invitations, posters, etcetera (which indicate donors had prior knowledge that their contributions would be used for the Treasury Fund) must be retained by grantee as evidence of donors' intent. In these cases, the grantee organization will forward to the Endowment, within the grant period, a notarized letter requesting release of the Treasury matching funds, signed by an appropriate official, certifying that the benefit was held on a specified date, yielded a specified sum for Treasury Fund gift purposes related to the grant in question, and that evidence of the benefit will be retained by grantee organization in its files.

4. In all cases, donors are to make payment on gifts at least 60 days prior to termination of the grant period, and grantee organizations will provide the Endowment with evidence of receipt of payment on gifts at least 30 days prior to the termination of the grant period.

THE PROCESS IN TERMS OF MONEY

Donor's contribution(s) to Endowment	$25,000
Endowment match from the Treasury fund	25,000
	50,000
Total Endowment grant	50,000
Grantee's additional project cost	50,000
Minimum total budget of project	100,000

Application Review

After an application with all the necessary information has been received, the following procedure occurs:

The Endowment's Public Media staff, the Public Media Advisory Panel and the National Council on the Arts successively review the application.

The applicant is then notified concerning final action taken by the Chairman of the Endowment.

Information regarding action taken on applications cannot be made available until after the groups listed above have made their recommendations and the Chairman of the Endowment has reached a final decision. Applicants are requested not to seek information on the status of their requests.

When a grant letter has been received the grantee applies for partial or full payment depending on the nature and schedule of the project.

All inquiries in regard to the Public Media Program and application procedures for Public Media grants should be directed to: Public Media Program Mail Stop 552, National Endowment for the Arts, Washington, D.C. 20506, 202/634-6300.

[FR Doc.76-13980 Filed 5-12-76;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-335]

FLORIDA POWER & LIGHT CO.

Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 5 to Facility Operating License No. DPR-67, issued to Florida Power & Light Company (the licensee), which revised the license and its appended Enclosure 1 for operation of the St. Lucie Plant Unit No. 1 (the facility) located in St. Lucie County, Florida. The amendment is effective as of its date of issuance.

This amendment: (1) adds a reference to Revision 5 of the Security Plan, deletes a requirement from section 2.D of the license regarding approval and implementation of a modified security plan prior to exceeding five percent of rated power and adds a requirement to Enclosure 1 to License No. DPR-67 to implement further security plan revisions prior to June 30, 1976, (2) adds an interim requirement to Enclosure 1 which limits power to 60% of rated power, and (3) deletes section B of Enclosure 1 which identifies items to be completed to the satisfaction of the Commission prior to exceeding five percent of rated power (this item has been completed and therefore is no longer relevant).

The application for 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 was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated April 27, 1976 and supplement dated April 30, 1976, (2) Amendment No. 5 to License No. DPR-67, and (3) the Commission's concurrently issued Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Indian River Junior College Library, 3209 Virginia Avenue, Ft. Pierce, Florida 33450. A copy of items (2) and (3) may be obtained upon request addressed to the United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 30th day of April, 1976.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.76-13579 Filed 5-12-76;8:45 am]

[Docket No. 50-548-A]

OMAHA PUBLIC POWER DISTRICT AND NEBRASKA PUBLIC POWER DISTRICT

Notice of 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, an additional letter of advice from the Attorney General of the United States, dated May 4, 1976, a copy of which is attached as Appendix A.

Any person whose interest may be affected by this proceeding may, pursuant to section 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 June 14, 1976 either (1) by delivery to the NRC Docketing and Service Section at 1717 H Street, N.W., 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.

JEROME SALTZMAN,
Chief, Antitrust and Indemnity Group, Nuclear Reactor Regulation.

APPENDIX "A"

FORT CALHOUN STATION, UNIT NO. 2, OMAHA PUBLIC POWER DISTRICT, NEBRASKA PUBLIC POWER DISTRICT, DOCKET NO. 50-548-A

MAY 4, 1976.

You have requested our further advice pursuant to the provisions of Section 105 of the Atomic Energy Act, as amended, in regard to the above-cited application.

Introduction

This is an application to construct an 1150 megawatt nuclear power plant to be located at a site near Blair, Washington County, Nebraska. Fort Calhoun, Unit No. 2, is to be owned jointly by Omaha Public Power District (OPPD) and Nebraska Public Power District (NPPD) as tenants in common.

As equal owners of the nuclear unit, OPPD and NPPD have agreed to offer ownership shares in the unit to entities within the State of Nebraska which operate electric generating or distribution systems, the aggregate amount of such shares not to exceed 20% of the total capacity of the unit. As of this writing, discussions looking toward participation in the nuclear unit are going forward between NPPD and several small, municipally-owned systems in Nebraska and between NPPD and Sunflower Electric Cooperative, a generating and transmitting cooperative located in western Kansas. While these discussions have only recently begun, there do not appear to be any policy barriers toward the effectuation of participation agreements. Although the municipally-owned Lincoln Electric System initially indicated strong interest in owning a portion of the unit, that city's governing body recently declined to authorize the proportional ownership participation which had been offered by OPPD and NPPD.

By letter of June 23, 1975, we provided you our antitrust advice regarding OPPD's participation in the Fort Calhoun Station, Unit 2. At that time, we noted that NPPD had not been included in our antitrust review because the Department had not yet received the necessary information from NPPD. Having now received the required information and completed the antitrust review, we hereby render our advice concerning the antitrust implications of NPPD's participation along with OPPD in the ownership of this unit.

Nebraska Public Power District

Nebraska Public Power District, like Omaha Public Power District, is an agency of the State of Nebraska.[1] NPPD's most recent peak demand, 1,335 megawatts, occurred on July 19, 1974, at which time it had 1,182 megatts of dependable generating capacity. Peak demand on NPPD's system over the next ten years is expected to nearly double. This substantial load growth will be met by the addition of two 600-megawatt fossil-fired units in 1978 and 1980, two pumped hydro projects totalling 1000 megawatts in 1981 and 1982, and NPPD's share of Fort Calhoun, Unit No. 2 in 1983. NPPD's share of nuclear capacity from Fort Calhoun will range somewhere between a minimum 450 and a maximum 575 megawatts, depending upon the degree of participation by others.

Except for the easternmost counties of Nebraska which are served by OPPD, NPPD serves virtually throughout the entire state. NPPD is a vertically integrated utility generating and transmitting electricity by its own facilities for distribution by a large number of municipalities and rural public power districts which purchase at wholesale, and through municipally-owned distribution systems leased by NPPD. NPPD's transmission system includes a significant amount of 345 kv, 230 kv, and 115 kv as well as lower voltage lines which together with high-voltage and extra-high-voltage lines of the U.S. Bureau of Reclamation (Bureau) and OPPD form Nebraska's bulk transmission grid. NPPD is a member of the Mid-Continent Area Power Pool (MAPP), a regional power pool which includes membership by nearly all major electric utilities in a vast area of the north central United States. Through its participation in the MAPP Pool and other coordination agreements,[2] NPPD is accorded access to the full range of bulk power supply coordinating services and arrangements. NPPD is also a member of a regional reliability organization, the Mid-Continent Area Reliability Coordination Agreement (MARCA).

Within the general area served by NPPD, over fifty municipalities of varying sizes own and operate generating facilities. These municipal systems range in size from the Lincoln Electric System (1974 peak load of 332 mw) to the medium-sized cities of Grand Island (1974 peak load of 72 mw) and Hastings (1974 peak load of 52.5 mw) to a number of systems with a peak load of less than one megawatt. Typically, these systems purchase firm power from the Bureau and supplement these purchases with power from their own small diesel generating units, fueled either with natural gas or fuel oil. However, with the increasing cost and scarcity of these fuels, the municipal systems are forced to rely to a greater degree on wholesale purchases from NPPD or install, individually or jointly, additional units fueled by other means. Grand Island and Hastings, for example, are jointly installing a 150 mw coal-fired generating plant to supplement their existing resources. Other smaller municipalities, as previously mentioned, are currently investigating participation in Fort Calhoun, Unit 2 as a method of expanding their bulk power supply resources.

During the course of our antitrust review a question was raised concerning the generating reserve provisions in a number of the interconnection agreements between NPPD and the generating municipalities. While in all agreements, NPPD is required to maintain a generating reserve of a percentage of peak demand as determined by MAPP Pool criteria (currently 15%), some small generating municipalities are required to maintain reserves equal to their largest generating unit or in some cases, one half their largest unit. The municipalities with such provisions in their interconnection agreements believe that a reserve requirement related in this way to the size of the largest generating unit is excessive and inhibits their marketing of surplus capacity to other utilities.

While NPPD has told the Department that it believes these reserve coordination provisions are entirely appropriate, it has further advised us that it is willing to offer these small municipalities the option of a reserve requirement based on equalized reserves as a percentage of peak load if the municipal systems subscribe to the same operating practices as other interconnected systems in the region and bear an appropriate share of the interconnection costs. NPPD has assured the Department that this option will be offered to currently-interconnected municipalities as well as to those municipalities which seek an interconnection in the future. We believe NPPD's undertaking in this regard will serve to alleviate the problem raised by the small municipalities.

Results of Antitrust Review

After conducting an antitrust review of NPPD's participation in the Fort Calhoun Station, Unit 2, the Department has found no basis upon which to change our earlier conclusion that no antitrust hearing will be necessary regarding this unit.

[FR Doc.76-13973 Filed 5-12-76;8:45 am]

[Docket Nos. 50-237 and 50-249]

COMMONWEALTH EDISON CO.

Notice of Issuance of Amentment to Facility Operating Licenses

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 19 and 17 to Facility Operating License Nos. DPR-19 and DPR-25, respectively, issued to the Commonwealth Edison Company (the licensee), which revised Technical Specifications for operation of the Dresden Nuclear Power Station Units 2 and 3 (the facilities) located in Grundy County, Illinois. The amendments are effective as of their date of issuance.

The amendments change the provisions in the Technical Specifications to delete the requirement to conduct 25 rod scram tests following outages of greater than 72 hours duration.

The application for the amendments 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 amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 61.5(d)(4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of the amendments.

For further details with respect to this action, see (1) the application for amendments dated March 5, 1976, (2) Amendment No. 19 to License No. DPR-19, (3) Amendment No. 17 to License No. DPR-25, and (4) the Commission's concurrently issued related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Morris Public Library, 604 Liberty Street, Morris, Illinois 60451. A single copy of items (2), (3) and (4) above may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission,

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[1] See generally Neb. Rev. Stat. §§ 70-601 to 680, 70-1001 to 1020, 70-1101 to 1106 (1971).

[2] NPPD is the owner of the 800 mw Cooper Nuclear Station located on the Missouri River in southeastern Nebraska. The construction of this facility was financially predicated on the long-term contractual sale of 50% of the output to Iowa Power & Light Co., and in addition, 12½% of the output was sold to Lincoln Electric System. A recent study commissioned by the Nebraska State Legislature indicates how NPPD is able to augment "its generating capability with numerous firm and seasonal power deliveries from other generating utilities." Examples of these types of coordination include purchases (1) from the Bureau of 110 mw of year-round firm power, 375 mw of seasonal peaking power, 50 mw of seasonal firm power for the summer of 1976; (2) from Iowa Public Service Co. of 50 mw in 1975 under a participation contract; (3) from Basin Electric Cooperative of 120 mw in 1976 under a unit participation contract; (4) from Kansas City Power & Light of 100 mw in 1976 and 200 mw in 1977 under a system participation power contract; (5) from the Minnkota Power Cooperative of 50 mw in 1977 as purchased summer capability. O'Brien & Gere Engineers, Inc., "Review of Rates and Operations of the Nebraska Public Power Industry, Phase 1," Volume 2, p. 12; February 1976.

Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 4th day of May 1976.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.76-13974 Filed 5-12-76;8:45 am]

ATOMIC SAFETY AND LICENSING BOARD

Establishment To Rule on Petitions

Pursuant to delegation by the Commission dated December 29, 1972, published in the FEDERAL REGISTER (37 F.R. 28710) and Sections 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established to rule on petitions and/or requests for leave to intervene in the following proceeding: Los Angeles Department of Water and Power, et al. (San Joaquin Nuclear Project), Docket No. P-499A.

This action is in reference to the "Notice of Receipt of Attorney General's Advice and Time for Filing of Petitions to Intervene on Antitrust Matters" published by the Commission in the above matter (40 F.R. 57518—December 10, 1975).

The members of the Board are:

Daniel M. Head, Esq., Chairman
Elizabeth S. Bowers, Esq., Member
Edward Luton, Esq., Member

The address of all of the above is:

Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dated at Bethesda, Maryland, this 6th day of May 1976.

ATOMIC SAFETY AND LICENSING BOARD PANEL,
JAMES R. YORE,
Acting Chairman.

[FR Doc.76-13975 Filed 5-12-76;8:45 am]

[Docket No. 50-220]

NIAGARA MOHAWK POWER CORP.

Issuance of Facility License Amendment

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 9 to Facility Operating License No. DPR-63 to the Niagara Mohawk Corporation (the licensee) which revised Technical Specifications for operation of the Nine Mile Point Nuclear Station, Unit 1 (the facility) located in Oswego County, New York. The amendment is effective as of its date of issuance.

The amendment modifies the Technical Specifications relating to reactor coolant chemistry limits to improve their application to all reactor operating conditions.

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 was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any siginficant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated January 19, 1976, (2) Amendment No. 9 to License No. DPR-63, 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 Oswego City Library, 120 E. Second Street, Oswego, New York 13126.

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 Operating Reactors.

Dated at Bethesda, Maryland, this 28th day of April, 1976.

For the Nuclear Regulatory Commission.

GEORGE LEAR, *Chief,*
Operating Reactors Branch #3,
Division of Operating Reactors.

[FR Doc.76-13976 Filed 5-12-76;8:45 am]

[Docket No. STN 50-495]

STONE & WEBSTER ENGINEERING CORP.

Reference Safety Analysis Report

Notice is hereby given that the staff of the Nuclear Regulatory Commission (the NRC staff) has issued a Safety Evaluation Report (SER) dated May 1976 and a Preliminary Design Approval No. PDA-4 dated May 5, 1976, for the reference system design of a balance-of-plant portion of a pressurized water reactor nuclear power plant, utilizing the Westinghouse RESAR-41 nuclear steam supply system design, and as described in the application by Stone & Webster Engineering Corporation (SWESSAR-P1). The SWESSAR-P1/RESAR-41 balance-of-plant design was reviewed by the NRC staff pursuant to Appendix O to 10 CFR Part 50. Notice of receipt of the SWESSAR-P1 Safety Analysis Report was published in the FEDERAL REGISTER on July 17, 1974 (39 FR 26194).

The SWESSAR-P1 Safety Analysis Report contains preliminary design information for the balance-of-plant portion of a standard plant, including by reference the design of a number of standard nuclear steam supply systems. This SER presents the NRC staff's evaluation of the SWESSAR-P1 design and its relationship to the RESAR-41 standard nuclear steam supply system design, described in the Westinghouse Electric Corporation Standard Safety Analysis Report (RESAR-41), Docket No. STN 50-480. A Safety Evaluation Report (NUREG-75/103) and a Preliminary Design Approval No. PDA-3 were issued in December 1975 for RESAR-41.

The Safety Evaluation Report documents the results of the NRC staff's review and evaluation of the SWESSAR-P1 design, and its relationship to the RESAR-41 NSSS design, including Amendments 1 through 25 thereto, and addresses the comments of the Advisory Committee on Reactor Safeguards as reflected in its report to the Commission dated February 11, 1976.

PDA-4 provides NRC staff approval of the preliminary balance-of-plant design described in SWESSAR-P1, and its relationship to the RESAR-41 NSSS design. By the issuance of PDA-4, the NRC staff has determined that the information provided in SWESSAR-P1 (and its relationship to the RESAR-41 NSSS design) is acceptable for referencing in utility applications for construction permits. The SWESSAR-P1 balance-of-plant design and the RESAR-41 NSSS design shall be utilized by and relied upon by the NRC staff and the Advisory Committee on Reactor Safeguards in their review of facility license applications for construction permits incorporating by reference the SWESSAR-P1/RESAR-41 preliminary standard design, unless there exists significant new information which substantially affects the determinations in PDA-4 or other good cause.

Issuance of PDA-4 and the staff's Safety Evaluation Report does not constitute a commitment to issue a permit or license, or in any way affect the authority of the Commission, Atomic Safety and licensing Appeal Board, Atomic Safety and Licensing Boards, and other presiding officers in any proceeding under Subpart G of 10 CFR Part 2. This action only approves, subject to the conditions set forth in PDA-4, the design of a facility for use for reference purposes in applications for permits to construct a nuclear power plant. It does not authorize the construction or operation of any nuclear power plant or any other facility. The environmental impacts associated with any facility proposed to be constructed utilizing the approved reference design will be considered in accordance with the Commission's regulations in 10 CFR Part 51.

PDA-4 is effective as of its date of issuance and shall expire December 31, 1978, unless earlier superseded by issuance of an appropriate Final Design Approval for the SWESSAR-P1/RESAR-41 standard design, or unless extended by the NRC staff. The expiration of PDA-4 on December 31, 1978, shall not affect use of PDA-4 for reference in any construction permit application docketed prior to such date.

A copy of the (1) Preliminary Design Approval No. PDA-4 dated May 5, 1976;

(2) the report of the Advisory Committee on Reactor Safeguards dated February 11, 1976; (3) the NRC staff's Safety Evaluation Report, NUREG–0049, dated May 1976; (4) Stone & Webster Engineering Corporation's Standard Safety Analysis Report, including Amendments 1 through 25 thereto; and (5) WASH–1341, the Commission's "Programmatic Information for the Licensing of Standardized Nuclear Power Plants," dated August 1974, which also includes the Standardization Policy issued on March 5, 1973, are available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. 20555. A copy of PDA–4 may be obtained upon request. The request should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management. Copies of the Safety Evaluation Report, NUREG–0049, may be purchased at current rates from the National Technical Information Service, Springfield, Virginia 22161.

Dated at Bethesda, Maryland, this 5th day of May 1976.

For The Nuclear Regulatory Commission.

KARL KNIEL,
Chief, Light Water Reactors Branch No. 2, Division of Project Management.

[FR Doc.76-13977 Filed 5-12-76;8:45 am]

[Docket Nos. STN 50-518; STN 50-519; STN 50-520; AND STN 50-521]

TENNESSEE VALLEY AUTHORITY

Notice of Availability of Safety Evaluation Report for the Hartsville Nuclear Plants A and B

Notice is hereby given that the Office of Nuclear Reactor Regulation has published its Safety Evaluation Report on the proposed construction of the Hartsville Nuclear Plants (A and B) consisting of four units, A1, A2, B1, and B2 to be located in Trousdale and Smith Counties, Tennessee. Notice of receipt of Tennessee Valley Authority's application to construct and operate the Hartsville Nuclear Plants (A and B) consisting of four units, A1, A2, B1 and B2 was published in the FEDERAL REGISTER on October 25, 1974 (39 FR 38014).

The application references the standard nuclear island design described in the General Electric Standard Safety Analysis Report (GESSAR–238), Docket No. STN 50–447, in accordance with Option 1 of the Standardization Policy for nuclear power plants and pursuant to Appendix O to 10 CFR Part 50.

The report is being referred to the Advisory Committee on Reactor Safeguards and is being made available at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Fred A. Vought Library, 311 Whiteoak Street, Hartsville, Tennessee 37074, for inspection and copying. The report (Document No. NUREG–0014) can also be purchased, at current rates, from the National Technical Information Service, Springfield, Virginia 22161.

Dated at Bethesda, Maryland, this 5th day of May 1976.

For The Nuclear Regulatory Commission.

OLAN D. PARR,
Chief, Light Water Reactors Branch No. 3, Division of Project Management.

[FR Doc.76-13978 Filed 5-12-76;8:45 am]

REGULATORY GUIDE

Notice of Issuance and Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

This guide is part of a series being developed by the NRC staff to implement the requirements of Appendix I, "Numerical Guides for Design Objectives and Limiting Conditions for Operation to Meet the Criterion 'As Law As Is Reasonably Achievable' for Radioactive Material in Light-Water-Cooled Nuclear Power Reactor Effluents," to 10 CFR Part 50. This series of guides provides methods acceptable to the staff for the calculation of effluent releases, dispersion of effluents in the atmosphere and different water bodies, associated radiation doses to man, and cost-benefit aspects of treating radwastes.

Regulatory Guide 1.112, "Calculation of Releases of Radioactive Materials in Gaseous and Liquid Effluents from Light-Water-Cooled Power Reactors," identifies an acceptable method of calculating realistic radioactive source terms for the evaluation of radioactive waste treatment systems in determining whether the design objectives of Appendix I to 10 CFR Part 50 are met and in determining the impact of radioactive effluents on the environment. This guide is intended for use with light-water-cooled nuclear power reactors in which zircaloy-clad fuels are used.

The guide references two NUREG reports that provide acceptable methods for calculating annual average expected releases of radioactive material in liquid and gaseous effluents from light-water-cooled nuclear power reactors. The procedures and models provided in the referenced NUREG reports will be subject to continuing review by the NRC staff with the aim of employing the best available experimental data and calculational models in order to achieve increased accuracy and realism. As a result of such reviews, it is expected that alternative acceptable methods for calculation will be made available to applicants and that calculational procedures found to be unnecessary will be eliminated. The guide supersedes portions of Regulatory Guide 1.42, Revision 1, "Interim Licensing Policy on as Low as Practicable for Gaseous Radioiodine Releases from Light-Water-Cooled Nuclear Power Reactors," which has been withdrawn (41 FR 11894).

Radioactive source calculations for boiling water reactors based on the BWR–GALE Code are described in NUREG–0016, "Calculation of Releases of Radioactive Materials in Gaseous and Liquid Effluents from Boiling Water Reactors (BWR–GALE Code)." Radioactive source term calculations for pressurized water reactors are based on the PWR–GALE Code given in NUREG–0017, "Calculation of Releases of Radioactive Materials in Gaseous and Liquid Effluent from Pressurized Water Reactors (PWR–GALE Code)." Copies of the NUREG reports may be purchased at current rates from the National Technical Information Service, Springfield, Virginia 22161 (paper copy: $6.00; microfiche: $2.25 for each report).

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Public comments on Regulatory Guide 1.112 will, however, be particularly useful in evaluating the need for an early revision if received by July 9, 1976.

Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides should be made in writing to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 4th day of May 1976.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc.76-13979 Filed 5-12-76;8:45 am]

[Docket No. 50-562]

BABCOCK & WILCOX CO.

Notice of Application for and Consideration of Issuance of Facility Export License

Please take notice that Babcock & Wilcox Company submitted to the Nuclear Regulatory Commission an application for a license to authorize the export

of a pressurized water reactor with a thermal power level of 314 megawatts to the Canadian Coast Guard, Ottawa, Canada, for use in the primary propulsion system of the Canadian Coast Guard's (CCG) Polar VII Ice Breaker.

No license authorizing the proposed reactor export will be issued until the Nuclear Regulatory Commission determines that such export is within the scope of and consistent with the terms of an applicable agreement for cooperation arranged pursuant to Section 123 of the Atomic Energy Act of 1954, as amended (Act), nor until the Nuclear Regulatory Commission has found that:

(a) The application complies with the requirements of the Act, and the Commission's regulations set forth in 10 CFR, Chapter 1, and

(b) The reactor proposed to be exported is a utilization facility as defined in said Act and regulations.

In its review of applications solely to authorize the export of production or utilization facilities, the Nuclear Regulatory Commission does not evaluate the health and safety characteristics of the facility to be exported. Consequently, there is no safety analysis report or Advisory Committee on Reactor Safeguards report.

Unless within 15 days after the publication of this notice in the FEDERAL REGISTER, a request for a hearing is filed with the Nuclear Regulatory Commission by the applicant, or a petition for leave to intervene is filed by any person whose interest may be affected by the proceeding, the Director of the Office of Nuclear Material Safety and Safeguards may, upon the determinations and findings noted above, cause to be issued to Babcock & Wilcox Company a facility export license and may cause to be published in the FEDERAL REGISTER a notice of issuance of the license. If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in the notice, the Nuclear Regulatory Commission will issue a notice of hearing or an appropriate order.

A copy of the application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, N.W., Washington, D.C.

Dated at Bethesda, Maryland, this 7th day of May 1976.

For The Nuclear Regulatory Commission.

ERNEST P. RESNER,
Acting Chief, Division of Materials and Fuel Cycle Facility Licensing.

[FR Doc.76-14153 Filed 5-12-76;8:45 am]

[Docket No. 50-563]

GENERAL ELECTRIC COMPANY AND GENERAL ELECTRIC TECHNICAL SERVICES OPERATION, INC. (GETSCO)

Notice of Application for and Consideration of Issuance of Facility Export License

Please take notice that General Electric Company and GETSCO, Inc. submitted to the Nuclear Regulatory Commission an application for a license to authorize the export of two boiling water reactors each with a power level 965.8 megawatts electrical to the Republic of South Africa and that the issuance of such license is under consideration by the Nuclear Regulatory Commission.

No license authorizing the proposed reactors' export will be issued until the Nuclear Regulatory Commission determines that such export is within the scope of and consistent with the terms of an applicable agreement for cooperation arranged pursuant to Section 123 of the Atomic Energy Act of 1954, as amended (Act), nor until the Nuclear Regulatory Commission has found that:

(a) The application complies with the requirements of the Act, and the Commission's regulations set forth in 10 CFR, Chapter 1, and

(b) The reactors proposed to be exported are utilization facilities as defined in said Act and regulations.

In its review of applications solely to authorize the export of production or utilization facilities, the Nuclear Regulatory Commission does not evaluate the health and safety characteristics of the facility to be exported. Consequently, there are not safety analysis report or Advisory Committee on Reactor Safeguards report.

Unless within 15 days after the publication of this notice in the FEDERAL REGISTER, a request for a hearing is filed with the Nuclear Regulatory Commission by the applicant, or a petition for leave to intervene is filed by any person whose interest may be affected by the proceeding, the Director of the Office of Nuclear Material Safety and Safeguards may, upon the determinations and findings noted above, cause to be issued to General Electric Company and GETSCO, Inc. a facility export license and may cause to be published in the FEDERAL REGISTER a notice of issuance of the license. If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in the notice, the Nuclear Regulatory Commission will issue a notice of hearing or an appropriate order.

A copy of the application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, NW., Washington, D.C.

For the Nuclear Regulatory Commission.

Dated at Bethesda, Maryland, this 11th day of May 1976.

G. WAYNE KERR,
Division of Fuel Cycle and Material Safety.

[FR Doc.76-14154 Filed 5-12-76;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR SOCIAL PSYCHOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Social Psychology.

Date and time: June 2, 3, 4, 1976, 9 a.m. each day.

Place: Rm. 517, National Science Foundation, 1800 G St. NW., Washington, D.C.

Type of meeting: Part Open—June 2 and 3 (9 a.m.–5 p.m.) Closed, June 4 (9 a.m.–2 p.m.) Open.

Contact person: Ms. Ruth E. Siegel, Professional Assistant, National Science Foundation, Rm. 205, Washington, D.C. 20550, telephone 202-632-5715.

Summary minutes (open portion): May be obtained from the Committee Management Coordination Staff, Division of Personnel and Management, Rm. 248, National Science Foundation, Washington, D.C. 20550.

Purpose of panel: To provide advice and recommendations concerning support for research in social and developmental psychology.

Agenda: June 2 and 3—9 a.m. to 5 p.m.—closed. Review and evaluate research proposals and projects as part of the selection process for awards.

June 4—9 a.m. to 2 p.m.—Open. Discussion of issues related to basic research in social and developmental psychology in NSF.

Reason for closing: The proposals and projects being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals and projects. These matters are within exemptions (4) and (6) of 5 U.S.C. 552(b), Freedom of Information Act. The rendering of advice by the panel is considered to be a part of the Foundation's deliberative process and is thus subject to exemption (5) of the Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92-463. The Committee Management Officer was delegated the authority to make determinations by the Director, NSF, on February 11, 1976.

Dated: May 7, 1976.

M. REBECCA WINKLER,
Acting Committee Management Officer.

[FR Doc.76-13338 Filed 5-12-76;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 May 7, 1976 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the clearance office, Office of Management and Budget, Washington, D.C. 20503 (202–395–4529), or from the reviewer listed.

NEW FORMS

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

Summary of State-local financing systems for public libraries, single-time, chief officers of State library agencies, Ellett, C. A., 395–5867.

DEPARTMENT OF AGRICULTURE

Economic Research Service, nitrogenous fertilizer industry survey, single-time, nitrogenous fertilizer manufacturers, Burgess F. Guinn, 395–5870.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, application for fellowships for Indian students, OE–501, annually, applicants for fellowships, Kathy Wallman, 395–6140.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Production and Mortgage Credit:
Development Program of Indian Housing dian housing authority, Caywood, D.P., dian housing authority, Caywood, D. P., 395–3443.
Authority Preliminary Site Report by Indian Housing, HUD 3188, on occasion. Indian housing authority, Caywood, D. P. 395–3443.

DEPARTMENT OF LABOR

Employment and Training Administration, Weekly Corpsmember Strength Report, ETA 6–142A, ETA 6–142B, weekly, all job corps centers, Caywood, D. P., 395–3443.

REVISIONS

VETERANS ADMINISTRATION

Statement of Wages Paid to Trainee (Receiving Educational Benefits), 21–1917, monthly, certifying official, Caywood, D. P., 395–3443.

DEPARTMENT OF AGRICULTURE

Statistical Reporting Service, Commercial Floriculture Survey, annually, wholesale flower growers, Burgess F. Guinn, 395–5870.

DEPARTMENT OF COMMERCE

Bureau of Census, Manufacturers' Shipments, Inventories, and Orders, M3, M3–1, M3–2, monthly, manufacturing companies, Cynthia Wiggins, 395–5631.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, Questionnaires for the Evaluation of Title IV of the Civil Rights Act of 1964, OE388–1, 2–8, single-time, institutes of higher education and State education agencies, Kathy Wallman, 395–6140.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service:
Prune Declaration and Certification Forms, FV–188, on occasion, importers of produce, Burgess F. Guinn, 395–5870.
Regulations-Prune Imports, on occasion, importers of produce, Burgess F. Guinn, 395–5870.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education:
Consolidated Institutional Report(s) for Federal Student Financial Aid Program, OE1152–1, annually, IHE's Kathy Wallman, 395–6140.
Supplementary Performance Report (Adult Education Act) P.L. 91–230, as Amended, OE–365–2, single-time, State educational agencies, Kathy Wallman, 395–6140.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service, Application for Permit to Re-Enter the United States, I–131, on occasion, applicants, Marsha Traynham, 395–4529.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.76–14084 Filed 5–12–76;8:45 am]

NATIONAL TRANSPORTATION SAFETY BOARD

[N–AR 76–20]

ACCIDENT REPORT; SPECIAL STUDY; SAFETY RECOMMENDATIONS AND RESPONSE

Notice of Availability and Receipt

Highway Accident Report and Recommendations. The National Transportation Safety Board, in a report released May 2, has urged action by both Government and industry to improve motor home safety and increase driver awareness of motor home accident hazards. The report, No. NTSB–HAR–76–2, resulted from the Board's investigation of the collision of a Winnebago motor home with a bridge column near Monroe, Michigan, July 1, 1975. The Safety Board determined that the probable cause of the accident was the driver's failure to change lanes properly. According to the Board, the failure of the driver and a passenger to use their seatbelts prevented them from remaining in the vehicle, where they might have been able to rescue other passengers. The escape of propane from the two disconnected gas tanks added to the intensity of the vehicle fire.

In connection with this accident, the Safety Board reiterated a recommendation, made in a 1972 special study entitled "Safety Aspects of Recreational Vehicles" (NTSB–HSS–72–2), that the National Highway Traffic Safety Administration cooperate with the Recreational Vehicle Industry Association in a pilot program to educate purchasers and users in the hazards of recreational vehicles.

By separate letter, also issued May 2, the Board recommended that the Recreation Vehicle Industry (1) amend the Standard for Recreational Vehicles (A119.2) to require some method of assuring that the supply of propane be contained temporarily should the tank valves, regulators, or service lines become damaged; (2) conduct an engineering study through its membership to determine the best methods of securing appliances in recreational vehicles and amend the Standard for Recreational Vehicles (A119.2) to specify these methods; and (3) conduct a safety campaign to emphasize to the occupants of motor homes the benefits of seatbelts, and urge manufacturers of motor homes to print information in the owner's manual stressing the benefits of seatbelts. Priority followup is requested for these Class II recommendations, Nos. H–76–8 through 10.

Aviation Special Study and Recommendations. In a special study released May 6, the Safety Board has asked general aviation pilots to accept a personal challenge to reverse an upward trend in takeoff accidents by improving their preflight preparations. The statistical study, NTSB–AAS–76–2, relates to nonairline flying and is entitled "U.S. General Aviation Takeoff Accidents: The Role of Preflight Preparation." This report analyzes general aviation takeoff accidents which occurred in 1974, with special emphasis on the involvement of preflight planning, and discusses the most frequently referenced cause/factors in takeoff accidents in relation to the type certificate held by the pilot. Where possible, the study analyzes accident files which illustrate preflight preparation involvement and discusses factors to be considered during preflight preparation. From these discussions, remedial measures to reduce the number of takeoff accidents have been formulated.

As a result of this study, the Safety Board has recommended that the Federal Aviation Administration (1) through its Accident Prevention Program, stress the importance of the elements of good preflight planning and its role in the safety of flight; (2) amend 14 CFR 141 Appendix A, 14 CFR 61.105, and 14 CFR 61.107 to define the specific elements of preflight operations and to require a separate block of ground and flight training for this subject; (3) amend 14 CFR 61.57(b) (2) to specify that the person administering a biennial flight review must ascertain that the applicant understands the elements required for a complete preflight preparation; (4) revise Advisory Circular 61–66, Annual Pilot-in-Command Proficiency Checks, to include an outline of subjects to be included in the preflight planning and preparation phase; (5) issue an Advisory Circular discussing the elements of thorough preflight preparation and the potential dangers associated with each element; and (6) revise Advisory Circular 61–21, Flight Training Handbook, to provide a comprehensive description of the information which would be included under the subtopic "Preflight Operations." These recommendations, Nos. A–76–45 through 50, were issued to the FAA by separate letter on May 6.

Railroad Safety Recommenations. Two "urgent followup" recommendations were issued by the Safety Board on May 7 to the Auto Train Corporation in

light of the findings during preliminary investigation of the northbound Auto Train No. 4 derailment near Jarratt, Virginia, on May 5. Investigation has disclosed a cracked wheel, the crack extending from the back side of the flange through the plate and into the hub of the wheel; this permitted the wheel to become loose and move off its wheel seat. Two months earlier, on March 7, Auto Train No. 3 derailed at Possum Point, Virginia; Board investigation of that accident disclosed that a wheel had moved off of its axle seat due to a crack which extended through the wheel tread, plate, and hub, as in the later accident at Jarratt. The Board noted that this wheel had been exposed to excessive heating from braking, and the crack initiation may have resulted partly from this condition. The crack in the Possum Point accident could have been found by a specialized inspection, and it is possible that the crack in the Jarratt accident could also have been found, according to the Board.

In its May 7 letter, the Safety Board recommends that the Auto Train Corporation (1) immediately arrange to have all wheels of the auto-carrying cars inspected, in accordance with procedures approved by the Federal Railroad Administration, to determine if cracking as found in these two derailments is developing in any other wheels; and (2) determine whether there is a systematic source of excessive heating of the wheels of the auto-carrying cars and if so take immediate action to correct the condition. (Recommenations R–76–18 and 19.)

Response to Safety Recommendations. Federal Railroad Administration letter of April 28 provides further comments concerning recommendations R–75– 1 concerning recommendations R–75–1 and 2. (See 40 FR 39563, August 28, 1975.) FRA continues to maintain the position that a turnout constructed of welded rail has already been developed by the industry, stating, "This elimination of bolted track joints by welding is and has been an acceptable practice not only to the FRA but also to the entire industry throughout the world * * * for the past several decades." FRA is not considering the requirement of welded rail in turnouts. According to FRA, welded rail and/or bolted rail both require compliance with the Federal Track Safety Standards before any degree of safety can result. FRA does not at this time plan to promulgate design-based standards, indicating that the results of various research projects should be known before any decision is made to issue such standards.

In response to the Safety Board's inquiry concerning FRA's on-going research and development programs that would affect rail failures, FRA provides with its letter a list of titles and objectives of each of its programs. The titles of these programs are: Pilot Study for the Characterization and Reduction of Wheel/Rail Loads; Analysis and Design Requirements for Improved Crosstie Track Systems; Rail Flaw Occurrence Study; Engineering Analysis of Stresses in Rails; Rail Material Failure Properties and Behavior Characteristics; Operation of Test Track and Rail Inspection Equipment; Ultrasonic Synthetic Aperturf Real-Time Imaging System; Rail Inspection Systems Analysis and Technology Survey; Ultrasonic Wheel Probe Development; Supplement to Rail Materials Failure Properties and Behavioral Analysis; Rail Flaw Occurrence Study; Rail Flaw Initiation Study; Rail Reliability Analysis; Investigation of Residual Stresses in Rails; Supplement to Pilot Study—W/R Loads (Rail Joint Service Environment); Analysis of the Stability of Railroad Track Subjected to Static and Dynamic Loads; Supplement to the Analysis of the Stability of the Railroad Track Subjected to Static and Dynamic Loads; Track Stability Testing and Data Reduction; Analysis of Influence of Track Geometry Variations on Rail Vehicle Safety; and Analysis of Influence of Track Geometry Variations on Harmonic Roll Motions of Freight Cars.

The accident report, the special study, and Safety Board recommendation letters are available to the general public; single copies may be obtained without charge. Copies of the letter responding to recommendations may be obtained at a cost of $4.00 for service and 10¢ per page for reproduction. All requests must be in writing, identified by report or recommendation number and date of publication of this FEDERAL REGISTER notice. Address inquiries to: Publications Unit, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of the accident report and the special study may be purchased by mail from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93–633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1907)).)

MARGARET L. FISHER,
Federal Register
Liaison Officer.

MAY 10, 1976.

[FR Doc.76-14021 Filed 5-12-76;8:45 am]

federal register

THURSDAY, MAY 13, 1976



PART II:

ENVIRONMENTAL PROTECTION AGENCY

■

COAL MINING

Effluent Guidelines and Standards

Title 40—Protection of the Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[536–1]

PART 434—COAL MINING POINT SOURCE CATEGORY

Effluent Guidelines and Standards

Notice is hereby given that effluent limitations and guidelines for existing sources to be achieved by the application of best practicable control technology currently available as set forth in interim final form below are promulgated by the Environmental Protection Agency (EPA). Part 434—coal mining point source category was promulgated on October 17, 1975 (40 FR 48830) pursuant to sections 301, and 304 (b) and (c), of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, 1311 and 1314 (b) and (c), 86 Stat. 816 et seq.; P.L. 92–500) (the Act). The regulation set forth below amends Part 434—coal mining point source category and will be applicable to existing sources for the coal preparation plant subcategory (Subpart A), the coal storage, refuse storage, and coal preparation plant ancillary area subcategory (Subpart B), the acid or ferruginous mine drainage subcategory (Subpart C) and the alkaline mine drainage subcategory (Subpart D) of the coal mining point source category. Simultaneously, the Agency is publishing in proposed form effluent limitations for existing sources to be achieved by the application of best available technology economically achievable, standards of performance for new point sources and pretreatment standards for new sources. A description and discussion of this legal authority is contained in Appendix A to this preamble.

The coal mining point source category was studied to determine whether separate limitations 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 for different segments of the point source category. The raw waste characteristics for each such segment were then identified. The control and treatment technologies existing within each segment were identified 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. This information 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, and other alternatives." The data upon which the above analysis was performed included EPA permit applications, EPA sampling and inspections, consultant reports, and industry submissions. A substantial summary of the method of study, the several factors considered in subcategorization and the conclusions reached are set forth as Appendix B to this preamble.

The report entitled "Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Coal Mining Point Source Category", May 1976, details the analysis undertaken in support of the interim final regulation set forth herein and is available for inspection at the EPA Public Information Reference Unit, Room 2922 (EPA Library), Waterside Mall, 401 M St., S.W., 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 this 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 F.R. 21202, August 6, 1973). An additional limited number of copies of both reports are available. Persons wishing to obtain a copy may write the Environmental Protection Agency, Effluent Guidelines Division, Washington, D.C. 20460, Attention: Distribution Officer, WH–552.

When this regulation is promulgated in final rather than interim final form, 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 document will be available through the National Technical Information Service, Springfield, VA 22151.

Prior to this publication, 40 CFR 434 which was promulgated in interim final form regulated only one parameter-pH, and identified without specific limitation other pollutant parameters. Comments on 40 CFR 434 and comments on the development document supporting the regulation were solicited. A summary of these comments and the Agency's response and consideration of these is contained in Appendix C to this preamble.

The Agency has made a study of the economic inflationary impacts of this regulation. It is estimated that the capital cost required to comply with regulations based on the Best Practicable Control Technology Currently Available will be no more than $132 million of which $80 million is for coal mines and $52 million is for coal preparation plants. Operations and maintenance costs are estimated to be $73 million per year of which $69 million is for coal mines and $4 million is for coal preparation plants. These figures assume that there are no treatment facilities in place although many establishments already treat their effluent to comply with state regulations. The incremental investment required to comply with regulations based on the Best Available Control Technology Economically Achievable is estimated to be $66 million for coal mines. Operations and maintenance costs are estimated to be $15 million per year. There are no additional costs for coal preparation plants since the 1977 standard is for zero discharge of pollutants. These costs and the resultant economic and inflationary impact are briefly discussed in Appendix B to this preamble and are substantially detailed in the economic analysis document. It is hereby certified that the economic and inflationary effects of this proposal have been carefully evaluated in accordance with Executive Order No. 11821.

The Agency is subject to an order of the United States District Court for the District of Columbia entered in *Natural Resources Defense Council* v. *Train et al.* (Cv. No. 1609–73) which requires revisions to the Section 304(b)(1)(A) regulation for the coal mining point source category (40 CFR 434) adding limitations for the pollutants identified in this regulation (40 FR 48830) no later than May 1, 1976. This order also requires that the regulation become effective immediately upon publication. In addition, it is necessary to promulgate a regulation establishing limitations on the discharge of pollutants from point sources in this category so that the process of issuing permits to individual dischargers under section 402 of the Act is not delayed.

It has not been practicable to develop and publish revisions to 40 CFR 434 in proposed form, to provide a 30 day comment period, and to make any necessary revisions in light of the comments received within the time constraints imposed by the court order referred to above. Accordingly, the Agency has determined pursuant to 5 U.S.C. 553(b) that notice and comment on this interim final regulation would be impracticable and contrary to the public interest. Good cause is also found for this regulation to become effective immediately upon publication.

Interested persons are encouraged to submit written comments. Comments should be submitted in triplicate to the Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460, Attention: Distribution Officer, WH–552. Comments on all aspects of the 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 amendment or modification of the regulation. In the event comments address the approach taken by the Agency in establishing an effluent limitation or guideline 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 and 304(b) of the Act.

A copy of all public comments will be available for inspection and copying at the EPA Public Information Reference Unit, Room 2922 (EPA Library), Waterside Mall, 401 M Street, S.W., 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 on or before June 14, 1976 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 F.R. 21202). In the event that the final regulation differs substantially from the interim final regulation set forth herein the Agency will consider petitions for reconsideration of any permits issued in accordance with the interim final regulation.

In consideration of the foregoing, 40 CFR Part 434 is hereby revised as set forth below.

Dated: May 3, 1976.

RUSSELL E. TRAIN,
Administrator.

Subpart A—Coal Preparation Plant Subcategory

Sec.

434.10 Applicability; description of the coal preparation plant subcategory.
434.11 Specialized definitions.
434.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart B—Coal Storage, Refuse Storage, and Coal Preparation Plant Ancillary Area Subcategory

434.20 Applicability; description of the coal storage, refuse storage, and coal preparation plant ancillary area subcategory.
434.21 Specialized definitions.
434.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart C—Acid or Ferruginous Mine Drainage Subcategory

434.30 Applicability; description of the acid or ferruginous mine drainage subcategory.
434.31 Specialized definitions.
434.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart D—Alkaline Mine Drainage Subcategory

434.40 Applicability; description of the alkaline mine drainage subcategory.
434.41 Specialized definitions.
434.42 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

AUTHORITY: Secs. 301, 304 (b) and (c) and 306(b) and 307(c), 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).

Subpart A—Coal Preparation Plant Subcategory

§ 434.10 Applicability; description of the coal preparation plant subcategory.

The provisions of this subpart are applicable to discharges resulting from the cleaning or beneficiation of coal of any rank including but not limited to bituminous, lignite, and anthracite.

§ 434.11 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR 401 shall apply to this subpart.

(b) The term "coal preparation plant" shall mean a facility where coal is crushed, screened, sized, cleaned, dried, or otherwise prepared and loaded prior to the final handling or sizing in transit to or at a consuming facility.

(c) The term "ten year 24-hour precipitation event" shall mean the maximum 24-hour precipitation event with a probable re-occurrence interval of once in 10 years as defined by the National Weather Service and Technical Paper No. 40, "Rainfall Frequency Atlas of the U.S.," May 1961, and subsequent amendments or equivalent regional or rainfall probability information developed therefrom.

§ 434.12 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.

(a) (1) Subject to the provisions of paragraph (b) and (c) below, the following limitations establish the quantity or quality of pollutant or pollutant properties, controlled by this section, 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:

(2) There shall be no discharge of pollutants from coal preparation plants.

(b) Any untreated overflow from facilities designed, constructed, and operated to contain all process generated waste water and the surface runoff to the treatment facility resulting from a 10 year 24 hour precipitation event shall not be subject to the limitations set forth in paragraph (a) of this section.

(c) Where coal preparation plant process waste water is combined for treatment or discharge with waste water from other subcategories in this point source category, the quantity of pollutants allowed to be discharged in the combined discharge shall not exceed the quantity of pollutants which would be allowed under the limitations set forth in subpart B, C, or D, as applicable.

Subpart B—Coal Storage, Refuse Storage, and Coal Preparation Plant Ancillary Area Subcategory

§ 434.20 Applicability; description of the coal storage, refuse storage, and coal preparation plant ancillary area subcategory.

The provisions of this subpart are applicable to discharges which are pumped, siphoned or drained from coal storage, refuse storage and coal preparation plant ancillary areas related to the cleaning or beneficiation of coal of any rank including but not limited to bituminous, lignite and anthracite.

§ 434.21 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR 401 shall apply to this subpart.

(b) The term "coal preparation plant" shall mean a facility where coal is crushed, screened, sized, cleaned, dried, or otherwise prepared and loaded prior to the final handling or sizing in transit to or at a consuming facility.

(c) The term "coal preparation plant ancillary area" shall mean the areas associated with a coal preparation plant including: the coal preparation plant yards, access roads, and other areas immediately associated with a coal preparation plant where coal or coal refuse, either purposefully or accidentally is al-

lowed to come in contact with precipitation runoff or plant washdown.

(d) The term "ten year 24-hour precipitation event" shall mean the maximum 24-hour precipitation event with a probable re-occurrence interval or once in 10 years as defined by the National Weather Service and Technical Paper No. 40, "Rainfall Frequency Atlas of the U.S.," May 1961, and subsequent amendments or equivalent regional or rainfall probability information developed therefrom.

§ 434.22 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 processors, 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.

(a) Subject to the provisions of paragraph (b) below, the following limitations establish the quantity or quality of pollutant or pollutant properties, controlled by this section, 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:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Milligrams per liter	
Iron, total	7.0	3.5
Manganese, total	4.0	2.0
TSS	70	35.0
pH	Within the range 6.0 to 9.0.	

(b) Any untreated overflow from facilities designed, constructed, and operated to treat the process waste water and the runoff from the coal preparation plant ancillary area resulting from a 10 year 24-hour precipitation event shall not be subject to the limitations set forth in paragraph (a) of this section.

Subpart C—Acid or Ferruginous Mine Drainage Subcategory

§ 434.30 Applicability; description of the acid or ferruginous mine drainage subcategory.

The provisions of this subpart are applicable to acid or ferruginous mine drainage resulting from the mining of coal of any rank including but not limited to bituminous, lignite, and anthracite.

§ 434.31 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR 401 shall apply to this subpart.

(b) The term "coal mine" shall mean an active mining area of land with all property placed upon, under or above the surface of such land, used in or resulting from the work of extracting coal from its natural deposits by any means or method including secondary recovery of coal from refuse or other storage piles derived from the mining, cleaning, or preparation of coal.

(c) The term "mine drainage" shall mean any water drained, pumped or siphoned from a coal mine.

(d) The term "ten year 24-hour precipitation event" shall mean the maximum 24-hour precipitation event with a probable re-occurrence interval or once in 10 years as defined by the National Weather Service and Technical Paper No. 40, "Rainfall Frequency Atlas of the U.S.," May 1961, and subsequent amendments or equivalent regional or rainfall probability information developed therefrom.

(e) The term "acid or ferruginous mine drainage" shall mean mine drainage which before any treatment either has a pH of less than 6.0 or a total iron concentration of more than 10 mg/l.

(f) The term "final contour" shall mean the surface shape or contour of a surface mine (or section thereof) after all mining and earth moving operations have been completed at that surface mine (or section thereof).

(g) The term "active mining area" means a place where work or other activity related to the extraction, removal, or recovery of coal is being conducted or carried on, except any area of land on or in which there has commenced or been completed reclamation work following the grading stage.

§ 434.32 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.

(a) Subject to the provisions of paragraphs (b) and (c) below, the following limitations establish the quantity or quality of pollutant or pollutant properties, controlled by this section, 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:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Milligrams per liter	
Iron, total	7.0	3.5
Iron, dissolved	0.60	0.30
Manganese, total	4.0	2.0
TSS	70.0	35.0
pH	Within the range 6.0 to 9.0.	

(b) Any untreated overflow from facilities designed, constructed and operated to treat the mine drainage and the runoff at the treatment facility resulting from a 10 year 24-hour precipitation event shall not be subject to the limitations set forth in paragraph (a) of this section.

(c) Any drainage from any surface mine or section thereof which has been returned to final contour shall not be required to meet the limitation set forth in paragraph (a) above providing such drainage is not commingled with untreated mine drainage which is subject to the limitations in paragraph (a).

Subpart D—Alkaline Mine Drainage Subcategory

§ 434.40 Applicability; description of the alkaline mine drainage subcategory.

The provisions of this subpart are applicable to alkaline mine drainage resulting from the mining of coal of any rank including but not limited to bituminous, lignite, and anthracite.

§ 434.41 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR 401 shall apply to this subpart.

(b) The term "coal mine" shall mean an active mining area of land with all property placed upon, under or above the surface of such land, used in or resulting from the work of extracting coal from its natural deposits by any means or method and secondary recovery of coal from refuse or other storage piles derived from the mining, cleaning, or preparation of coal.

(c) The term "mine drainage" shall mean any water drained, pumped or siphoned from a coal mine.

(d) The term "ten year 24-hour precipitation event" shall mean the maximum 24-hour precipitation event with a probable re-occurrence interval or once in 10 years as defined by the National Weather Service and Technical Paper No. 40, "Rainfall Frequency Atlas of the U.S.," May 1961, and subsequent amendments or equivalent regional or rainfall probability information developed therefrom.

(e) The term "alkaline mine drainage" shall mean mine drainage which before any treatment has a pH of more than 6.0 and with a total iron concentration of less than 10 mg/1.

(f) The term "final contour" shall mean the surface shape or contour of a surface mine (or section thereof) after all mining and earth moving operations have been completed at tha surface mine (or section thereof).

(g) The term "active mining area" means a place where work or other activity related to the extraction, removal, or recovery of coal is being conducted or carried on, except any area of land on or in which there has commenced or been completed reclamation work following the grading stage.

§ 434.42 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.

(a) Subject to the provisions of paragraphs (b) and (c) below, the following limitations establish the quantity or quality of pollutant or pollutant properties, controlled by this section, 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:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Milligrams per liter	
Iron, total	7.0	3.5
TSS	70.0	35.0
pH	Within the range 6.0 to 9.0.	

(b) Any untreated overflow from facilities designed, constructed and operated to treat the mine drainage and the runoff at the treatment facility resulting from a 10 year 24 hour precipitation event shall not be subject to the limitations set forth in paragraph (a) of this section.

(c) Any drainage from any surface mine or section thereof which has been returned to final contour shall not be required to meet the limitation set forth in paragraph (a) above providing such drainage is not commingled with untreated mine drainage which is subject to the limitations in paragraph (a).

Appendix 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 procedural innovations, operating methods and other alternatives. The regulation herein sets forth effluent limitations and guidelines, pursuant to sections 301 and 304 (b) of the Act, for the coal preparation plant subcategory (Subpart A), the coal storage, refuse storage, and coal preparation plant ancillary area subcategory (Subpart B) and the acid or ferruginous mine drainage subcategory (Subpart C) and the alkaline mine drainage subcategory (Subpart D) of the coal mining 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 entitled "Development Document for Effluent Limitations Guidelines and New

Source Performance Standards for the Coal Mining Point Source Category", May 1976 provides, pursuant to section 304(c) of the Act, information on such processes, procedures or operating methods.

(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 also 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 of the Act. The regulation proposed in another section of the FEDERAL REGISTER sets forth the standards of performance applicable to new sources for the coal preparation plant subcategory (Subpart A) and the coal storage, refuse storage, and coal preparation plant ancillary area subcategory (Subpart B) of the coal mining point source category.

(3) Pretreatment for existing sources and for new sources. Section 307(b) of the Act requires the establishment of pretreatment standards for pollutants introduced into publicly owned treatment works and 40 CFR 128 establishes that the Agency will propose specific pretreatment standards at the time effluent limitations are established for point source discharges.

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. In another section of the FEDERAL REGISTER regulations are proposed in fulfillment of these requirements which may not be fulfilled by this interim final regulation.

APPENDIX B—TECHNICAL SUMMARY AND BASIS FOR REGULATIONS

This Appendix summarizes the basis of interim final effluent limitations and guidelines for existing sources to be achieved by the application of best practicable control technology currently available, proposed effluent limitations and guidelines for existing sources to be achieved by the application of the best available technology economically achievable and proposed standards of performance for new sources.

(1) General methodology. The effluent limitations and guidelines set forth herein were developed in the following manner. The point source category was first studied for the purpose of determining whether separate limitations 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 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 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 is 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 nonwater quality environmental impact, such as the effects of the application of such technologies upon other pollution probems, 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." 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, nonwater 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.

(2) Summary of conclusions with respect to the coal preparation plant subcategory (Subpart A), coal storage, refuse storage and the coal preparation plant ancillary area subcategory (Subpart B), and the acid or ferruginous mine drainage subcategory (Subpart C) and the alkaline mine drainage subcategory, (Subpart D) of the coal mining point source category.

(i) Categorization. For the purpose of studying waste treatment and effluent limitations the coal mine point source category was initially subcategorized by the established Standard Industrial Classification (SIC) groups applicable to the coal mining industry. These SIC groups were then further subdivided by: geographic location of the mine, type of mine (surface or deep), and size of mine (annual tonnage); all based on anticipated variations in raw waste water. After statistical analysis of the data obtained during the study it was determined that based on waste treatment the coal mining point source category should be divided into four discrete subcategories based on the origin of the waste water, i.e., waste water from the mining activities and waste water from the coal preparation activities, or mining services activities. Waste water from the mining activities was further subdivided by the characteristics of the raw mine drainage. Coal preparation, or mining services activities, were subdivided as to the waste water from the preparation plants and the waste water from coal storage, refuse storage, and the ancillary areas associated with the coal preparation plants.

(1) Subpart A—Coal Preparation Plant. The provisions of this subpart are applicable to discharges resulting from the cleaning or beneficiation of coal of any rank including but not limited to bituminous, lignite, and anthracite.

(2) Subpart B—Coal Storage, Refuse Storage, and the Coal Preparation Plant Ancillary Area. The provisions of this subpart are applicable to discharges which are pumped, siphoned or drained from coal storage, refuse storage and coal preparation plant ancillary areas related to the cleaning or beneficiation of coal of any rank including but not limited to bituminous, lignite and anthracite.

(3) Subpart C—Acid or Ferruginous Mine Drainage. The provisions of this subpart are applicable to acid or ferruginous mine drainage resulting from the mining of coal of any rank, including but not limited to bituminous, lignite, and anthracite.

(4) Subpart D—Alkaline Mine Drainage. The provisions of this subpart are applicable to alkaline mine drainage resulting from the mining of coal of any rank including but not limited to bituminous, lignite, and anthracite.

(ii) Waste characteristics. The raw waste characteristics of coal preparation plan process water (Subpart A) are highly dependent upon the particular process or recovery technique utilized in the operation. Process techniques generally require an alkaline media for efficient and economic operation, therefore process water does not dissolve significant quantities of the constituents present in the raw coal. The principal pollutant present in coal preparation plant process water is suspended solids. In preparation plants cleaning coal fines, process water contain less suspended solids than process water at coal preparation plants which do not clean or recover coal fines.

The raw waste characteristics of the discharge from coal storage, refuse storage and coal preparation plant ancillary areas (Subpart B) are characterized as being generally similar to the raw mine drainage at the mine served by the preparation plant. Geologic and geographic setting of the mine and the nature of the coal mined affect the characteristics of the discharge from coal storage, refuse storage, and the coal preparation plant ancillary areas.

The raw waste characteristics of the waste water discharged from the actual coal mining activities themselves vary significantly. The chemical characteristics of raw mine drainage are determined by local and regional geology of the coal, associated overburden, and mine bottom. Raw mine drainage ranges from grossly polluted to drinking water quality. Major differences were observed between the two classes of raw mine drainage (1. acid or ferruginous, and 2. alkaline) which are generally representative of geographic areas. These differences are unrelated or only indirectly related to mine size (annual tonnage) and mine type (deep or surface). Each class of mine drainage is directly related to the treatment technology required.

Acid or ferruginous mine drainage (Subpart C) can be characterized as raw mine drainage requiring neutralization and sedimentation which is acid with high iron concentrations and varying concentration of other metal ions including aluminum, manganese, nickel, and zinc, plus varying concentrations of total suspended solids. Alkaline mine drainage (Subpart D) can be characterized as raw mine drainage of generally acceptable quality, not requiring neutralization, but possibly requiring sedimentation to reduce concentration of suspended solids.

Effluent limitations guidelines and standards of performance are established to control pollutant parameters based primarily on the following criteria: (1) pollutants which are frequently present in coal mine point source discharges in concentrations deleterious to aquatic organisms; (2) technology exists for the reduction or removal of the pollutant in question; and (3) research data indicates that certain concentrations of pollutants are capable of disrupting an aquatic ecosystem. The following were identified as the pollutants in coal mine drainage, coal storage, refuse storage, and preparation plant ancillary area waste water discharges: acidity, iron, manganese, aluminum, nickel, zinc, and suspended solids. The following were

identified as the pollutants in preparation plant waste water discharges: acidity, iron, and suspended solids.

Several other waste water constituents were considered including: total dissolved solids, sulfates, flourides, strontium, and ammonia. Effluent limitations have not been proposed for ammonia, sulfates, fluoride, and strontium because the level observed in coal mine waste water discharges generally do not warrant concern. Total dissolved solids concentrations in coal mine discharges approach levels capable of disrupting an aquatic ecosystem, but economically feasible technology for achieving substantial reductions in dissolved solids levels does not exist at this time.

(iii) Origin of waste water pollutants. Coal preparation plants fall into three general stages, based on degree of cleaning and unit operations. Stage 1 consists of crushing and sizing which are basically dry processes and do not produce a waste water discharge. Stage 2 consists of primary crushing, sizing, gravity separation of coarse coal, dewatering of clean coal and refuse, and removal of coal and refuse fines from process waters. Stage 3 consists of crushing, sizing, gravity separation of all sizes of coal, secondary separation of coal fines or froth flotation, dewatering of clean coal and refuse, heavy media recovery when required, thermal drying of clean coal, and removal of coal and refuse fines from process water. Stages 2 and 3 coal preparation plants use water in the beneficiation processes. Fine coal and mineral particles are suspended in the coal preparation plant process waters, and some minerals associated with the coal and its impurities are dissolved in the coal preparation plant's process water. Additional waste water of a non-contact nature may result from boiler blowdowns and non-contact cooling waters such as bearing cooling water.

The waste water situation evident in the mining segment of the coal industry is unlike that encountered in most other industries. Water enters mines via precipitation, ground water infiltration, and runoff where it may become polluted by contact with materials in the coal, overburden material, or mine bottom. Except for dust control and fire protection, water is not used in the actual mining of coal in the U.S. at the present time. Waste water handling and management is required, and is a part of most coal mining methods or systems to insure the continuance of the mining operation and to improve the efficiency of the mining operation. This waste water is discharged from the mine as mine drainage. Mine drainage may be polluted and require treatment before it can be discharged to navigable waters. In addition to handling and treating often massive volumes of waste water during actual mining operations or coal loading, coal mine operators are faced with the same burden during idle periods. Mine drainage may continue indefinitely after all mining operations have ceased if proper mining methods and control technology are not employed, or even increase in intensity after mine closure if proper mine drainage control technology is not employed. Control of mine drainage after mine closure or abandonment is not included in this interim final regulation although techniques are described in the Development Document, referenced below, which can control or ameliorate mine drainage after mine closure and all activities associated with the mine have ceased. Control of mine drainage from surface mines or sections of surface mines which have been returned to final grade or contour is not included in this interim final regulation although techniques are described in the development document, referenced below which can control or ameliorate mine drainage from this aspect of mining.

Water enters coal storage, refuse storage, and coal preparation plant ancillary areas via precipitation, wash down, and runoff, where it comes into contact with coal or coal refuse. The waste water discharges from coal storage, refuse storage, and coal preparation plant ancillary areas contain pollutants similar to the pollutants discharged by the mine served by the preparation plant. As with the coal mining segment of the industry, waste water handling from coal storage, refuse storage, and coal preparation plant ancillary areas continue during idle periods; and may continue indefinitely from refuse storage after preparation plant closure if proper control technology is not employed, although these control technologies are not required as part of these interim final regulations.

The waste waters from the actual mining and the coal storage, refuse storage and coal preparation ancillary areas of the coal mining industry are essentially unrelated to production quantities. Therefore, raw waste loadings are expressed in terms of concentration rather than units of 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 the best practicable control technology currently available. Although it is legally permissible to base effluent limitations on inprocess changes, the technology used as the basis for this regulation is end-of-pipe treatment only.

Waste water control technology includes techniques employed before, during and after the actual mining operation to reduce or eliminate adverse environmental effects resulting from waste water discharges from coal mine point sources. Control technology as discussed in the Development Document, referenced below, has been categorized as to control technology related to surface mining, underground mining, and coal preparation.

Surface mine pollution control technology is divided into two major categories—mining technology (specific mining techniques) and final waste water pollution control technology (reclamation of land areas disturbed by mining). Although these surface mine pollution control technologies are addressed in the development document, referenced below, they are not included as part of this interim final regulation, but may be used to reduce the volume and expense of waste water treatment required during operations and reduce or eliminate adverse environmental effects after activities associated with the mine have ceased.

Underground mine pollution control technology is divided into methods of reducing water influx into mine workings, and preplanned flooding on mine closure. The reduction of water influx into underground mines can reduce the volume and expense of waste water treatment during operations, though it is not required by this interim final regulation. While it has been demonstrated that preplanned flooding on deep mine closure can reduce or control water pollution after mine closure it is not included as part of this interim final regulation.

Coal preparation pollution control technology is divided into surface water control and final waste water pollution control technology at preparation plant refuse disposal areas (reclamation). While reclamation of preparation plant refuse disposal areas has been demonstrated as control technology which ameliorates this aspect of pollution from mining, it is not required as part of this interim final regulation.

That water quality degradation may be caused by discharges from areas affected by mining which are not included under this regulation is recognized by the Agency. In many cases the pollution from these areas is more severe than that from the active area included in this regulation. The Agency is considering possible application of section 208 of the Act (Best Management Practices) which will address in detail control technologies to be used toward the amelioration of these aspects of coal mining related pollution and will be providing guidance to control this facet of the pollution problem.

Waste water treatment technology is categorized in the Development Document, referenced below, as to treatment technology for coal preparation plant process waste water and treatment technology for the two classes of mine drainage. Coal preparation plant process waste water treatment consists primarily of clarification techniques for suspended solids removal including thickeners, flocculation, settling basins, vacuum filtration, and pressure filtration. Of the 135 coal preparation facilities utilizing wet cleaning processes investigated during the study (either through site visits or industry supplied data), 87 located in various terrain and geographic locations had closed water circuits.

Treatment technology for acid or ferruginous mine drainage includes flow equalization, acidity neutralization and precipitation of insoluble metal hydroxides, ferrous iron oxidation, and suspended solids removal. Surface holding ponds or underground sumps are employed to equalize the flow of mine drainage before treatment. Mineral acidity in the raw mine drainage is neutralized with an alkali, usually hydrated lime, which removes iron, manganese, and other soluble metals through the formation of their insoluble hydroxides. When iron is present in raw mine drainage in the ferrous form, usual practice is to provide aeration facilities for oxidation to the ferric state. Suspended solids are formed as a result of the chemical treatment. Both earthen settling basins and mechanical clarifiers are used for removal of suspended solids. It was observed that total iron is one of the most commonly analyzed constituents of acid or ferruginous mine drainage, and iron reduction is generally representative of the overall effectiveness of the neutralization process. It has been demonstrated that, with total iron removed to within 3.5 mg/l, total aluminum, total nickel, and total zinc are removed to within the limits suggested in the preamble to 40 CFR 434 (40 F.R. 48830). Therefore, total aluminum, total nickel, and total zinc are not included in the limitations and guidelines of this regulation for acid or ferruginous mine drainage.

Treatment technology for alkaline mine drainage generally consists of solids removal in settling ponds. Some alkaline mine drainages may require no treatment to meet this regulation. It has been demonstrated that natural aeration in settling can reduce total iron concentrations in alkaline mine drainages from over 3 mg/l to less than 3 mg/l. Alkaline mine drainage was observed to have low concentrations of other metal ions. Therefore, the pollutant parameters included in the alkaline mine drainage subcategory of 40 CFR 434 (40 F.R. 48820) have been revised to include only total iron, total suspended solids and pH.

Solid waste control must be considered. Best practicable control technology as known today, requires 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 nonhazardous substances requiring only minimal custodial care. However, some constituents may be hazardous and may require special consideration. In order to insure 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 legal and mechanical 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 legal jurisdiction.

(v) Cost estimates for control of waste water pollutants. The estimated capital investment required for coal mining facilities to meet effluent guidelines runs up to 42 cents per ton of designed annual capacity for BPT and up to 69 cents per ton of designed annual capacity for BAT, depending on size, location and type of mine. Annual operating costs of effluent treatment facilities inclusive of capital charges range up to 28 cents per ton for BPT and 23 cents per ton for BAT. The estimated investment cost to meet BPT for a coal preparation plant is 41 cents per ton of annual design capacity. Annual costs of treatment inclusive of capital charges for the preparation plants are estimated to be 7 cents per ton of prepared coal. The above estimates are based on the assumption that no treatment facilities are presently in place.

(vi) Energy requirements and nonwater quality environmental impacts. Energy requirements for compliance with this interim final and proposed effluent limitations and standards are low. The main use of energy is for pumps, mixers, and control instruments. Wherever feasible, gravity flow is used in coal preparation plants and mine drainage treatment facilities. Mine dewatering is considered an inherent part of the mining method or system.

Inherent to coal preparation is the major problem of solid waste disposal which can be a source of air pollution. The amount of additional waste and resultant air pollution produced as a result of these regulations is insignificant relative to that already present, consequently, a minimal impact is expected.

(vii) Economic impact analysis. These guidelines will require a total investment of no more than 132 million dollars for BPT and an additional incremental cost of 66 million dollars for BAT. Annual costs are estimated to be less than 90 million dollars for BPT and 25 million dollars for BAT. Prices of raw coal are expected to rise between 0 and 28 cents per ton as a result of BPT. An additional increase of between zero and 23 cents is expected to result from implementing BAT. Prepared coal prices will increase no more than 7 cents in 1977. Prices will not rise immediately to cover compliance costs. In the interim net revenues are expected to be reduced by no more than 2.9 percent for coal mines and 5.7 percent for coal preparation plants. These profitability decreases are not expected to result in closures of mines or preparation plants. Some closures of marginal establishments existing under unique circumstances may result from the guidelines.

The impact of these regulations on employment, local economics, industry growth and the balance of trade is not expected to be significant.

Executive Order 11821 (November 27, 1974) requires that major proposals for legislation and promulgation of regulations and rules by agencies of the executive branch be accompanied by a statement certifying that the inflationary impact of the proposal has been evaluated.

OMB Circular A–107 (January 28, 1975) prescribes guidelines for the identification and evaluation of major proposals requiring preparation of inflationary impact certifications. The Administrator has directed that all regulatory actions which are likely to result in annualized costs in excess of $100 million will require certification.

The inflationary impact of these regulations has been considered in accordance with Executive Order 11821. Projected effects of the regulations on prices and economics of the industry as summarized above have been reviewed by the Agency.

Appendix C—Summary of Public Participation

Prior to this publication, factual conclusions which support promulgation of this regulation were set forth in substantial detail in the interim final rules and notice of proposed rulemaking for the coal mining point source category published October 17, 1975 (40 FR 48830) and in the notice of public review procedures published October 6, 1973 (38 FR 21202). In addition, the regulation as promulgated in interim final form on October 17, 1975 was supported by two other documents; (1) the document entitled "Development Document for Interim Final Effluent Limitation Guidelines and New Source Performance Standards for the Coal Mining Point Source Category" (October 1975) and (2) the document entitled "Economic Impact of Interim Final Effluent Guidelines on the U.S. Coal Mining Industry" (September 1975). Both of these documents were made available to the public and circulated to interested persons at approximately the time of publication of the notice of interim final rulemaking.

Prior to the publication of the notice of interim final rulemaking (40 FR 48830) an initial draft of the development document was distributed to federal agencies, all state and territorial pollution control agencies, industry trade associations and conservation organizations. Comments on that draft report were solicited. The major comments received and the Agency's response were described in the notice of interim final rulemaking (40 FR 48830).

Interested persons were again invited to participate in the rulemaking by submitting written comments within 30 days of the date of publication of the promulgated interim final regulation (40 FR 48830).

Summary of Comments.

The following responded to the request for written comments contained in the notice of interim final rulemaking: U.S. Department of Health, Education, and Welfare; U.S. Department of the Interior; Department of the Army; State of Pennsylvania, Department of Environmental Resources; Natural Resources Defense Council, Inc.; U.S. Energy Research and Development Administration; West Virginia Citizen Action Group; American Electric; State of Colorado, Department of Health; Company; U.S. Environmental Protection Agency, Region VIII; Save Our Cumberland Mountains; State of Colorado, Executive Office; State of Colorado, Department of Health; Consolidation Coal Company; State of Wyoming, Department of Environmental Quality; American Mining Congress; Jones and Laughlin Steel Corporation; Tesoro Coal Company; Tennessee Valley Authority; Island Creek Coal Company; United States Steel Corporation; Appalachian Research and Defense Fund of Kentucky, Inc.; U.S. Department of Commerce; Tennessee Citizens for Wilderness Planning; Covington and Burling; and National Coal Association.

The most significant comments received and the Agency's response to these comments are summarized below:

(1) Many of the commenters stated that 40 CFR 434 (40 FR 48830 (October 17, 1975)) is inadequate in that the regulation of only one parameter (pH) does not meet the requirements of the Act.

When the October 17 regulations were issued the agency had completed major technical studies on which to base detailed effluent standards for the coal mining industry; however, the agency had not completed economic impact analysis relative to the detailed effluent standards. Therefore, only pH was regulated. The regulations published today establish limitations for pollutants identified in 40 CFR 434 and is supported by an economic impact analysis of this regulation.

(2) Commenters stated that effluent guidelines and standards should be based on water use of the receiving stream, i.e. human consumption, agriculture, recreation, industrial use, etc., and on the water quality which must exist for these uses to occur.

Effluent limitations and guidelines are developed under the directions of the Act, which requires the limitations to be based upon feasible technology and not upon individual water quality situations. Water quality standards, such as applicable to the uses mentioned, apply independently of effluent limitations and guidelines and may be used to address specific water quality problems.

(3) Commenters stated with respect to the suggested limitations that the impact on preparation plants with open water circuits should be considered and the requirement that there shall be no discharge of pollutants from coal preparation plants should be defined.

A revised industry survey of 180 preparation plants representing over 50 percent of the total preparation plants in the United States had 135 preparation plants reporting of which 87 reported closed water circuits. An allowance in these regulations is made for discharges based on the facility being designed, constructed and operated to contain all process waste water plus the runoff resulting from a 10 yr/24 hr precipitation event. Settling basins and ponds associated with a preparation plant are considered to be treatment facilities and a part of the preparation plant's pollution control system. Proper management of the solid waste and liquid concentrates resulting from the removal of pollutants in these pollution control systems must be practiced. The principles set forth in the EPA's LAND DISPOSAL OF SOLID WASTE GUIDELINES 40 CFR 241 may be used as guidance for acceptable land disposal techniques.

(4) Some persons suggested that consideration should be given to the effects of these regulations on anthracite production because certain anthracite producers in Pennsylvania are permitted to discharge mine drainage into designated water sheds.

The development document recognizes that the State of Pennsylvania has established 10 water sheds and has established a "Pollution Abatement Escrow Fund" to build and maintain mine drainage treatment facilities to treat mine drainage from active and abandoned mines. These state-owned mine drainage treatment facilities, when constructed, may be considered publicly owned treatment works. Anthracite mining companies located in these 10 water sheds may discharge raw mine drainage and pay the State of Pennsylvania a fee based on the tonnage mined. If the mining facility discharges to such treatment works the mining operation will not be considered a direct point source for the purposes of the Act.

(5) Commenters stated that effluent limitations and guidelines should consider the effect on ground water from settling facilities and sludge removal and disposal.

Effluent limitations and guidelines are applicable to point source discharges as defined in the Act.

(6) Commenters stated that these limitations should apply to discharges from closed or abandoned mines and preparation plants.

The regulation is applicable to active mines and preparation plants only because it is extremely difficult to address in a national regulation the widely varying ownership and physical conditions of non-operating mines. Best management practices under Section 208 of the Act will address control and treatment technologies for closed and abandoned mines and preparation plants.

(7) Commenters suggested that the development document implies that support should be provided in deep mines to eliminate subsidence.

Limitations on subsidence are not required by this regulation. Controlled subsidence is a part of many good and recognized mining methods and systems. The design of barrier pillars and support pillars is suggested in the development document as good mine engineering to control and decrease the volume of mine drainage which a mine might otherwise have to manage and possibly treat.

(8) A commenter suggested that the guidelines should include limitations on TDS, ammonia, and sulphates.

Ammonia was not detected in sufficient concentrations to warrant concern at this time. TDS and sulphates were detected; however, technology for economic reduction of these parameters does not exist at this time.

(9) A commenter suggested that the guidelines should include provisions to protect the navigable capacity of reservoirs and waters of the United States from sediment generated by surface coal mining activities in the absence of other regulations for active and abandoned mines.

It is not within the proper scope of effluent limitations and guidelines for these regulations to serve as a substitute for surface mining reclamation laws.

(10) A commenter stated that intent of P.L. 92-500 is the establishment of national regulations which minimize competitive advantages enjoyed by states without firm effluent limitations and the regulation of one parameter, pH, in 40 CFR 434, does not establish meaningful national regulations.

This regulation adds limitations for those pollutants identified in 40 CFR 434.

(11) A commenter stated that 40 CFR 434 fails to meet the legal standards provided by P.L. 92-500 and the court order of April 24, 1975 (NRDC vs Train, et. al.).

This regulation adds limitations for those pollutants identified in 40 CFR 434 or effectively regulates those pollutants by use of surrogate indicators, as required by the court order of December 12, 1975 (NRDC vs Train, et. al).

(12) A commenter stated that the guidelines improperly exclude reclamation as a control technology. The commenter said that best practicable control technology includes end of process controls.

The application of reclamation, or revegetation, is not required by this regulation as the technology used as basis for this regulation is end of pipe treatment only, although it is legally permissible to use in-process controls as a BPT technology. Best management practice under section 208 will address uniform reclamation procedures for active coal mines and reclamation procedures for abandoned and inactive coal mines. It is not intended that P.L. 92-500 be a substitute for federal legislation governing surface mining of coal.

(13) Commenters suggested that the definition of "coal mine" does not clearly include areas ancillary to surface and deep mines.

In the definition of a coal mine which is used in the regulations the expression "used in or resulting from the work of extracting coal from its natural deposits" modifies "the area."

(14) A commenter suggested that the guidelines should not be applicable to those mines producing less than a certain annual tonnage.

Categorization based on a mine's annual tonnage was initially considered for this industry category but was rejected because it was not found to be a valid indicator of pollution. The industry was categorized based on two classes of mine drainage in the mining segment of the industry. Mine size based on annual tonnage, however, was considered in developing cost of compliance for this regulation and the economic impact to the industry.

(15) A commenter suggested that the guidelines should include a provision that waste water control facilities should remain in place at surface mines up to the return of the complete reclamation bond, if applicable, by the individual states.

Reclamation is not required by this regulation. The area which a surface mine is responsible for is limited to the area used in and resulting from mining up to the return of the area of final grade or contour. It is not the province of the effluent limitations and guidelines to require any specific operating practice.

(16) A commenter stated that guidelines and effluent limitations should specify factors to be taken into account by permit granting authorities and provide permissible ranges of effluent limitations reflecting a base level or minimum amount of control rather than rigid effluent limitations which provide no flexibility and latitude for consideration of factors required to be taken into account under section 304(b) of the Act.

Under the Agency's view of the law, which has been accepted by most reviewing courts, the Agency is required to promulgate regulation which is specific and definite. The language of the Act and the legislative history of the Act supports the authority of the Agency to issue single-number effluent limitations guidelines under Sections 301 and 304 of the Act. The use of single numbers in this regulation does in fact provide a range of discharge levels for the coal mine point source category as the category is subcategorized as required by the language of the Act with separate limitations and guidelines where indicated for each subcategory.

(17) A commenter suggested that in the preamble to 40 CFR 434 the daily maximum limitations do not take into consideration upsets in the treatment facilities. Other commenters suggested that the daily maximum should be set at 1.5 and 3.0 times the 30 day average, respectively.

The 30 day average effluent limitations in this regulation are based on a statistical evaluation of exemplary treatment plants. Further examination of the data revealed that the maximum daily values for the exemplary plants centered around slightly less than twice the 30 day average effluent limitations. To maintain uniformity in the establishment of daily maximums, the maximum daily limitations are twice the thirty day average values.

(18) Commenters stated that pollutant limitations for aluminum, nickel, zinc, manganese, and dissolved iron could be reduced to the limitations suggested in the preamble to 40 CFR 434 when total iron was reduced to less than 3.5 mg/l in acid or ferruginous mine drainage.

For the acid or ferruginous mine drainage subcategory, total aluminum, total zinc and total nickel are removed from the pollutant parameters included in the interim final regulations (40 CFR 434). It has been demonstrated that with total iron removed to within 3.5 mg/l; total aluminum, total zinc, and total nickel are removed to within the limits suggested in the preamble to 40 CFR 434 (40 FR 48830). It was demonstrated that the removal of manganese is affected by the operating pH of the treatment plant. Manganese removals can be obtained through pH control at generally higher pH levels than the pH control used at some plants to effect iron removals. Manganese is a significant pollutant and iron removals are not necessarily indicative of manganese removals at AMD treatment facilities. Mangenese is therefore included in the pollutant parameters for acid or ferruginous mine drainage.

(19) Commenters requested that with a limitation guideline of no discharge of pollutants from coal preparation plants an allowance should be made for those treatment facilities treating a combined waste water discharge from preparation plants and mine drainage or drainage from coal storage, refuse storage, and preparation plant ancillary areas.

In this regulation paragraph (c) in sections 434.12, 434.14, and 434.15, which are applicable to the coal preparation subcategory, makes an allowance for combined treatment of preparation plant process water and mine drainage or drainage from coal storage, refuse storage, and preparation plant ancillary areas. Preparation plants with a closed water circuit require makeup water to compensate for water loss on coal, refuse, and water loss through thermal drying. This regulation is intended to encourage the use of mine drainage for makeup water to coal preparation plants.

(20) Commenters stated that the promulgation of interim final guidelines abrogated the comment period allowed on proposed regulations.

Parties have had several months to comment on the proposed pollutant parameters and suggest effluent levels. Also, as stated in the preamble to 40 CFR 434 and this regulation, pursuant to 5 USC 553(b), notice and comment on the interim final regulation would be impractical and contrary to the public interest.

(21) Commenters stated that it is not common practice in this industry to design treatment facilities for the drainage resulting from a 10 yr-24 hr precipitation event.

In establishing effluent limitations and guidelines for point sources whose flow volumes are primarily dependent upon precipitation events a determination must be made as to when treatment facilities would be overwhelmed by extraordinary volumes. The 10 yr-24 hr precipitation event and the flow resulting from such an event was selected as it represents a volume which can be used for national guidelines providing maximum protection to the environment without creating undo financial hardship on individual industries by requiring total containment or treatment regardless of volumes encountered.

(22) Commenters requested that the limitations and guidelines address analytical techniques which were used by the contractor in analyzing waste water samples, and which would be used by industry in reporting the concentrations of the various parameters.

The analytical method used by the contractor in analyzing waste water samples obtained during the study are those procedures outlined in 40 CFR 136 guidelines establishing test procedures for the analysis of pollutants (38 FR 28758). As deemed necessary the Administrator will expand or revise these (guidelines) to provide the most responsive and appropriate list of test procedures to meet the requirements of sections 301, 304 (g), 401 and 402 of the Act.

(23) Commenters challenge the TSS limitation for best available technology eco-

nomically achievable as recommended in the development document as it was partially based on transfer of technology. BAT proposes a reduction of 15 mg/1 TSS when compared to the suggested BPT level in the October preamble (40 FR 48830). The added cost of filtration cannot be justified by the relatively minor reduction in TSS load discharges achieved.

The proposed BAT TSS limitation of 20 mg/1 30 day average and 40 mg/1 daily max is based partially on mixed media filtration, and mixed media filtration can be used to obtain these levels of TSS. In addition, plants identified in the development document as the basis for BAT limitations are meeting the TSS limitations suggested for BAT without use of mixed media filtration. The estimated costs of BAT compliance and the installation of mixed media filters, the economic impact was found to be minimal.

(24) A commenter suggested that settleable solids be included in the limitations guidelines with or in place of TSS.

The limitation on TSS effectively controls the discharge of settleable solids from a point source.

(25) Commenters stated that the definition of mine drainage is so stated to include nonpoint sources.

These regulations do not purport to redefine a point source; the definition of mine drainage complements the definition of a point source as set forth in the Act.

(26) A commenter suggested that turbidity replace the limitation on TSS.

Turbidity is an indicator of suspended solids and as such can be used to determine the effectiveness of suspended solids. But the turbidity test is specific to the type of solids in the water sample. Because the type of solids may change, turbidity will not always indicate accurately the levels of solids present in the waste water.

(27) A commenter suggested that surface coal mines be excluded from effluent limitations and guidelines for the coal mining industry.

Surface coal mines are a major water pollution source. The agency may not arbitrarily exclude certain point source discharges from effluent limitations and guidelines.

(28) A commenter suggested that the Agency postpone promulgation of TSS limitations pending completion of an ongoing study on TSS removal at surface mines.

The agency is currently under a court ordered deadline to revise 40 CFR 434 as published on October 17, 1975 adding limitations for the pollutants identified in the preamble to those regulations. And the Agency has concluded that it has sufficient information with which to draw conclusions as to TSS removal technology and the appropriate TSS limitations.

(29) Comment contended that the inclusion of aluminum, nickel, zinc, manganese, and dissolved iron in the pollutants identified in the alkaline mine drainage category would pose a burdensome and unnecessary monitoring requirement on this segment of the industry as these pollutant parameters are not normally found in this subcategory in concentrations over the limitations suggested in the preamble.

Alkaline mine drainage was observed to have low concentrations of metal ions. Alkaline mine drainage is defined as mine drainage which before any treatment has a pH of more than 6 and with a total iron concentration of less than 10 mg/1. The pollutant parameters included in the alkaline mine drainage subcategory are revised in this regulation to include only total iron, suspended solids, and pH.

(30) A commenter suggested that the limitation of no discharge of pollutants from coal preparation plants is contrary to a Mine Enforcement Safety Administration (MESA) regulation which discourages the use of ponds as storage mechanisms and encourages the application of "operating overflows".

The requirement of no discharge of pollutants from coal preparation plants does not conflict with the MESA regulation. The provisions that treatment facilities shall be designed, constructed and operated to treat or contain, as applicable, the runoff resulting from a 10 yr-24 hour precipitation and should complement regulation on structural design requirements imposed by regulating agencies such as MESA.

(31) A commenter stated that the economic impact analysis of interim final effluent limitations and guidelines on the U.S. coal mining industry supporting the initial regulation fails to demonstrate that the model plants are representative of the industry.

For the purpose of developing effluent limitations and guidelines this industry was categorized into four subcategories: two classes of mine drainage (1. acid or ferruginous mine drainage and 2. alkaline mine drainage) process waste water from coal preparation plants; and drainage from coal storage, refuse storage, and coal preparation plant ancillary areas. For developing cost and economic impact of this regulation to the industry, for the purpose of developing models, the industry was segmented geographically with each geographic segment further segmented by the type of mine (deep or surface) and the type of mine further segmented as to three sizes of operation based on annual tonnage. Costs of compliance of this regulation were then estimated for each of these segments and compared with the production cost per ton vs the realization per ton. This has shown to be a realistic method of calculating the economic impact.

(32) A commenter stated that the analytical procedures used by the contractor which are referred to in supplement A differ from the requirements established in 40 CFR 136 (38 FR 28758).

The contractor performed all analysis using methods referenced in 40 CFR 136. In supplement A, the reference for nickel contains a typographical error. It should refer to Standard Methods, atomic absorption, page 443.

(33) A commenter stated that the pollutant content of supply water be taken into consideration when determining permanent limitations.

Under certain circumstances the supply water pollution content may be considered. The "net-gross" pollution issue is addressed in 40 CFR Part 125.

(34) A commenter stated that because of the unique problems associated with the environmental analysis that must be conducted pursuant to the National Environmental Policy Act (NEPA), on any new coal mine permit, new source performance standards applicable to coal mines should not be proposed at this time.

New source performance standards for coal mines will be proposed on or before October 17, 1976, pursuant to the requirement of section 306 of the Act. They are not being proposed at this time because new source coal mine permits, which would have to be issued on many mines after proposal of new source performance standards, pose unique problems in connection with the environmental analyses that must be conducted on them pursuant to the National Environmental Policy Act (NEPA) and Section 511(c) of the Act. The most effective way to comply with NEPA on new source coal mine permits is to assess new coal mining activity on an areawide basis. Such studies are not sufficiently developed at this time to allow EPA to prepare areawide environmental analysis that will document the full range of impact. We anticipate that by October 17, 1976, we will have sufficient data to begin to apply NEPA effectively to new mining operations and at this same time avoid significant disruption to the permitting of new and needed operations that are environmentally sound.

[FR Doc.76-13541 Filed 5-12-76;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 434]

[FRL 536-2]

COAL MINING POINT SOURCE CATEGORY

Effluent Guidelines and Standards for Existing Sources

Notice is hereby given that effluent limitations for existing sources, standards of performance and pretreatment standards for new sources set forth in tentative form below are proposed by the Environmental Protection Agency (EPA). On October 17, 1975 EPA promulgated a regulation adding Part 434 to Chapter 40 of the Code of Federal Regulations (40 FR 48830). That regulation with subsequent amendments established effluent limitations and guidelines for existing sources based on the best practicable control technology currently available and pretreatment standards for existing sources for the coal mining point source category. The regulation proposed below will amend 40 CFR 434—coal mining point source category by adding sections 434.13, 434.15 and 434.16 to the coal preparation plant subcategory (Subpart A), sections 434.23, 434.25 and 434.26 to the coal storage, refuse storage, and coal preparation plant ancillary area subcategory (Subpart B), sections 434.33 to the acid or ferruginous mine drainage subcategory (Subpart C), and sections 434.43 to the alkaline mine drainage subcategory (Subpart D) pursuant to sections 301, 304 (b) and (c), 306(b) and 307 (b) and (c) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, 1316(b) and 1317 (b) and (c), 86 Stat. 816 et seq.; P.L. 92-500) (the Act). Sections 434.14, 434.24, 434.34 and 434.44 were proposed on October 17, 1975 (40 FR 48830). Simultaneously with the publication of this proposed regulation EPA is promulgating amendments to the existing coal mining point source category regulation. A description and discussion of the legal authority is contained in Appendix A to this preamble.

(a) Summary and basis of proposed standards of performance and pretreatment standards for new sources and pretreatment standards for existing sources.

The general methodology and summary of conclusions are discussed in considerable detail in the preamble of the interim final regulation amendments for the coal preparation plant subcategory (Subpart A), the coal storage, refuse storage and coal preparation ancillary area subcategory (Subpart B), the acid or ferruginous mine drainage subcategory (Subpart C), and the alkaline mine drainage subcategory (Subpart D) of the coal mining point source category which are being promulgated by EPA simultaneously with publication of this proposed regulation. The information contained in the preamble to the interim final regulation amendments being promulgated simultaneously with this proposed regulation is incorporated herein by reference. The proposed regulation set forth below proposes pretreatment standards for pollutants introduced into publicly owned treatment works. The proposal will establish for each subpart the extent of application of effluent limitations to new sources which discharge to publicly owned treatment works. This regulation is intended to be complementary to the general regulaton for pretreatment standards for existing sources set forth at 40 CFR Part 128. The general regulation was proposed July 19, 1973 (38 FR 19236), and published in final form on November 8, 1973 (38 FR 30982). The regulation proposed below applies to users of publicly owned treatment works which fall within the description of the point source category to which the limitations and standards apply. However, the proposed pretreatment regulation applies to the introduction of pollutants which are directed into a publicly owned treatment works, rather than to discharges of pollutants to navigable waters.

The general pretreatment standard divides pollutants discharged by users of publicly owned treatment works into two broad categories: "compatible" and "incompatible." Compatible pollutants are generally not subject to specific numerical pretreatment standards. However, 40 CFR 128.131 (prohibited wastes) may be applicable to compatible pollutants. Additionally, local pretreatment requirements may apply (See 40 CFR 128.110). Incompatible pollutants are subject generally to pretreatment standards as provided in 40 CFR 128.133. Sections 434.16 and 434.26 proposed below, are intended to implement the intent of section 128.133, by setting forth specific numeric limitations for particular pollutants subject to pretreatment requirements.

The pollutant parameters identified for inclusion in effluent limitation guidelines and standards of performance include compatible and incompatible pollutants. Pretreatment standards for the subcategories of this point source category are based on limitations for the introduction of pollutants which will provide protection for treatment works which are not designed for substantial removal of pollutants other than the four pollutants listed in the definition of compatible pollutants. The State or municipality may impose more stringent pretreatment standards under State or local laws than specified in these regulations to enable compliance with NPDES permits issued to publicly owned treatment works. Joint treatment works or publicly owned treatment work designed specifically for treatment of acid mine drainage are not included in this pretreatment standard.

Questions were raised during the public comment period on the proposed general pretreatment standard (40 CFR Part 128) about the propriety of applying a standard based upon best practicable control technology currently available to all plants subject to pretreatment standards. In general, EPA believes the analysis supporting the effluent limitations and guidelines is adequate to make a determination regarding the application of those standards to users of publicly owned treatment works. However, to ensure that those standards are appropriate in all cases, EPA now seeks additional comments focusing upon the application of effluent limitations guidelines to users of publicly owned treatment works.

The report entitled "Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Coal Mining Point Source Category," May 1976 details the analysis undertaken in support of the regulation being proposed herein and is available for inspection in the EPA Public Information Reference Unit, Room 2404, Waterside Mall, 401 M St., S.W., Washington, D.C. 20460, 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 are available. Persons wishing to obtain a copy may write the EPA Effluent Guidelines Division, Washington, D.C. 20460. Attention: Distribution Officer, WH552.

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.

(b) Summary of public participation. A full listing of participants and discussion of comments and responses is included in the interim final regulation for the coal mining subcategory being simultaneously promulgated by EPA and are incorporated herein by reference.

Interested persons may participate in this rule-making by submitting written comments in triplicate to the Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, Attention: Distribution Officer, WH-552. 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 regulation. In the event comments address the approach taken by the Agency in establishing a standard of performance or pretreatment standard, EPA solicits suggestions as to what alternative approach should be taken and why and how this alternative better satisfies the detailed requirements of sections 306 and 307 (b) and (c) of the Act.

A copy of all public comments will be available for inspection and copying at the EPA Public Information Reference Unit, Room 2922 (EPA Library), Waterside Mall, 401 M St., SW., Washington, D.C. 20460. 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 on or before June 14, 1976, 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: May 3, 1976.

RUSSELL E. TRAIN,
Administrator.

PART 434—COAL MINING POINT SOURCE CATEGORY

Subpart A—Coal Preparation Subcategory

Sec.

434.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
434.15 Standards of performance for new sources.
434.16 Pretreatment standards for new sources.

Subpart B—Coal Storage, Refuse Storage and Coal Preparation Plant Ancillary Area Subcategory

434.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
434.25 Standards of performance for new sources.
434.26 Pretreatment standards for new sources.

Subpart C—Acid or Ferruginous Mine Drainage Subcategory

434.33 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
434.35 [Reserved]
434.36 [Reserved]

Subpart D—Alkaline Mine Drainage Subcategory

434.43 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
434.45 [Reserved]
434.46 [Reserved]

AUTHORITY: Secs. 301, 304 (b) and (c), 306 (b) and (c), 307(c), Federal Water Pollution Control Act, as amended (the Act); 33 U.S.C. 1251, 1311, 1314 (b) and (c), 1316 (b) and (c), 1317(c); 86 Stat. 816 et seq.; Pub. L. 92-500.

Part 434 is proposed to be amended as follows:

1. Subpart A is amended by adding §§ 434.13, 434.15 and 434.16 as follows:

Subpart A—Coal Preparation Plant Subcategory

§ 434.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) Subject to the provisions of paragraphs (b) and (c) of this section, the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, 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 pollutants.

(b) Any untreated overflow which is discharged from facilities designed, constructed and operated to contain all process generated waste water and the surface runoff to the treatment facility, resulting from a 10 year 24-hour precipitation event shall not be subject to the limitations set forth in this section.

(c) Where coal preparation plant process waste water is combined for treatment or discharge with waste water from other subcategories in this point source category, the quantity of pollutants allowed to be discharged in the combined discharge shall not exceed the quantity of pollutants which would be allowed under the limitations set forth in subpart B, C, or D, as applicable.

§ 434.15 Standards of performance for new sources.

(a) Subject to the provisions of paragraph (b) of this section, the following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart: There shall be no discharge of pollutants.

(b) Any untreated overflow which is discharged from facilities designed, constructed and operated to contain all process generated waste water and the surface runoff to the treatment facility, resulting from a 10 year 24-hour precipitation event shall not be subject to the limitations set forth in this section.

§ 434.16 Pretreatment standards for new sources.

For the purpose of pretreatment standards for incompatible pollutants established under 40 CFR Part 128.133, the standards of performance set forth in 40 CFR Part 434.15 above shall not presently apply. Some of the constituents of the process waste waters from this subcategory may interfere with certain treatment works or may pass through such treatment works inadequately treated. Therefore, such process waste waters should receive consideration. The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged as provided pursuant to section 307(b) of the Act.

EFFLUENT LIMITATIONS—MAXIMUM FOR ANY 1 DAY

Effluent characteristic	*Milligrams per liter*
TSS	No limitation.
Iron, dissolved	50.0.

2. Subpart B is amended by adding §§ 434.23, 434.25, and 434.26 as follows:

Subpart B—Coal Storage, Refuse Storage, and Coal Preparation Plant Ancillary Area Subcategory

§ 434.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) Subject to the provisions of paragraph (b) of this section, the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Milligrams per liter	
TSS	40.0	20.0
Iron, total	3.5	3.0
Manganese, total	4.0	2.0
pH	Within the range 6.0 to 9.0.	

(b) Any treated overflow which is discharged from facilities designed, constructed and operated to treat the process waste water and the runoff from the coal preparation plant ancillary area resulting from a 10 year 24-hour precipitation event shall not be subject to the limitations set forth in this section.

§ 434.25 Standards of performance for new sources.

(a) Subject to the provisions of paragraph (b) of this section the following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Milligrams per liter	
TSS	70.0	35.0
Iron, total	3.5	3.0
Manganese, total	4.0	2.0
pH	Within the range 6.0 to 9.0.	

(b) Any untreated overflow which is discharged from facilities designed, constructed and operated to treat the proc-

ess waste water and the runoff from the coal preparation plant ancillary area resulting from a 10 year 24-hour precipitation event shall not be subject to the limitations set forth in this section.

§ 434.26 Pretreatment standards for new sources.

For the purpose of pretreatment standards for incompatible pollutants established under 40 CFR Part 128.133, the standards of performance set forth in 40 CFR Part 434.25 above shall not presently apply. Some of the constituents of the process waste waters from this subcategory may interfere with certain treatment works or may pass through such treatment works inadequately treated. Therefore, such process waste waters should receive consideration. The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged as provided pursuant to section 307(b) of the Act.

EFFLUENT LIMITATIONS—MAXIMUM FOR ANY 1 DAY

Effluent characteristic	*Milligrams per liter*
TSS	No limitation.
Iron dissolved	50.0.

3. Subpart C is amended by adding §§ 434.33, 434.35, and 434.36 as follows:

Subpart C—Acid or Ferruginous Mine Drainage Subcategory

§ 434.33 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) Subject to the provisions of paragraph (b) and (c) below the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Milligrams per liter	
TSS	40.0	20.0
Iron, total	3.5	3.0
Iron, dissolved	0.6	0.3
Manganese, total	4.0	2.0
pH	Within the range 6.0 to 9.0.	

(b) Any untreated overflow which is discharged from facilities designed, constructed and operated to treat the mine drainage and the surface runoff to the treatment facility, resulting from a 10 year 24-hour precipitation event shall not be subject to the limitations set forth in this section.

(c) Any drainage from any surface mine or section thereof which has been returned to final contour shall not be required to meet the limitation set forth in paragraph (a) above providing such drainage is not comingled with untreated mine drainage which is subject to the limitations in paragraph (a).

§ 434.35 [Reserved]

§ 434.36 [Reserved]

4. Subpart D is amended by adding §§ 434.43, 434.45 and 434.46 as follows:

Subpart D—Alkaline Mine Drainage Subcategory

§ 434.43 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) Subject to the provisions of paragraph (b) and (c) of this section the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Milligrams per liter	
TSS	40.0	20.0
Iron, total	3.5	3.0
pH	Within the range 6.0 to 9.0.	

(b) Any untreated overflow which is discharged from facilities designed, constructed and operated to treat the mine drainage generated waste water and the surface runoff to the treatment facility, resulting from a 10 year 24-hour precipitation event shall not be subject to the limitations set forth in this section.

(c) Any drainage from any surface mine or section thereof which has been returned to final contour shall not be required to meet the limitation set forth in paragraph (a) above providing such drainage is not commingled with untreated mine drainage which is subject to the limitations in paragraph (a).

§ 434.45 [Reserved]

§ 434.46 [Reserved]

APPENDIX 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

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 procedural innovations, operating methods and other alternatives. The regulation herein sets forth effluent limitations and guidelines, pursuant to sections 301 and 304(b) of the Act, for the coal preparation plant subcategory (Subpart A), the coal storage, refuse storage and coal preparation ancillary area subcategory (Subpart B), the acid or ferruginous mine drainage subcategory (Subpart C), and the alkaline mine drainage subcategory (Subpart D) of the coal mining 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.

(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. On October 17, 1975 a notice appeared in the FEDERAL REGISTER titled "Additions to the List of Categories of Sources (40 FR 48712) adding the coal mining point source category and is in accordance with the provisions of section 306(b)(1)(A) of the Act. The regulation proposed herein sets forth the standards of performance applicable to new sources for the coal preparation plant subcategory (Subpart A) and, the coal storage, refuse storage and coal preparation ancillary area subcategory (Subpart B) of the coal mining 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 434.16 and 434.26, provide pretreatment standards for new sources within the coal preparation plant subcategory (Subpart A) and, the coal storage, refuse storage and coal preparation ancillary area subcategory (Subpart B) of the coal mining point source category. Section 307(b) of the Act requires the establishment of pretreatment standards for pollutants introduced into publicly owned treatment works and 40 CFR 128 establishes that the Agency will propose specific pretreatment standards at the time effluent limitations are established for point source discharges. Sections 434.14, 434.24, 434.34 and 434.44, were proposed on October 17, 1975 (40 FR 48839) and provided protreatment standards for existing sources within the coal preparation plant subcategory (Subpart A), the coal storage, refuse storage and coal preparation and ancillary area subcategory (Subpart B), the acid or ferruginous mine drainage subcategory (Subpart C), and the alkaline mine drainage subcategory (Subpart D) of the coal mining point source category.

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federal register

THURSDAY, MAY 13, 1976



PART III:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Consumer Affairs and Regulatory Functions

■

MOBILE HOMES

Procedural and Enforcement Regulations

Title 24—Housing and Urban Development

CHAPTER XX—OFFICE OF ASSISTANT SECRETARY FOR CONSUMER AFFAIRS AND REGULATORY FUNCTIONS, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R.-76-390]

PART 3282—MOBILE HOME PROCEDURAL AND ENFORCEMENT REGULATIONS

Adoption of Safety Standards

Title VI of the Housing and Community Development Act of 1974, the National Mobile Home Construction and Safety Standards Act of 1974, Pub. L. 93-383, 42 U.S.C. 5401 et seq., hereafter the "Act," authorizes the Secretary of the Department of Housing and Urban Development to promulgate Federal mobile home construction and safety standards and to issue rules and regulations to ensure adequate administration and enforcement of such standards.

On January 22, 1976, at 41 FR 3406, the Department published proposed rules on Mobile Home Procedural and Enforcement Regulations. Over 120 comments were received from different organizations. Some of these comments were over 50 pages long, with comments from one organization running over 100 pages. All comments were carefully analyzed and in many instances significant changes have been made based on the comments to these final regulations.

This Preamble briefly summarizes the regulations, highlights, and addresses the significant changes made to the proposed regulations, and summarizes, describes and comments upon some of the significant suggestions received.

Parts 282 and 283 have been combined, substantially reorganized, and revised to ensure greater clarity and avoid unnecessary repetition. The regulations also have been renumbered as part 3282.

In order to enforce and administer the standards effectively, the Department is promulgating pursuantt to section 625 of the Act, 42 U.S.C. 5424, these rules and regulations.

These final rules and regulations are divided into 12 subparts as discussed below:

Subpart A. General. This subpart describes the organizational structure within HUD responsible for administration of the Federal standards and these regulations, defines various terms as they are used throughout this part and generally sets forth the scope and applicability of these regulations.

The regulations have been revised to reflect the appointment of an Assistant Secretary for Consumer Affairs and Regulatory Functions (CARF), who now has the authority and responsibility for the Mobile Home Standards Program. The Office of Mobile Home Standards is now a unit subordinate to the Assistant Secretary for CARF. Prior to the establishment of the new Office of the Assistant Secretary for CARF, the Office of Mobile Home Standards was a unit subordinate to the Assistant Secretary for Housing Production and Mortgage Credit-Federal Housing Commissioner.

Section 3282.7 defines the various words and Phrases used throughout these regulations. Words and phrases were defined in §§ 3282.7 and 3283.5 of the proposed regulations.

Numerous comments were received concerning the definitions of various words and phrases used throughout the proposed rules. The Department, on the basis of these comments, has made a number of modifications to the definitions. Also, definitions have been modified to reflect changes in various subparts of these regulations. The most significant changes in the definitions are described below:

The term "add-on" has been modified to make clear that a structure which is designed and produced as an integral part of a mobile home is considered part of the mobile home rather than an "add-on". This change has been made to reflect common industry usage of the term "add-on".

The term "Administrative Submission" has been deleted. A new term "State plan application" has been added in its place. This has been done in order to avoid confusion in terminology in those portions of the regulations describing a State's responsibility under these regulations.

The term "Alteration" has been modified to make clear that, for the purpose of these regulations, the repair or replacement of a component or appliance requiring "plug-in" into an electrical receptacle is not considered an alteration where the replacement item is of the same configuration and rating as the item being replaced. Also excluded from the definition of alteration is the addition of an appliance requiring "plug-in" to an electric receptacle if the rating of appliance which is added does not exceed the rating of the receptacle to which it is connected.

The terms "Certification Report," "Primary Inspection Agency," and "Quality Assurance Manual" have also been modified to reflect the altered responsibilities and types of inspection organizations that will operate under these regulations.

The term "defect" has been modified to make clear that term applies only to failures to comply with the standards that do not result in an unreasonable risk of injury or death to occupants of affected mobile homes. A new term "serious defect" has been added. A serious defect is a failure to comply with any standard that results in an unreasonable risk of injury or death to occupants of affected mobile homes. Related definitions of "non-compliance" and "imminent safety hazard" are also included. The terms "date of manufacture," "dealer," "label," "noncompliance," "red-tag," and "standard" have been slightly changed for the sake of clarity. No substantive changes in these terms have been made. The term "Certification Label" has been added to the definition section for the same reasons.

The term "model" has been deleted because the Department believes, based on the comments received, that its use confused rather than clarified these regulations. Substantive portions of the regulations concerning submittal requirements by manufacturers have been modified so that the use of the term "model" or an equivalent term is no longer necessary. The phrase "failure to conform" has been added to the definition section. A failure to conform includes serious defects, defects and noncompliance.

The term "owner" has been added to these regulations. An owner is any person purchasing a mobile home, in good faith, from any other person after the first purchase of the mobile home for purposes other than resale.

The term "Secretary's Agent" has been added and is defined as a party operating as an independent contractor under a contract with HUD.

Additional paragraphs have been added to § 3282.8 to clarify the scope and coverage of these regulations.

A paragraph has been added at § 3282.8 (e) to make clear that these regulations apply to owners, purchasers and consumers of mobile homes in that it sets out procedures to be followed when purchasers, owners and consumers wish to complain to manufacturers, States, the Secretary and others.

A new paragraph is included at § 3282.8(f) that makes clear that these regulations do not apply to recreational vehicles. A recreational vehicle is a vehicle, regardless of its size, which was not designed to be used as a permanent dwelling, and in which the plumbing, heating, electrical and air-conditioning systems included within the structure may be operated without connection to outside utilities and which are self propelled or towed by a light duty vehicle. This paragraph at § 3282.8(f) was added in response to concerns expressed in comments and other communications that these regulations apply to recreational vehicles. Paragraphs discussing imported mobile homes and mobile homes intended solely for export have been added at § 3282.8(g). Importers of mobile homes now have responsibilities similar to domestic manufacturers. Mobile homes intended solely for export, if so tagged or labeled, are not governed by the standards of these regulations. Regulations regarding imported mobile homes may be modified in the future by new regulations jointly promulgated by the Secretary of Housing and Urban Development and the Secretary of Treasury.

One question that is not treated in the regulations is the applicability of these regulations to modular homes. The Department has received many inquiries since the close of the comment period about this issue. The Department has carefully examined the Act and its legislative history and has concluded that while it may have been the intent of the Congress to exclude modular housing from the Act, the definition of "mobile home" cannot be interpreted to exclude from the Act modular homes that also satisfy the definition of a mobile home under the Act.

Because of the confusion concerning the applicability of the Act to modular housing industry, the Secretary will pro-

pose an amendment to Part 280 that would exempt a modular home that also meets the definition of a mobile home from the standard for a period of 90 days if the modular home satisfies one of the following criteria:

(1) The modular home is built in accordance with any of the following three model codes:

a. The Uniform Building Code (UBC) published by the International Conference of Building Officials.

b. The building code published by the Building Officials and Code Administrators (BOCA).

c. The building code published by the Southern Building Code Congress (SBCS).

(2) The modular home is built in accordance with a Statewide modular housing standard.

(3) The modular home is built in accordance with an FHA Structural Engineering Bulletin and in accordance with FHA Minimum Property Standards.

The Department is hopeful that during the period prior to the effective date of the standards comments will be received in response to the amendment which will be proposed addressing the issue of coverage of modular homes, if they should be excluded from the standards, and if so, how, since they also meet the statutory definition of mobile homes.

A description of the manner in which one is to compute time under these regulations has been added in an additional section, numbered 3282.9. Suggestions were made in the comments that unusual circumstances should automatically extend the time period in which to complete various actions required by these regulations. These recommendations were not accepted. Instead, the Department believes that if unusual circumstances arise in particular cases they should be brought to the attention of the Secretary or the State Administrative Agency for appropriate response.

Section 3282.10 which governs civil and criminal penalties and injunctive actions has been added. The proposed regulations sought to cover civil and criminal penalties only in specific circumstances. The Department concluded that the previous approach was confusing. For example, there might be cases other than those covered in the proposed regulations which might result, in accordance with section 611 of the Act, 42 U.S.C. 5410, in civil and criminal penalties. Therefore, a general section making reference to section 611 of the Act has been added to these regulations.

Section 3282.11 describes preemption and reciprocity under these regulations. The section specifies that these regulations establish the exclusive system of enforcement of the Federal standards. It also makes clear that no State may have a State mobile home standard which covers the aspects of the mobile home construction and safety governed by the Federal standard unless the State standard is identical to the Federal standard. The Section also makes clear, however, that a State may maintain or may establish consumer protection programs through warranty requirements, for example, so long as such programs do not constitute systems of enforcement of the Federal standards. Finally, the section states the situations in which States may and may not charge fees for activities relating to mobile homes. Basically, a State may not charge a fee for services provided by the State under these regulations or for any other services which constitute a system of enforcement of the Federal standards. A State may charge fees for PIA services provided and for certain services suggested by these regulations. As individual State approaches are presented, it is anticipated that the Secretary will apply, and thereby particularize, these general criteria through the Secretary's interpretive bulletin, amendment, or other appropriate processes.

Subpart B—Formal Procedures. This subpart contains the rules generally applicable to the transaction of official business with the Department under the Act.

A number of changes have been made in this subpart that are designed to remove formalities in order that interested persons may have increased opportunities to make their views heard regarding the Department's action under the Act. For example, the requirement that all communications shall be in English, unless accompanied by a translation of the comment, has been deleted. If comments are received in a language other than English, the Department will have those comments translated and will consider the comments. Another example of the Department's action to remove formalities is the elimination of the requirement that the communication be of a specified size, that there be minimum size margins on the communication, and that tables, charts or originals of other documents be attached to the communication in a certain manner.

Section 3282.54 dealing with Public Information has been modified in a number of ways. The Department has included, by reference, the HUD regulations under the Privacy Act as an additional factor that must be considered in determining whether further information may be released to the public. The Department has also established a system by which commentors may seek to have trade secrets or information whose release may put the submitter at a substantial competitive disadvantage determined as exempt from disclosure. The section has also been simplified, though the original substance remains. A new paragraph has also been added which describes how primary inspection agencies (PIAS) or state administrative agencies (SAAs) are to proceed if requests for disclosure of information are made to them. PIAs or SAAs are to forward to the Secretary any requests for information they received prior to the effective date of these regulations. Any information received after that date may be released by the PIA or SAA if no formal request for privileged treatment of the information has been made and if the PIA or SAA determines that release of the information would not be in violation of HUD regulations under the Privacy Act. If the PIA or SAA believes that the release of information could violate the Privacy Act or, if a request for privileged treatment of information has been received, the PIA or SAA is to refer the matter to the Secretary for resolution.

Subpart C—Hearings, Presentation of Views and Investigations. This subpart sets out the procedures that apply to the formulation, issuance, amendments, and revocation of rules and regulations under the Act.

A new paragraph has been added to the section on initiation of rulemaking (§ 3282.103) which generally requires the Secretary to respond within 180 days after receipt of a petition for rulemaking. The Secretary may fail to respond within that time period only where necessary to assure full resolution of the issue involved. Imposition of a time period to respond to a petition for rulemaking was added to the regulations as a result of a number of comments received suggesting such a change.

A new section (§ 3282.104) has been added to this subpart which describes Advance Notice of Proposed Rulemaking and indicates that such advance notice shall be used whenever practicable under this subpart. Section 282.107 of the proposed regulations relating to petitions for extensions of time to comment has been deleted as unnecessary. Two changes have been made concerning petitions for reconsideration of final rules.

Paragraph 282.211(d) of the proposed regulations has been deleted because the Department has concluded that there was no legal authority for the provision. The provision required that if a timely petition for reconsideration was filed, the 60 day period in which to seek judicial review of a rule was postponed until 60 days after publication in the FEDERAL REGISTER of the Secretary's disposition of petition.

A new provision has been added that seeks to ensure that the Department has an opportunity to resolve on an administrative basis as many challenges to rules and regulations as possible. The provision (§ 3282.112(a)) requires that any party seeking to challenge any rule or regulation must file a petition for reconsideration prior to seeking any other remedy.

The section on interpretive bulletins has been substantially revised. The proposed regulations, in § 283.602, only allowed for the issuance of interpretive bulletins concerning enforcement regulations. The final regulations allow for issuance of interpretive bulletins on the enforcement as well as the construction standards regulations. Interested parties will, in general have an opportunity to comment on proposed interpretive bulletins prior to their issuance in final form.

Subpart D sets out the procedures to be followed when an opportunity to present views is provided under the Act or under these regulations.

The subpart has been significantly revised in a number of ways. Generally the purpose of these changes is to provide the parties affected by these regulations, and the public in general, increased oppor-

tunities to bring issues to the Secretary for a resolution.

Paragraph 3282.151(b)(2) has been added. This addition allows States and manufacturers to present their views when disputes arise between a State agency or manufacturer and an inspection agency concerning nonconformance of a mobile home design with the standard, the rod-tagging of mobile homes, the adequacy of a quality assurance manual, or the provision of a certification label.

A statement has been added to the section governing procedures for hearings and presentations of views (§ 3282.152 (a)) requiring such proceedings to be open to the public unless the Secretary determines that they should be closed and makes such a determination and the basis therefor available to the public.

The subpart has also been amended to provide the Secretary with greater flexibility in types of proceedings held under these regulations. A more informal opportunity to present views through a presentation of views proceeding has been added. The change is needed to provide the Secretary with the necessary flexibility to deal appropriately and expeditiously with the many different circumstances that may give rise to opportunities to present views under these regulations.

A new section has been added (§ 3282.-153) that provides any interested persons an opportunity to participate in writing in any hearings or presentation of views and an opportunity to participate orally in such proceedings unless the presiding officer decides that such oral presentations would not be appropriate.

Section 3282.154 provides a person petitioning the Secretary for a hearing or presentation of views with an opportunity to seek interim relief from the Secretary, pending the Secretary's final decision.

A new provision appearing as § 3282.-156 permits any person with an opportunity to petition the Secretary to undertake an investigation as to whether a failure to conform or an imminent safety hazard exist in any mobile home or to determine whether a PIA should be disqualified. Under this section, the Secretary must respond to the petition in 60 days if an imminent safety hazard is alleged. The Secretary must respond within 120 days in all other circumstances.

Subpart E—Manufacturer Inspection and Certification Requirements. Subpart E sets out the requirements which must be met by the manufacturer of mobile homes for sale to purchasers within the United States. This subpart has been substantially revised. It appeared in the proposed regulations as Subpart D of Part 283.

This subpart has been revised to specify in greater detail manufacturer responsibilities under the Act and under these regulations. In addition, a number of new sections have been added to this subpart.

The purpose of the subpart is to require manufacturers to participate in a system of design approvals and inspections utilizing primary inspection agencies (PIAs), which will serve to assist them in assuring that the mobile homes that they manufacture conform to the maximum extent possible to the Federal standards. In order to provide such assurance each manufacturer shall retain the services of a design approval primary inspection agency (DAPIA) and a plant approval, primary inspection agency (IPIA). The manufacturer is responsible for carrying out any corrective actions, including notification and correction, which may be required under this Chapter. Additionally, the manufacturer shall cooperate fully in any investigation by HUD, a State, or a primary inspection agency into the question of whether a noncompliance, defect, or iimminent safety hazard may exist in a mobile home produced by the manufacturer.

States and private organizations may apply to and be accepted by the Secretary to act as primary inspection agencies (PIAs). As set forth in greater detail below, the PIAs will be responsible for approval and continuing surveillance of the mobile home manufacturing process. The actions of PIAs will be monitored by the Secretary or the Secretary's agent and under certain circumstances by approved States.

These regulations require that each manufacturer enter into contracts with as many Design Inspection Primary Inspection Agencies (DAPIAs) of their choice and Production Inspection Primary Inspection Agencies (IPIAs) as may be desired to provide services for each manufacturing plant; the manufacturer shall pay such reasonable fees for these services as agreed between the manufacturer and the primary inspection agencies.

Section 3282.203 dealing with DAPIA services requires that manufacturers have their designs approved by a DAPIA and specifies the services to be provided by the DAPIA, and specifies the material the manufacturer shall submit to the DAPIA of its choice.

The information to be submitted to the DAPIA may be prepared by the manufacturer's staff or by outside consultants, including DAPIA's provided that no DAPIA shall be allowed to approve designs with which it has had prior association.

In the event a manufacturer disagrees with a finding by a DAPIA or an IPIA, § 3282.206 provides that it may request a determination from the appropriate State Administrative Agency or, in certain instances, the Secretary. It also provides that manufacturers shall not produce mobile homes to designs which have not been approved by a DAPIA or produce homes which the relevant IPIA believes do not conform to the Federal standards.

The requirement of § 3202.205(c) that every manufacturer of mobile homes certify "to the best of the manufacturer's knowledge and belief" has been retained in order not to mislead purchasers and owners into believing that it is impossible that their home contains a failure to conform to the Federal standards. However, it is not intended thereby to otherwise affect the Federal statutory, regulatory, State or common law duties and responsibilities of manufacturers, distributors or dealers of mobile homes.

Section 3282.207 specifies the transition rules which may be utilized by a manufacturer for a period not to exceed 90 days from the effective date of these standards. Under this Section manufacturers who cannot contract for the services of a PIA may utilize transition certification labels under circumstances discussed in the Section. Mobile homes bearing a transition certification label shall be subject to such inspections and reasonable inspection fees as States may require, though no State may require any design approval or require a mobile home to meet a standard other than the Federal standard. A State may prohibit the entry into or sale within its borders of a mobile home certified under this subsection if the State has inspected the mobile home and found a failure to conform to the standards. If a State, through inspections under this subsection, finds that a manufacturer or a particular plant is consistently producing homes which fail to conform to the standards, the State shall so inform the Secretary, who shall take appropriate action, including seeking injunctive relief, to halt production, if necessary. A State may not prohibit entry into or sale within its borders of a mobile home unless the State has inspected that home and found a failure to conform to the standards.

The section also describes physical characteristics of transition certification labels and their placement on the mobile home.

Section 3282.210 specifies the circumstances under which the monitoring fees required by subpart J are to be paid by a manufacturer. The requirements for how and when monitoring fees are to be paid by a manufacturer were not included in the proposed regulations.

Subpart F—Dealer and Distributor Responsibilities. Subpart F sets out responsibilities of mobile home dealers and distributors under the Act and these regulations. This subpart, which was formally subpart E of Part 283 in the proposed regulations, is revised to clarify the responsibilities of dealers and distributors with respect to mobile homes manufactured after the effective date of the Federal standards. The subpart informs the distributors and dealers when they may sell mobile homes, when they are prohibited from selling mobile homes, and what they may do in order to prepare a mobile home for sale if it is not in conformance with the Federal standards. A number of comments suggesting deletion of the requirement appearing in Section 283.211 of the proposed regulations, that the dealer certify that any alteration made did not bring the mobile home out of conformance with the standard were received. The Department believed that such a dealer certification was appropriate and helped to assure that alterations did not bring the mobile home out of conformance with the stand-

ards. The requirement for such a certification has been removed, however, because after reviewing the Act, the Department has concluded that no legal authority exists for such a requirement.

Comments were received requesting clarification of the actions to be taken by dealers when failures to comply or imminent safety hazards were found by dealers.

Section 283.404 of the proposed regulations has therefore been revised and now appears as § 3282.253 to clarify a dealer's responsibilities when in possession of a defective mobile home.

Subpart G—State Administrative Agencies. This subpart sets out procedures to be followed and requirements to be met by States which wish to participate as State Administrative Agencies (SAA) under the Federal standards enforcement program. This subpart formerly appeared as subpart B, Part 283 of the proposed regulations. The subpart has been revised to clarify SAA responsibilities and to facilitate State participation under the program.

The requirements for application by a State for HUD approval as an SAA have been modified. Section 3282.302(b)(1) now requires that a State demonstrate how the State agency shall assure through an appropriate monitoring system that manufacturers who have plants located within its State fulfill manufacturer responsibilities for handling complaints.

On the basis of comments received, a new paragraph has been added which clarifies that States may withdraw from the Federal standards enforcement program by providing the Secretary with at least 90 days notice.

Section 3282.302(c) now permits a three-year period during which a State may be conditionally approved. Section 283.103(b) of the proposed regulations limited the maximum conditional approval period to two years prior to their planned withdrawal.

Section 3282.307 now specifies that if a State plan is approved by the Secretary, the full amount of the monitoring inspection fee which is distributed to States for SAA activities shall be provided. The proposed regulations required that States, in addition to undertaking mandatory activities under the state plan, undertake a number of optional programs in order to receive the full amount of the monitoring inspection fee be distributed to States for SAA activities .This change has been made in response to comments received that the system in the proposed regulations did not provide adequate compensation for SAA mandatory activities. The Department continues to urge states to undertake as many of the optional programs listed in § 3282.303 as possible in order to provide fuller consumer protection and assurances of mobile home safety.

Section 3282.309 of these regulations specifies that whenever an SAA is to hold a hearing or presentation of views, it shall follow the requirements of Subpart D, except that a state may, in lieu of publishing a notice in the FEDERAL REGISTER, provide equivalent notice. The section also specifies that any final determination by an SAA may be appealed to the Secretary.

Subpart H—Primary Inspection Agencies. This subpart sets out procedures to be followed by private organizations and States which are accepted as primary inspection agencies and the requirements which they must meet to be so approved. This was originally proposed as subpart C of Part 283, and the system as it was proposed remains basically intact, though it has been streamlined and refined pursuant to the comments received.

The largest number of comments received on proposed subpart C concerned the proposal that there be three types of primary inspection agencies, Design Approval PIAs (DAPIAs), Plant Approval PIAs (PAPIAs), and Production Inspection PIAs (IPIAs). The comments recommended that the PAPIA be dropped and that its functions be split between the DAPIA and the IPIA. That has been done. DAPIAs shall evaluate mobile home designs and quality assurance manuals, and IPIAs shall evaluate mobile home manufacturing plants and provide ongoing inspections of the maufacturing process.

These regulations reflect many comments which were concerned with approvals of quality assurance manuals. Under these regulations, once a DAPIA has approved a quality assurance manual, that manual may be followed in any manufacturing plant. While the manual must take into account design considerations which must be reflected in the quality control program, the manual need not be separately approved for each plant in which it is to be used.

These regulations also clarify the type of inspection which the IPIA is to make in its ongoing inspections of the production process. The IPIA is to inspect to assure that the quality assurance manual is being followed by inspecting each mobile home at at least one stage of production. With respect to that part of the mobile home actually inspected, the IPIA is to determine whether the mobile home is being produced to approved design. Only to the extent that the design is not specific with respect to an aspect of the standards does the IPIA inspect to determine whether the mobile home conforms to the standards.

In response to concerns that manufacturers may have difficulty in obtaining complete IPIA services by the effective date of the standards, these regulations provide that a manufacturer may in certain circumstances obtain approval of the production process from a DAPIA which may issue a certification report for the plant. These regulations also provide that where an IPIA has determined that it cannot yet issue a certification report for a particular plant, the IPIA can provide complete inspections of each mobile home produced and issue a label for each mobile home so inspected.

Many comments suggested that the label required under this subpart be a metal label which is riveted to the mobile home rather than an adhesive backed foil label. These regulations adopt that suggestion.

A concern throughout the comments and particularly with respect to this subpart was that the amount of paperwork required was excessive, and particularly that the number of copies of designs which were required to be sent to various parties was excessive. The Department has attempted to reduce the paperwork as much as possible. These regulations require that the DAPIA submit a copy of the approved design to the Secretary or the Secretary's agent and to the manufacturer. The manufacturer must maintain a copy of the working part of the design in each plant in which it is followed. The certification report issued by the IPIA no longer contains a set of approved designs, and it is provided only to the manufacturer and to the Secretary or the Secretary's agent.

Finally, some comments raised the question of whether the Department will be providing adequate protection to consumers by allowing mobile homes to be produced under the surveillance of DAPIAs and IPIAs which have only been provisionally accepted and which have not been monitored by the Department. In particular, States have recommended that they be allowed to reinspect or to require inspections only by PIAs which they have approved as conditions of entry into or sale in their state. The Department has investigated this question at great length to determine whether this concern is valid. The Department has determined that it is not. The Department has had 18 months of experience in mobile home design approvals and has carried out hundreds of mobile home production inspections. The Department has required full documentation from all PIAs which will be provisionally accepted and which have been active under the Title I mobile home loan insurance program. The Department is well satisfied with the performance of these PIAs at this point, and the Department will be monitoring their performance as the program begins. The Department believes that those PIAs which are granted provisional acceptance will provide protections to consumers at least as great as that now provided by PIAs acting under similar state inspection programs. The Department has, therefore, decided that the fact that a PIA has not been granted full acceptance cannot justify a state requiring more than the Federal program requires. Any attempt to do so is precluded by the Act and the Constitution, as reflected in § 3282.11.

As of this date, sixteen State agencies and fourteen private agencies have been approved under the Title I program to certify mobile homes for FHA insured loans. Because the inspection procedures are the same, these agencies will be provisionally approved to certify mobile homes under Title VI subject to extensive monitoring by HUD and its agent.

The process of approving these agencies has been comprehensive and thorough. It has extended over a period of two years beginning with a survey of

nine States from March 1974 to August 1974. During that survey, forty-one manufacturing plants were inspected and the performance of seven state inspection agencies and four major private inspection agencies was evaluated. Title I inspection procedures were developed from that survey by adopting the better procedures of the State and private agencies and combining them into one uniform procedure for Title I.

On August 5, 1974, Title I inspection procedures were issued, and all State and private agencies were invited to submit applications for acceptance as HUD approved inspection agencies. States which do not perform regular factory inspections could be approved under Title I if HUD approved private agencies performed those inspections and the state had qualified personnel to monitor the performance of the HUD approved private agencies.

The first States to be approved under Title I were those which only performed monitoring functions. Five were approved in the next three months. These approvals were based on the qualifications of the personnel that would perform the required monitoring. None were approved on first submission, but after receipt of additional information regarding the qualification of personnel these approvals were given in a relatively short time. Since they were not for factory inspections they have no bearing on provisional Title VI approvals.

Since that time, sixteen states and fourteen private agencies have been approved to perform design approval and factory inspection functions under Title I and therefore will be provisionally approved to perform those functions under Title VI. These approvals were more exhaustive than the approvals of monitoring agencies. Criteria for evaluating personnel were essentially the same as those adopted by the American Society for Testing and Materials in ASTM E541 which was published in September 1975. When ATSM E541 was published, HUD followed its provisions with the exception of the requirement for registration of professional engineers. HUD's more exacting requirement is the submission of a mobile home design and engineering calculation, which has been approved by the applicant and which HUD engineer's, who are registered professional engineers, examine in detail and resolve every deviation from HUD accepted engineering practice. This, in effect, is an engineering examination which establishes the capability of the applicant's engineers and results in a commitment by the applicant that it can and shall apply HUD accepted engineering practice in its approval of all mobile home designs. This requirement was difficult to meet, was never met in any original submission, and generally resulted in several months of resubmissions before it was met. In some instances, applicants were unable to meet it, but were able to show capability and commitment to performing the required factory inspections. Those applicants were approved to perform factory inspections, but were not approved to perform design evaluations.

HUD's approval of State and private inspection agencies is contingent upon continued acceptable performance of those agencies as evidenced by extensive monitoring of their performance. No amount of credentials guarantees acceptable performance. No matter what credentials an agency may possess, HUD shall revoke its approval of an agency that fails to perform adequately.

A considerable part of the monitoring will be performed by joint state teams under the administration of HUD or its agent. This will provide the States an opportunity to make a direct contribution to the evaluation of the performance of HUD approved inspection.

Subpart I—Consumer Complaint Handling and Remedial Action. This subpart establishes a system for handling consumer complaints and other information which may arise concerning problems in mobile homes for which remedies are available under the Act. Under the system, the complaint or information flows to the manufacturer or a State Administrative Agency or the Secretary for determination of the character of the problem and of any remedial action which must be taken. The subpart also sets out how the remedial action is to be taken and how the adequacy of the remedial action will be assured. This subpart replaces Subpart E of Part 282 of the proposed regulations and incorporates with significant alterations complaint handling responsibilities of SAAs which were set out in Subpart B of Part 283.

The subpart reflects significant changes from the proposed regulations primarily as a result of the comments received. The most prevalent point of the comments received concerning the complaint handling and remedial action aspect of the proposed regulations was that the proposed system was too complex and unworkable; this point was made partly because the system did not deal adequately with the relations among the various parties involved and partly because there were too many parties involved. A lengthy in-depth review of the proposed system, of the comments, and of other alternatives has resulted in the procedures now set out in Subpart I. It is our view that now the responsibilities of the parties involved are clear and the role of PIAs in this system has been reduced and simplified.

In response to many comments, the system, the core of which is set out in §§ 3282.405 through 3282.408, focuses initially on the mobile home manufacturer. Complaints or information are first sent to the manufacturer for investigation and response rather than being investigated first by SAAs or primary inspection agencies. The manufacturer has the primary responsibility for investigating mobile homes which may be affected; SAAs or the Secretary investigate only when the manufacturer fails to do so or where a manufacturer's conclusions are unacceptable. Primary inspections agencies are no longer required to investigate mobile homes which have been released by the manufacturer unless the manufacturer has them do so under the contract between the manufacturer and the PIA.

State Administrative Agencies have significant responsibilities under this subpart despite some comments which suggested that their responsibilities be reduced. Some commentors particularly expressed that SAAs not be given the responsibility for making determinations that mobile homes contain noncompliances, defects, serious defects, or imminent safety hazards. SAAs remain responsible for assuring that consumer complaints and information which they receive are correctly handled and for making determinations of the existence of defects or noncompliances if manufacturers fail to do so. They are also responsible for assuring that required remedial actions are carried out correctly. However, in the interest of assuring expedited handling of serious problems, SAAs do not make determinations of the existence of imminent safety hazards or serious defects, but refer these matters to the Secretary. Further, to assure more uniform decision making and exception, these regulations specify which SAA (or in certain cases the Secretary) is to handle complaints and make determinations. Basically, the SAA of the state where a mobile home is located is responsible for contacting the manufacturer of the home concerning a complaint and for handling the entire matter if there are no similarly affected mobile homes in other states. If there may be similarly affected mobile homes in other states, the SAA of the state in which they were manufactured will make any required determinations and supervise remedial actions, unless they were manufactured in more than one state, in which case the Secretary will do so. The Secretary will also act wherever there is no SAA in the appropriate state.

The presence of the SAAs in this system adds significantly to its complexity, and many industry comments recommended that their presence be reduced to simplify the system and so that the industry need look to only one decisionmaker, the Department. The Department has rejected these comments, including comments that the SAAs cannot be given the authority to make determinations of the existence of noncompliances or defects. Section 623 of the Act indicates that Congress intended the States to play a significant role in the enforcement of the Federal standards and in procedures for carrying out remedial actions. Furthermore, the states have much expertise in this area and can contribute significantly, and they are deeply concerned that they be able to participate in providing protection for their citizens. The Department believes that the system as developed is not too complex, that it involves the states to the greatest extent possible, and that it ultimately provides for uniformity in the system by retaining the final decision-making authority in the Secretary. The Department also be-

lieves that the involvement of the states is important because, as discussed below, it allows swift resolution of many problems which might otherwise have to flow through a longer decision making process.

Many comments were received relating to the authority or lack of authority of the Department to deal with certain types of problems in mobile homes. The industry comments argued that the Department has no authority to require notification with respect to noncompliances as now defined and that the Department has no authority to require remedial actions unless a significant number of problems arise. The Department has reviewed the authority presented and has concluded that both points are incorrect. That conclusion is reflected indirectly throughout this subpart. Other comments argued that the Department has the authority to require manufacturers to correct noncompliances and defects as well as imminent safety hazards and serious defects in mobile homes which have been sold. The Department has considered this question at length and has concluded that section 615(g) of the Act, the section which governs the point, does not authorize the Department to require corrections of noncompliances or defects. Apparently a misunderstanding of the Act resulted from the fact that State mobile home enforcement programs have contained such requirements. Further, as is reflected in section 3282.11 subpart A, under the mobile home standards enforcement system established by the Act and these regulations, no State may establish an enforcement system except through acting as an SAA, and no State may require correction of noncompliances or defects which are not required to be corrected under this program.

After a manufacturer or an SAA, as appropriate, has investigated and made a determination that an imminent safety hazard, serious defect, defect, or noncompliance exists, and after any hearings or presentations of views and appeals have been exhausted, the manufacturer carries out required remedial actions after obtaining approval from the appropriate SAA of a plan for carrying them out. Those remedial actions include formal notification to mobile home owners and others holding mobile homes and may include correction where the Act so provides. However, under these regulations, there are certain circumstances in which the manufacturer can act in lieu of the formal notification and correction requirements or correct problems in certain mobile homes without waiting to obtain formal approval of the remedial action plan.

Where an imminent safety hazard or failure to conform which is found to exist in one mobile home is found to be unique to that home, the manufacturer may repair the problem in that home and keep a record of the action. The handling of such a case permits avoidance of formal procedures which would otherwise be required. In any case, a manufacturer may not be required to meet formal notification and correction requirements if it corrects the mobile homes in question in a manner satisfactory to the Secretary within a prescribed period of time. In both of the above cases, the adequacy of the repair is subject to review by the Secretary or an SAA. Whenever a manufacturer has received a complaint or information concerning a particular mobile home, the manufacturer may repair that mobile home as approved by the SAA of the state where the home is located regardless of whether that SAA is the one which will approve any plan for correction. Such approval protects the manufacturer; the manufacturer would not have to correct again if the plan which was finally approved contained different specifications for the repair.

These informal action procedures or similar procedures were included in the proposed regulations. Some comments objected to allowing manufacturers to avoid formal requirements. The Department has rejected these comments on the ground that the providing of manufacturers with the ability to avoid formal notifications and other formalities will give manufacturers an incentive to provide corrections and act more expeditiously than they would under more formal procedures. The Department also believes that these informal procedures are beneficial to consumers because they encourage manufacturers to act more quickly with respect to complaints about mobile homes in which problems are known to exist. The manufacturers can obtain approval of corrections without going through the entire system. Finally, these informal procedures are also intended to reflect the fact that manufacturers may act under other authority, such as warranty provisions, and any actions thereunder which are acceptable should be allowed though they do not precisely meet the formal requirements of this program. Further, the Department will monitor the effectiveness of procedures and take such steps as are necessary to insure protection of consumers.

The Department recognizes that the system established by §§ 3282.403 through 3282.407 is complex, and that it must be studied at some length to be fully understood. The Department intends to take whatever actions may be required to explain the system as questions arise. However, the Department believes that the system is necessary to incorporate the SAAs into an effective, uniform national standards enforcement program, and the Department believes that it will function smoothly and in the best interest of both the consumer and the manufacturer.

As noted, primary inspection agencies do not play as dominant an investigatory role in this system as they would have in the system which was proposed. Under this system, the PIAs have two basic responsibilities. They are responsible for reviewing and concurring in or disputing determinations by manufacturers with respect to the number and identity of mobile homes that may be affected in particular cases, and they are responsible for assuring that any required notifications are sent to those indicated by the manufacturer's and the PIA's records. This change reflects comments which expressed concern about the role which had previously been proposed for PIAs.

A new § 3282.409 has been added that did not appear in the proposed regulations. As a result of the comments, there is now a provision for reimbursement of consumers who have already corrected problems by the time it is determined that the manufacturer is responsible for providing the correction under the Act or otherwise under these regulations. The addition of this section was necessary so that those who act to protect themselves or their mobile homes are not penalized by the action. Where the correction would have been required by the Act, the reimbursement must be in an amount equal to the reasonable cost to the consumer of making the correction, and where the correction would have been carried out under any of the informal procedures of these regulations, the reimbursement shall equal the reasonable cost to the manufacturer of making such a correction.

A § 3282.415 has been included setting out remedial actions to be taken with respect to mobile homes in the hands of dealers and distributors. This section reflects minor changes from that in the proposed regulations.

Other sections specify when the Act requires a manufacturer to provide notification, what the contents of a manufacturer's plan for remedial actions must include, and the time limits within which it must be carried out. Other sections specify reports which must be made upon completion of any remedial actions, when manufacturers must replace mobile homes or repurchase them from owners, a requirement that copies of certain notices and other communications be sent to the Secretary, and how the carrying out of remedial actions shall be supervised.

Subpart J—Monitoring of Primary Inspection Agencies. This subpart contains the procedures for the monitoring of PIAs. These procedures previously appeared in subpart F of Part 283 of the proposed regulations.

In general, the monitoring of approved PIAs shall be done by joint monitoring teams. Personnel for these teams shall come from SAAs and HUD or HUD's agent. Monitoring parties make recommendations such as continued acceptance, disqualification, and requalification of PIAs.

This section has remained essentially the same except for two significant changes. The level of monitoring has been modified to a level that the Department considers appropriate. Prior to June 15, 1976, each approved DAPIA shall have one of its approved designs reviewed. After June 15, 1976, ten per cent of all plans approved by each DAPIA shall be subject to review.

A monitoring inspection fee of $19.00 for each mobile home produced has been established. This fee is to be paid by the manufacturers for mobile homes produced in non-approved and conditionally

approved states. The proposed regulation did not specify fee amounts.

Subpart K—Departmental Oversight. This subpart provides for oversight by the Secretary over all actions carried out by all parties acting under these regulations, and specifically over the actions of State Administrative Agencies and of the Secretary's agent. This was set out in Subpart G of Part 283 of the proposed regulations. There has been no substantive change except the removal of former § 283.602 concerning enforcement bulletins. This section was removed because the matter is covered in § 3282.114 of Subpart D.

Subpart L—Reporting. This subpart describes the reports which shall be submitted by PIAs, manufacturers, and States. Reporting requirements in the proposed regulations were discussed in Subpart H of Part 283. The majority of the information is required for inclusion in the Department's Annual Report to the Congress. The Department has received many comments and suggestions and has had considerable internal discussion on the form and frequency of reports and data collection techniques. Major changes have been incorporated in this section.

Based on the many comments received, particularly from States, concerning the inability of States to adequately meet the originally proposed requirements, all reports on fires and accidents have been deleted. Many of the comments indicated that the originally proposed reporting requirements were either too extensive, would be too difficult for the states to handle, or that the data could not be readily collected in a timely and economical manner. The Department will collect the data that it needs by alternate methods.

Reporting on specific forms, as originally proposed, is no longer required. Instead, the Department is specifying only the information it needs.

The Department feels that the final reporting requirements are reasonable.

The Department has determined that these regulations do not constitute a major Federal action significantly affecting the quality of the human environment. A finding of inapplicability of environmental impact is available for inspection by the public during regular business hours in the office of the Rules Docket Clerk, Office of the Secretary, Room 10141, 451 Seventh Street, SW, Washington, D.C.

An amended Economic Impact Statement assessing the impact of the Federal Mobile Home Construction and Safety Standards and Enforcement program on the economy, the labor force, competition, and material and energy supplies was prepared and submitted to the Council on Wage and Price Stability.

This Statement is available for Inspection and copying according to the rules and regulations of the Department during regular business hours at the above address.

The Department finds that parties acting under these regulations will not be able to act in time for mobile homes to be produced under the standard as of June 15, 1976, the effective date of the standard, unless these regulations take effect on the date they are published. Therefore, these regulations take effect on May 13, 1976.

In consideration of the comments received and pursuant to the authority of the Secretary under section 625 of the National Mobile Home Construction and Safety Standards Act of 1974, 42 USC 5401, a new Chapter XX—of 24 CFR consisting of Part 3282 Mobile Home Procedural and Enforcement Regulations is hereby established as follows:

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3282.553 IPIA reports.
3282.554 SAA reports.

AUTHORITY: Sec. 625 of the National Mobile Home Construction and Safety Standards Act of 1974, Title VI of Pub. L. 93-383, 42 U.S.C. 5401, sec. 7(d) of the Department of HUD Act, 42 U.S.C. 3535(d).

Subpart A—General

§ 3282.1 Scope and purpose.

(a) The National Mobile Home Construction and Safety Standards Act of 1974 (Title VI of Pub. L. 93-383, 88 Stat. 700, 42 U.S.C. 5401, et seq.) (hereinafter referred to as the Act), requires the Secretary of the Department of Housing and Urban Development to establish Federal mobile home construction and safety standards and to issue regulations to carry out the purpose of the Act. The standards promulgated pursuant to the Act appear at Part 280 of Chapter II of this title, and apply to all mobile homes manufactured for sale to purchasers in the United States on or after the effective date of the standards (June 15, 1976). A mobile home is manufactured on or after June 15, 1976, if it enters the first stage of production on or after that date.

(b) The Secretary is also authorized by the Act to conduct inspections and investigations necessary to enforce the standards, to determine that a mobile home fails to comply with an applicable standard or contains a defect or an imminent safety hazard, and to direct the manufacturer to furnish notification thereof, and in some cases, to remedy the defect or imminent safety hazard. The purpose of this part is to prescribe procedures for the implementation of these responsibilities of the Secretary under the Act through the use of private and State inspection organizations and cooperation with State mobile home agencies. It is the policy of the Department to involve State agencies in the enforcement of the Federal mobile home standards to the maximum extent possible consistent with the capabilities of such agencies and the public interest.

§ 3282.2 Program implementation authority.

(a) The Secretary has delegated to the Assistant Secretary for Consumer Affairs and Regulatory Functions all of the authority to exercise the responsibilities of the Secretary under the Act except the power to sue and be sued.

(b) The Secretary has further authorized the Assistant Secretary to redelegate any of the delegated authority to employees of the Department.

§ 3282.3 Establishment of office.

There is established, as a unit subordinate to the Assistant Secretary for Consumer Affairs and Regulatory Functions, the Office of Mobile Home Standards.

§ 3282.4 Director.

The Office of Mobile Home Standards is headed by the Director, who shall be named by the Assistant Secretary for Consumer Affairs and Regulatory Functions.

§ 3282.5 Principal divisions.

The following Divisions have been established within the Office of Mobile Home Standards:

(a) Standards Coordination and Liaison Division.

(b) Enforcement and State Liaison Division.

(c) Investigation and Data Collection Division.

§ 3282.6 Separability of provisions.

If any clause, sentence, paragraph, section or other portion of Part 3282 shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined by its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 3282.7 Definitions.

The definitions in this subpart are those common to all subparts of the regulations.

(a) "Act" means the National Mobile Home Construction and Safety Standards Act of 1974, Title VI of the Housing and Community Development Act of 1974 (42 U.S.C. 5401 et seq.)

(b) "Add-on" means any structure (except a structure designed or produced as an integral part of a mobile home) which, when attached to the basic mobile home unit, increases the area, either living or storage, of the mobile home.

(c) "Alteration" means the replacement, addition, and modification, or removal of any equipment or installation after sale by a manufacturer to a dealer or distributor but prior to sale by a dealer to a purchaser which may affect the construction, fire safety, occupancy, plumbing, heat-producing or electrical system. It includes any modification made in the mobile home which may affect the compliance of the home with the standards, but it does not include the repair or replacement of a component or appliance requiring plug-in to an electrical receptacle where the replaced item is of the same configuration and rating as the one being replaced. It also does not include the addition of an appliance requiring "plug-in" to an electrical receptacle, which appliance was not provided with the mobile home by the manufacturer, if the rating of the appliance does not exceed the rating of the receptacle to which it is connected.

(d) "Certification label" see "label".

(e) "Certification Report" means the report prepared by an IPIA (see definition z) for each mobile home manufacturing plant under § 282.203 in which the IPIA provides a complete description of the initial comprehensive inspection of the plant, an evaluation of the quality assurance program under the approved quality assurance manual, and the identity of the DAPIA (see definition z) which approved the designs and quality assurance manual used in the plant. Where appropriate under § 3282.362(b)(5), the certification report may be made by a DAPIA.

(f) "Component" means any part, material or appliance which is built in as an integral part of the mobile home during the manufacturing process.

(g) "Cost Information" means information submitted by a manufacturer under section 607 of the Act with respect to alleged cost increases resulting from action by the Secretary, in such form as to permit the public and the Secretary to make an informed judgment on the validity of the manufacturer's statements. Such term includes both the manufacturer's cost and the cost to retail purchasers.

(h) "Date of Manufacture" means the date on which the label required by § 3282.205(c) is affixed to the mobile home.

(i) "Dealer" means any person engaged in the sale, leasing, or distribution of new mobile homes primarily to persons who in good faith purchase or lease a mobile home for purposes other than resale.

(j) "Defect" means a failure to comply with an applicable Federal mobile home safety and construction standard that renders the mobile home or any part or component thereof not fit for the ordinary use for which it was intended, but does not result in an unreasonable risk of injury or death to occupants of the affected mobile home. See related definitions of "imminent safety hazard" (definition q), "noncompliance" (definition x), and "serious defect" (definition ff).

(k) "Department" means the Department of Housing and Urban Development.

(l) "Design" means drawings, specifications, sketches and the related engineering calculations, tests and data in support of the configurations, structures and systems to be incorporated in mobile homes manufactured in a plant.

(m) "Director" means the Director of the Office of Mobile Home Standards.

(n) "Distributor" means any person engaged in the sale and distribution of mobile homes for resale.

(o) "Failure to Conform" means an imminent safety hazard related to the standards, a serious defect, defect, or noncompliance and is used as a substitute for all of those terms.

(p) "HUD" means the Department of Housing and Urban Development.

(q) "Imminent Safety Hazard" means a hazard that presents an imminent and unreasonable risk of death or severe personal injury that may or may not be related to failure to comply with an applicable Federal mobile home construction or safety standard. See related definitions of "defect" (definition j),

"noncompliance" (Definition X) and "serious defect" (Definition ff).

(r) "Joint Monitoring Team" means a monitoring inspection team composed of personnel provided by the various State Administrative Agencies, or by HUD or its contract agent, operating under a contract with HUD for the purpose of monitoring, or otherwise aiding in the enforcement of the Federal standards.

(s) "Label" or "certification label" means the approved form of certification by the manufacturer that, under § 3282.362(c)(2)(i), is permanently affixed to each transportable section of each mobile home manufactured for sale to a purchaser in the United States.

(t) "Manufacturer" means any person engaged in manufacturing or assembling mobile homes, including any person engaged in importing mobile homes for resale.

(u) "Mobile Home" means a structure, transportable in one or more sections, which when erected on site measures eight body feet or more in width and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein.

(v) "Mobile Home Construction" means all activities relating to the assembly and manufacture of a mobile home including but not limited to those relating to durability, quality, and safety.

(w) "Mobile Home Safety" means the performance of a mobile home in such a manner that the public is protected against any unreasonable risk of the occurrence of accidents due to the design or construction of such mobile home, or any unreasonable risk of death or injury to the user or to the public if such accidents do occur.

(x) "Noncompliance" means a failure of a mobile home to comply with a Federal mobile home construction or safety standard that does not constitute a defect, serious defect, or imminent safety hazard. See related definitions or "Defect" (defection j), "imminent safety hazard" (definition q), and "serious defect" (definition ff).

(y) "Owner" means any person purchasing a mobile home from any other person after the first purchase of the mobile home, in good faith, for purposes other than resale.

(z) "Primary Inspection Agency" (PIA) means a State/or private organization that has been accepted by the Secretary in accordance with the requirements of Subpart H of this Part. There are two types of PIA:

(1) Design Approval PIA (DAPIA), which evaluates and approves or disapproves mobile home designs and quality control procedures, and

(2) Production Inspection PIA (IPIA), which evaluates the ability of mobile home manufacturing plants to follow approved quality control procedures and provides ongoing surveillance of the manufacturing process. Organizations may act as one or both of these types.

(aa) "Purchaser" means the first person purchasing a mobile home in good faith for purposes other than resale.

(bb) "Quality Assurance Manual" means a manual, prepared by each manufacturer for its manufacturing plants and approved by a DAPIA which contains: a statement of the manufacturer's quality assurance program, a chart of the organization showing, by position, all personnel accountable for quality assurance, a list of tests and test equipment required, a station-by-station description of the manufacturing process, a list of inspections required at each station, and a list by title of personnel in the manufacturer's organization to be held responsible for each inspection. Where necessary, the quality assurance manual used in a particular plant shall contain information specific to that plant.

(cc) "To Red Tag" means to affix a notice to a mobile home which has been found to contain an imminent safety hazard or a failure to conform with any applicable standard. A "red tag" is the notice so affixed to the mobile home.

(dd) "Secretary" means the Secretary of Housing and Urban Development.

(ee) "Secretary's Agent" means a party operating as an independent contractor under a contract with HUD.

(ff) "Serious Defect" means any failure to comply with an applicable Federal mobile home construction and safety standard that renders the mobile home or any part thereof not fit for the ordinary use for which it was intended and which results in an unreasonable risk of injury or death to occupants of the affected mobile home.

(gg) "Standards" means the Federal mobile home construction and safety standards promulgated under section 604 of the Act, 42 U.S.C. 5403, as Part 280 of these regulations.

(hh) "State" includes each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Canal Zone, and American Samoa.

(ii) "State Administrative Agency" (SAA) means an agency of a State which has been approved or conditionally approved to carry out the State plan for enforcement of the standards pursuant to section 623 of the Act, 42 U.S.C. 5422, and Subpart G of this part.

(jj) "State Plan Application" means the application of any State organization which is submitted to the Secretary for approval as a State Administrative Agency under Subpart G.

(kk) "System" means a set or arrangement of materials or components related or connected as to form an operating entity, i.e., heating, ventilating and air-conditioning systems, evaporative coolers.

(ll) "Title I" means Title I of the National Housing Act, 12 U.S.C. 1701, which authorizes HUD to insure loans made for the purchase of mobile homes that are certified as meeting HUD requirements for dwelling quality and safety.

(mm) "United States District Courts" means the Federal district courts of the United States and the United States courts of the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Canal Zone, and American Samoa.

§ 3282.8 Applicability.

(a) States. This Part applies to States that desire to assume responsibility under the Federal mobile home construction and safety standards enforcement program. It includes requirements which must be met in order for State agencies to be approved by the Secretary under 623(c) of the Act, 42 U.S.C. 5422(c). It also includes requirements for States wishing to act as primary inspection agencies, as defined in § 3282.7, or to participate in monitoring activities under § 3282.308.

(b) Primary Inspection and Engineering Organizations. This Part applies to each private inspection and engineering organization that wishes to qualify as a primary inspection agency under Subpart H.

(c) Mobile Home Manufacturers. This Part applies to all manufacturers producing mobile homes for sale in the United States. It includes:

(1) Inspection procedures to be carried out in the manufacturing plants.

(2) Procedures by which a manufacturer obtains approval of mobile home designs.

(3) Procedures by which a manufacturer obtains approval of manufacturing quality control and assurance programs.

(4) Procedures by which a manufacturer may obtain production inspections and certification labels for its mobile homes.

(d) Mobile Home Dealers and Distributors. This Part applies to any person selling, leasing, or distributing new mobile homes for use in the United States. It includes prohibitions of the sale of new mobile homes to which labels have not been affixed pursuant to Subpart H of these regulations or that have been altered, damaged, or otherwise caused not to be in compliance with the Federal standards.

(e) Purchasers, owners and consumers. This Part applies to purchasers, owners and consumers of mobile homes in that it sets out procedures to be followed when purchasers, owners and consumers complain to manufacturers, States, the Secretary or others concerning problems in mobile homes for which remedies are provided under the Act.

(f) Recreational vehicles. Recreational vehicles do not fall within the definition of mobile homes and are not subject to these regulations. A recreational vehicle is a vehicle, regardless of size, which is not designed to be used as a permanent dwelling, and in which the plumbing, heating, air conditioning, and electrical system contained therein may be operated without connection to outside utilities and which are self propelled or towed by a light duty vehicle.

(g) Imported mobile homes. Imported mobile homes are covered by the regulations except as modified by regulations promulgated jointly by the Secretary and the Secretary of the Treasury.

(h) Export mobile homes. Mobile Homes intended solely for export are not governed by this Part or by Part 280 of this title if a label or tag stating that the mobile home is intended solely for export is placed on the mobile home or the outside of the container, if any, in which it is to be exported. However, any mobile home so tagged or labeled that is not exported but is sold to a purchaser in the United States is subject to this Part and Part 280 of this title.

(i) Add-on. An add-on added by the dealer or some other party not the manufacturer (except where the manufacturer acts as a dealer) as part of a simultaneous transaction involving the sale of a new mobile home, is not governed by the standards and is not subject to these regulations. However, the addition of the add-on must not affect the ability of the basic mobile home to comply with the standards. If the addition of an add-on causes the basic mobile home to fail to conform to the standards, sale, lease, and offer for sale or lease of the home is prohibited until the mobile home is brought into conformance with the standards. While the standards do not govern add-ons, the Secretary has the authority to promulgate standards for add-ons and may do so in the future.

(j) A structure (including an expandable room, tip-out, or tag-along unit) which is designed and produced as an integral part of a mobile home when assembled on site, is governed by the standards and these regulations regardless of the dimensions of such structure.

§ 3282.9 Computation of time.

In computing any period of time prescribed or allowed by these regulations, the day of the act or event from which the designated period of time begins to run, shall not be included in the computation. The last day of the period so computed shall be included unless it is a Saturday, Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday. When the period of time prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation. When the period of time prescribed or allowed is more than 7 days, intermediate Saturdays, Sundays, and legal holidays shall be included in the computation. As used in this section "legal holiday" includes New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Christmas Day, and any other day appointed as a holiday by the President or the Congress of the United States.

§ 3282.10 Civil and criminal penalties.

Failure to comply with these regulations may subject the party in question to the civil and criminal penalties provided for in section 611 of the Act, 42 U.S.C. 5410.

§ 3282.11 Preemption and reciprocity.

(a) No State mobile home standard regarding mobile home construction and safety which covers aspects of the mobile home governed by the Federal standards shall be established or continue in effect with respect to mobile homes subject to the Federal standards and these regulations unless it is identical to the Federal standards.

(b) No State may require, as a condition of entry into or sale in the State, that a mobile home which has been certified as in conformance with the Federal standards by the application of the label required by § 3282.362(c)(2)(i) be subjected to state inspection to determine compliance with any standard covering any aspect of the mobile home covered by the Federal standard, except that a State may inspect a home to determine compliance with the Federal standard or an identical State standard if a transition certification label has been affixed to the home under § 282.207. Nor may any State require that a State label certifying conformance to the Federal standard or an identical standard be placed on the mobile home, except that such a label may be required where a transition certification label has been affixed to the home under § 3282.207. Certain actions which States are permitted to take are set out in § 3282.303 of Subpart G of this Part.

(c) States may participate in the enforcement of the Federal standards enforcement program under these regulations either as SAAs or PIAs or both. These regulations establish the exclusive system for enforcement of the Federal standards. No State may establish or keep in effect, through a building code enforcement system or otherwise, procedures or requirements which constitute systems for enforcement of the Federal standards or of identical State standards which are outside the system established in these regulations or which go beyond this system to require remedial actions which are not required by the Act and these regulations. However, a State may establish or continue in force consumer protections, such as warranty requirements, which do not constitute systems of enforcement of the Federal standards regardless of whether the State qualifies as an SAA or PIA.

(d) Except where a State is inspecting or providing a State label for a mobile home to which a transition certification label has been applied under § 3283.207, and except where a State is providing one of the services mentioned in § 3283.203, and except where a State is acting as a PIA, no State may charge a fee for any services provided under these regulations. Further, no State may charge a fee which is designed simply to replace revenues lost when this program replaces the State program or a fee which burdens interstate commerce, or a fee which, in itself or as it is administered, constitutes a system of enforcement of the Federal standards or of an identical State standard.

Subpart B—Formal Procedures

§ 3282.51 Scope.

This subpart contains rules of procedure generally applicable to the transaction of official business under the National Mobile Home Construction and Safety Standards Act of 1974, including the rules governing public availability of information.

§ 3282.52 Address of communications.

Unless otherwise specified, communications shall be addressed to the Director, Office of Mobile Home Standards, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

§ 3282.53 Service of process on foreign manufacturers and importers.

(a) Designation of agent for service. Any manufacturerer, before offering a mobile home for importation into the United States, shall designate an agent upon whom service of all processes, notices, orders, decisions, and requirements may be made for and on behalf of such manufacturers as provided in section 612(e) of the Act and in this section. The agent may be an individual, a firm, or a domestic corporation. Changes in the designation of agents shall be made in accordance with the provisions of § 3282.53(b).

(b) Form and contents of designation of agent. The designation shall be in writing, dated, and signed by the manufacturer and the designated agent. The designation shall be made in legal form required to make it valid and binding on the manufacturer under the laws, corporate by-laws, or other requirements governing the making of the designation by the manufacturer at the place and time where it is made and the person or persons signing the designation shall certify that it is so made. The designation shall disclose the full legal name, principal place of business, and mailing address of both the manufacturer and the designated agent.

(c) Method of service. Service of any process, notice, order, requirements, or decision specified in section 612(e) of the Act may be made by registered or certified mail addressed to the agent with return receipt requested, or in any other manner authorized by law. If service cannot be effected on the designated agent for any reason, service may be made to the Secretary by registered or certified mail.

§ 3282.54 Public information.

(a) General. Subject to the provisions of 24 CFR Part 15 covering the production or disclosure of material or information and the provisions of 24 CFR Part 16 at 40 FR 39729 relating to the Privacy Act, and except as otherwise provided by paragraphs (b), (c), (d), and (e) of this section, the Secretary may make available to the public:

(1) Any information which may indicate the existence of an imminent safety hazard, and

(2) Any information which may indicate the failure of a mobile home to comply with applicable mobile home construction and safety standards, and

(3) Such other information as the Secretary determines is necessary to

carry out the Secretary's functions under the Act.

(b) Protected information. Data and information submitted or otherwise provided to the Secretary or an agent of the Secretary or a PIA or SAA which fall within the definitions of a trade secret or confidential commercial or financial information are exempt from disclosure under this section, only if the party submitting or providing the information so requests under paragraph (c) of this section. However, the Secretary may disclose such information to any person requesting it after deletion of the portions which are exempt, or in such combined or summary form as does not disclose the portions which are exempt from disclosure or in its entirety in accordance with section 614 of the Act, U.S.C. 5413.

(c) Obtaining exemption. Any party submitting any information to the Secretary in any form under this Part, or otherwise in relation to the program established by the Act shall, if the party desires the information to be exempt from disclosure, at the time of submittal of the information or at any time thereafter, request that the information or any part thereof be protected from disclosure. The request for nondisclosure shall include the basis for the request under the Act or other authority and complete justification supporting the claim that the material should be exempt from disclosure. The request should also include a statement of the information in such combined or summary form that alleged trade secrets or other protected information and the identity of the submitting party would not be disclosed. This request need not be made with respect to information which was submitted to the Secretary, an SAA or a PIA prior to the effective date of these regulations.

(d) Information submitted in opposition to action of the Secretary under section 607(a) of the Act, 42 U.S.C. 5406(a). Notice of the availability of any information submitted under section 607 of the Act shall be published in the FEDERAL REGISTER promptly after its receipt and after any determination by the Secretary regarding a manufacturer's request for exemption from disclosure under that section.

(e) Request for information from PIAs or SAAs. Whenever a PIA or SAA receives requests for disclosure of information, it shall disclose the information unless the party from which the information was originally obtained has submitted to the PIA or SAA a request that the information not be disclosed under paragraph (c) of this section, except that the PIA or SAA shall be governed by the provisions of 24 CFR, Part 16 (40 FR 39729) relating to the Privacy Act which may limit the disclosure of information. If a request for nondisclosure under paragraph (c) has been received with respect to information whose disclosure is requested, the PIA or SAA shall refer the matter to the Secretary within 5 days of the request for disclosure. If a PIA or SAA receives a request for disclosure of information related to this program, which information was submitted to the PIA or SAA prior to the effective date of these regulations, the PIA or SAA shall refer the request for nondisclosure and required information to the Secretary.

Subpart C—Rules and Rulemaking Procedures

§ 3282.101 Scope and purpose.

This subpart prescribes procedures that apply to the formulation, issuance, amendment and revocation of rules pursuant to the National Mobile Home Construction and Safety Standards Act of 1974. Rulemaking under the Act is also subject to the provisions of 24 CFR Part 10.

§ 3282.102 Regulatory docket.

Information and data deemed relevant by the Secretary relating to rulemaking actions, including notices of proposed rulemaking, comments received in response to notices, petitions for rulemaking and reconsideration, denials of petitions for rulemaking and reconsideration, and final rules are maintained by the Rules Docket Clerk, Office of the Secretary, Room 10141, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. All communications with respect to rulemaking shall be sent to the Rules Docket Clerk at the above address.

§ 3282.103 Initiation of rulemaking.

(a) The issuance, amendment or repeal of any rule may be proposed upon the initiative of the Secretary or upon the petition of any interested person showing reasonable grounds therefor.

(b) Petitions for rulemaking by interested persons.—(1) Each petition filed under this subsection:

(i) Shall set forth the text or substance of the rule or amendment proposed, or specify the rule that the petitioner seeks to have repealed, as the case may be;

(ii) Shall explain the interest of the petitioner in the action requested;

(iii) Shall contain any information and arguments available to the petitioner to support the action sought; and

(iv) Should be identified as a petition for rulemaking submitted under this subpart.

(2) The Secretary shall respond to a petition submitted under this section within 180 days of receipt thereof by granting or denying the petition or scheduling a public hearing or other appropriate proceeding, except that this time limit may be exceeded where necessary to assure full resolution of the issues involved on the basis of adequate information. Unless the Secretary otherwise specifies, no public hearing, argument or other proceedings shall be held on a petition before its disposition under this subsection. If the Secretary determines that the petition contains adequate justification, the Secretary shall initiate rulemaking action under this subpart. If the Secretary determines that the petition does not justify rulemaking, the Secretary shall deny the petition and notify the petitioner.

§ 3282.104 Advance notice of proposed rulemaking.

An Advance Notice of Proposed Rulemaking is a notice in which the Secretary indicates that consideration is being given to proposing a rule and through which the public is given an early opportunity to participate in decisions as to whether a rule change is necessary and what the content of the new rule should be. The Advance Notice is published in the FEDERAL REGISTER and it explains the possible need for rulemaking and the issues which may be involved. Where possible, it includes specific questions to which the Secretary needs answers in order to develop a proposed rule under § 3282.105. The Secretary will use the Advance Notice whenever, in the judgment of the Secretary, it is appropriate and practicable in developing rules under this subpart.

§ 3282.105 Notice of proposed rulemaking.

(a) A notice of proposed rulemaking shall be issued and interested persons invited to participate in the process of formulation of rules under applicable provisions of the Act, unless the Secretary, for good cause, finds that notice is impractical, unnecessary or contrary to the public interest, and incorporates that finding and a brief statement of the reasons therefor in the rule.

(b) Each notice of proposed rulemaking shall be published in the FEDERAL REGISTER, and shall include:

(1) A statement of the nature of the proposed rulemaking;

(2) A reference to the authority under which it is issued;

(3) A description of the subjects and issues involved or the substance and terms of the proposed rule;

(4) A statement of the time within which written comments must be submitted;

(5) A statement of the time and place of the public rulemaking proceedings, if any.

§ 3282.106 Participation by interested persons.

Any interested person may participate in the process of formulating, amending or repealing a rule by submitting comments in writing containing information, views or arguments.

§ 3282.107 Contents of written comments.

Comments should be clearly organized so that the Secretary can determine which points made in the comment relate to which aspects of the proposed rule or Advanced Notice. They should include documentation of all factual assertions. It is requested, but not required, that 10 copies be submitted. Incorporation of material by reference should be avoided. However, if such incorporation is necessary, the incorporated material should be identified with respect to document and page.

§ 3282.108 Consideration of comments received.

All timely comments shall be considered before final action is taken on a rulemaking proposal. Comments filed late may be considered as far as practicable.

§ 3282.109 Additional rulemaking proceedings.

The Secretary may initiate any further rulemaking proceedings that the Secretary finds necessary or desirable.

§ 3282.110 Effective date of standards.

Each order establishing, amending or revoking a Federal mobile home construction and safety standard shall specify the date such standard is to take effect, which shall not be sooner than 180 days or later than one year after the date such order is issued, unless the Secretary finds, for good cause shown, that an earlier or later effective date is in the public interest, and publishes the reasons for such finding.

§ 3282.111 Petitions for reconsideration of final rules.

(a) Definition. A petition for reconsideration of a final rule issued by the Secretary is a request in writing from any interested person which must be received not later than 60 days after publication of the rule in the FEDERAL REGISTER. The petition shall state that it is a petition for reconsideration of a final rule, and shall contain an explanation as to why compliance with the rule is not practicable, is unreasonable, or is not in the public interest. If the petitioner requests the consideration of additional facts, the petitioner shall state the reason they were not presented to be treated as petitions for rulemaking.

(b) Proceedings on petitions for reconsideration. The Secretary may grant or deny, in whole or in part, any petition for reconsideration without further proceedings. The Secretary may issue a final decision on reconsideration without further proceeding, or may provide such opportunity to submit comments or information and data as the Secretary deems appropriate.

(c) Unless the Secretary determines otherwise, the filing of a petition under this section does not stay the effectiveness of the rule in question.

(d) Any party seeking to challenge any rule or regulation issued under the Act, except orders issued under section 604 42 U.S.C. 5403, if the challenge is brought before the expiration of the 60 day period set out in paragraph (a), shall file a timely petition for reconsideration under this section prior to seeking any other remedy.

§ 3282.112 Rulemaking on the basis of cost information submitted.

Whenever the Secretary proposes to establish, amend or revoke a standard on the basis of cost information submitted by a manufacturer in opposition to any action of the Secretary under section 604 42 U.S.C. 5403, or any other provision of the Act, the Secretary shall publish a notice of such proposed action and the reasons therefor in the Federal Register at least 30 days in advance of making a final determination in order to allow interested parties an opportunity to comment.

§ 3282.113 Interpretative bulletins.

When appropriate, the Secretary shall issue interpretative bulletins interpreting the standards under the authority of section 280.1(b) and (c) of this chapter or interpreting the provisions of this Part. Issuance of interpretative bulletins shall be treated as rulemaking under this subpart unless the Secretary deems such treatment not to be in the public interest and the interpretation is not required by 24 CFR Part 10 or any other applicable statutes or regulations to be treated as rulemaking. All interpretative bulletins shall be indexed and made available to the public at the Office of Mobile Home Standards and a copy of the index shall be published periodically in the FEDERAL REGISTER.

(2) Resolution of disputes where an SAA or manufacturer disagrees with a determination of a DAPIA under § 3282.361 that a mobile home design does or does not conform to the standards or that a quality assurance manual is or is not adequate.

Subpart D—Hearings, Presentations of Views, and Investigations

§ 3282.151 Applicability and scope.

(a) This subpart sets out procedures to be followed when an opportunity to present views provided for in the Act is requested by a party entitled to one under the Act. Those situations arise whenever the Secretary contemplates injunctive action under section 612(a) 42 USC 5410(a) of the Act, whenever the Secretary contemplatse making an administrative determination of imminent safety hazard, serious defect, defect, or noncompliance under section 615(e), 42 USC 5414(e) whenever there is a question as to who should bear the responsibility for correction under section 615 (g), 42 USC 5414(g) whenever the Secretary contemplates rejecting a State plan under section 623(d), 42 USC 5422 (d), and whenever the Secretary contemplates withdrawal of approval of a State plan under section 623(f), 42 USC 5422(f). Section 3282.152 provides for two types of procedures which may be followed in these cases, one informal and nonadversary, and one more formal and adversary. It also sets out criteria to govern which type of procedure will be followed in particular cases.

(b) The procedures of § 3282.152 also apply to:

(1) Proceedings held by the Secretary whenever the suspension or disqualification of a primary inspection agency, which has been granted final approval, is recommended under section 3282.356 of these regulations, and

(2) Resolution of disputes where an SAA or manufacturer disagrees with a determination of a DAPIA under section 3282.361 that a mobile home design does or does not conform to the standards or that a quality assurance manual is or is not adequate with a decision by an IPIA to red tag or not to red tag or to provide or not to provide a certification label for a mobile home under section 3282.362 when the IPIA believes that the mobile home does or does not conform to the standards.

(c) This subpart also sets out procedures which the Secretary may follow in holding hearings and carrying out inspections and investigations authorized by section 614(c) of the Act, 42 U.S.C. 5413(c), or otherwise. Generally, the provisions of § 3282.153 apply to these proceedings, though the procedures set out in § 3282.152 may also be followed, as may other procedures which the Secretary deems appropriate.

(d) The procedures set out in § 3282.152 shall also be followed whenever State Administrative Agencies hold hearings or presentations of views under § 3282.309.

(e) To the extent that these regulations provide for hearings or presentations of views for parties which would otherwise qualify for hearings under 24 CFR Part 24, the procedures of 24 CFR Part 24 shall not be available and shall not apply.

§ 3282.152 Procedures for hearings and for the presentation of views.

(a) Policy. All Hearings and Presentations of Views under this subpart shall be public, unless, for good cause, the Secretary determines it is in the public interest that the proceedings should be closed. If the Secretary determines that a proceeding should be closed, the Secretary shall state and make publicly available the basis for that determination.

(b) Request. Upon receipt of a request for a Hearing or Presentation of Views under this subpart, the Secretary shall either grant the relief for which the Hearing or Presentation of Views is requested or shall issue a notice under paragraph (c) of this section.

(c) Notice. When the Secretary decides to conduct a Hearing or Presentation of Views under this section, the Secretary shall provide notice as follows:

(1) Except where the need for swift resolution of the question involved prohibits it, notice of a proceeding hereunder shall be published in the Federal Register at least 10 days prior to the date of the proceeding. In any case, notice shall be provided to interested persons to the maximum extent practicable. Direct notice shall be sent by certified mail to the parties involved in the hearing.

(2) The notice, whether published or mailed, shall include a statement of the time, place and nature of the proceeding; reference to the authority under which the proceeding will be held; a statement of the subject matter of the proceeding, the parties and issues involved; and a statement of the manner in which interested persons shall be afforded the opportunity to participate in the hearing.

(3) The notice shall designate the official who shall be the presiding officer for the proceedings and to whom all inquiries should be directed concerning such proceedings.

(4) The notice shall state whether the proceeding shall be held in accordance with the provisions of paragraph (f)—(Presentation of Views) or paragraph (g)—(Hearings) of this section, except that when the Secretary makes the determinations provided for in sections

623(d) and 624(f) of the Act, the requirements of paragraph (g) of this section shall apply. In determining whether the requirements of paragraph (f) or (g) of this section shall apply the Secretary shall consider the following: (i) The necessity for expeditious action; (ii) the risk of injury to affected members of the public; (iii) the economic consequences of the decisions to be rendered; and (iv) such other factors as the Secretary deems appropriate.

(d) Department Representative. If the Department is to be represented by Counsel, such representation shall be by a Department hearing attorney designated by the General Counsel.

(e) Reporting and transcription. Oral proceedings shall be stenographically or mechanically reported and transcribed under the supervision of the presiding officer, unless the presiding officer and the parties otherwise agree, in which case a summary approved by the presiding officer shall be kept. The original transcript or summary shall be a part of the record and the sole official transcript, or summary. A copy of the transcript or summary shall be available to any person at a fee established by the Secretary, which fee the Secretary may waive in the public interest. Any information contained in the transcript or summary which would be exempt from required disclosure under Section 3282.-54 of these regulations may be protected from disclosure if appropriate under that section upon a request for such protection under section 3282.54(c).

(f) *Presentation of Views.* (1) A Presentation of Views may be written or oral, and may include an opportunity for an oral presentation, whether requested or not, whenever the Secretary concludes that an oral presentation would be in the public interest, and so states in the notice. A presiding officer shall preside over all oral presentations held under this subsection. The purpose of such presentations shall be to gather information to allow fully informed decision making. Presentations of Views shall not be adversary proceedings. Oral presentations shall be conducted in an informal but orderly manner. The presiding officer shall have the duty and authority to conduct a fair proceeding, to take all necessary action to avoid delay, and to maintain order. In the absence of extraordinary circumstances, the presiding officer at an oral Presentation of Views shall not require that testimony be given under oath or affirmation, and shall not permit either cross-examination of witnesses by other witnesses or their representatives, or the presentation of rebuttal testimony by persons who have already testified. The rules of evidence prevailing in courts of law or equity shall not control the conduct of oral presentations of views.

(2) Within 10 days after a Presentation of Views, the presiding officer shall refer to the Secretary all documentary evidence submitted, the transcript, if any, a summary of the issues involved and information presented in the Presentation of Views and the presiding official's recommendations with the rationale therefor. The presiding officer shall make any appropriate statements concerning the apparent veracity of witnesses or the validity of factual assertions which may be within the competence of the presiding officer. The Secretary shall issue a Final Determination concerning the matters at issue within 30 days of receipt of the presiding officer's summary. The Final Determination shall include: (i) a statement of findings, with specific references to principal supporting items of evidence in the record and conclusions, as well as the reasons or bases therefor, upon all of the material issues of fact, law, or discretion as presented on the record, and (ii) an appropriate order. Notice of the Final Determination shall be given in writing and transmitted by certified mail, return receipt requested, to all participants in the presentation of views. The Final Determination shall be conclusive, with respect to persons whose interests were represented.

(g) *Hearings.* (1) A Hearing is an adversary proceeding and includes an opportunity for the oral presentation of evidence. All witnesses shall testify under oath or affirmation which shall be administered by the presiding officer. Participants shall have the right to present such oral or documentary evidence and to conduct such cross-examination as the presiding officer determines is required for a full and true disclosure of the facts. The presiding officer shall receive relevant and material evidence, rule upon offers of proof and exclude all irrelevant, immaterial or unduly repetitious evidence. However, the technicalities of the rules of evidence prevailing in courts of law or equity shall not control the conduct of a hearing. The presiding officer shall take all necessary action to regulate the course of the Hearing to avoid delay and to maintain order. The presiding officer may exclude the attorney or witness from further participation in the particular Hearing and may render a decision adverse to the interests of the excluded party in his absence.

(2) Decision. The presiding officer shall make and file an initial written decision on the matter in question. The decision shall be filed within 10 days after completion of the hearing. The decision shall include: (i) A statement of findings of fact, with specific references to principal supporting items of evidence in the record and conclusions, as well as the reasons or bases therefor, upon all of the material issues of law or discretion presented on the record, and (ii) an appropriate order. The presiding officer's decision shall be final and shall constitute the Final Determination of the Secretary unless reversed or modified within 30 days by the Secretary. Notice of the Final Determination shall be given in writing, and transmitted by registered or certified mail, return receipt requested, to all participants in the proceeding. The Final Determination shall be conclusive with respect to persons whose interests were represented.

§ 3282.153 Public participation in hearings or presentation of views.

(a) Any interested persons may participate in writing, in any Hearings or Presentation of Views held under the provisions of paragraphs (f) or (g) of § 3282.152. The presiding officer shall consider to the extent practicable any such written materials.

(b) Any interested person may participate in the oral portion of any Hearing or Presentation of Views held under paragraphs (f) and (g) of § 3282.152 unless the presiding officer determines that such participation should be limited or barred so as not to unduly prejudice the rights of the parties directly involved or unnecessarily delay the proceedings.

§ 3282.154 Petitions for hearings or presentations of views, and requests for extraordinary interim relief.

Any person entitled to a Hearing or Presentation of Views under subsection (f) or subsection (g) of § 3282.152 to address issues as provided for in subsection (a) of § 3282.151 may petition the Secretary to initiate such Hearing or Presentation of Views. The petition may be accompanied by a request that the Secretary provide such interim relief as may be appropriate pending the issuance of a Final Determination or Decision. No interim relief will be granted absent extraordinary cause shown. Upon receipt of a petition, the Secretary shall grant the petition and issue the notice provided for in paragraph (b) of § 3282.152 for Hearing or Presentation of Views, and grant, deny or defer decision of any request for interim relief.

§ 3282.155 Investigations.

(a) In connection with a formal investigation or inquiry involving an alleged or suspected violation or threatened violation of the Act or rules and regulations, the Secretary may permit any person to file with the Secretary a signed statement setting forth facts and circumstances known to such person and relevant to the investigation or inquiry.

(b) Subpoenas in investigations. The Secretary may issue subpoenas relating to any matter under investigation for any or all of the following reasons:

(1) Requiring testimony to be taken by interrogatories or depositions.

(2) Requiring the attendance and testimony of witnesses at a specific time and place.

(3) Requiring access to, examination of, and the right to copy documents, books, records, and papers.

(4) Requiring the production of documents, books, records, and papers at a specific time and place.

(c) Investigational hearings. For the purpose of taking the testimony of witnesses and receiving documents and other data relating to any subject under investigation, hearings may be conducted by the Secretary in the course of any investigation. These hearings shall be stenographically or mechanically reported. Testimony of witnesses shall be under oath or affirmation. Unless the

Secretary determines otherwise for good cause, these hearings shall be public.

(d) *Rights of witnesses in investigations.* (1) Any person compelled to testify or to submit data in connection with any investigation shall be entitled, on payment of lawfully prescribed costs, to purchase a copy of any data submitted by him and of his own testimony as stenographically or mechanically reported, except that in a nonpublic proceeding the witness may for good cause be limited to inspection of the official transcript of his testimony.

(2) Any witness summoned under section 614(c)(1) of the Act shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

(3) Any witness compelled to appear in person in an investigative hearing may be accompanied, represented, and advised by counsel as follows:

(i) Counsel for a witness may advise his client, in confidence, and upon initiative of either himself or the witness, with respect to any question asked of his client; and, if the witness refuses to answer a question, the counsel may briefly state on the record if he has advised his client not to answer the question and the legal grounds for such refusal.

(ii) Where it is claimed that the testimony or other evidence sought from a witness is outside the scope of the investigation, or it is claimed that the witness is privileged to refuse to answer a question or to produce other evidence, counsel for the witness may object on the record to the question or requirement and may briefly and precisely state the grounds therefor.

(iii) Objections interposed under the rules in this subpart will be continuing objections throughout the course of the proceedings, and repetitious or cumulative statement of an objection or of the grounds therefor, in such cases, is unnecessary.

(iv) Motions challenging the authority of the Secretary to conduct the investigation or the sufficiency or legality of the subpena must be addressed to the Secretary in advance of the proceeding. Copies of such motions may be filed with the presiding official at the proceeding as part of the record of the investigation, and argument in support thereof may be allowed if it will not unduly delay the proceeding.

(v) Upon completion of the examination of a witness, counsel for the witness may request that the presiding official permit the witness to clarify any of his answers on the record in order that specified points of ambiguity, equivocation, or incompleteness may be corrected. The granting or denial of such request in whole or in part, shall be within the sole discretion of the presiding official. However, the reasons for any denial of a request shall be given by the presiding official and shall be included in the record of the proceedings.

(vi) The presiding officer shall take all necessary action to regulate the course of the proceeding to avoid delay and to maintain order. If necessary to maintain order, the presiding officer may exclude the attorney or witness from further participation in the particular investigation and may render a decision adverse to the interests of the excluded party in that party's absence.

(e) In the case of contumacy of the witness or the witness's refusal to obey a subpoena or order of the Secretary, the United States district court for the jurisdiction in which an inquiry is carried on may issue an order requiring compliance therewith; and any failure to obey the court may be punished by such court as a contempt thereof.

§ 3282.156 Petitions for investigations.

(a) Any person may petition the Secretary in writing to open an investigation into whether noncompliances, defects, serious defects, or imminent safety hazards exist in mobile homes. A petition shall include the reasons that the petitioner believes warrant an investigation, and it shall state any steps which have previously been taken to remedy the situation. The petition shall include all information known to the petitioner concerning the identity of mobile homes which may be affected and where those mobile homes were manufactured. The Secretary shall respond to petitions concerning alleged imminent safety hazards and serious defects within 60 days and to petitions alleging the existence of defects or noncompliances within 120 days.

(b) Any person may petition the Secretary in writing to undertake an investigation for the purpose of determining whether a primary inspection agency should be disqualified. The petition shall set out all facts and information on which the petition is based and a detailed statement of why such information justifies disqualification. The Secretary shall consider such petitions when making determinations on final acceptance and continued acceptance. The Secretary shall respond to such petition within 120 days.

Subpart E—Manufacturer Inspection and Certification Requirements

§ 3282.201 Scope and purpose.

(a) This subpart sets out requirements which must be met by manufacturers of mobile homes for sale to purchasers in the United States with respect to certification of mobile home designs, inspection of designs, quality assurance programs, and mobile home production, and certification of mobile homes. Other than references and a general description of responsibilities, this subpart does not set out requirements with respect to remedial actions or reports which must be taken or filed under the Act and these regulations.

(b) The purpose of this subpart is to require manufacturers to participate in a system of design approvals and inspections which serve to assist them in assuring that mobile homes which they manufacture will conform to Federal standards. Such approvals and inspections provide significant protection to the public by decreasing the number of mobile homes with possible defects in them, and provide protection to manufacturers by reducing the number of instances in which costly remedial actions must be undertaken after mobile homes are sold.

§ 3282.202 Primary inspection agency contracts.

Each manufacturer shall enter into a contract or other agreement with as many Design Inspection Primary Inspection Agencies (DAPIAs) as it wishes and with enough Production Inspection Primary Inspection Agencies (IPIAs) to provide IPIA services for each manufacturing plant as set out in this subpart and in subpart H of this Part. In return for the services provided by the DAPIAs and IPIAs, each manufacturer shall pay such reasonable fees as are agreed upon between the manufacturer and the primary inspection agency or, in the case of a State acting as an exclusive IPIA under § 3282.3 such fees as may be established by the State.

§ 3282.203 DAPIA services.

(a) Each manufacturer shall have each mobile home design and each quality assurance manual which it intends to follow approved by a DAPIA under § 3282.361. The manufacturer is free to choose which DAPIA will evaluate and approve its designs and quality assurance materials manufacturer may obtain design and quality assurance manual approval from a single DAPIA regardless of the number of plants in which the design and quality assurance manual will be followed. A manufacturer may also obtain approval for the same design and quality assurance manual from more than one DAPIA. The choice of which DAPIA or DAPIAs to employ is left to the manufacturer.

(b) The manufacturer shall submit to the DAPIA such information as the DAPIA may require in order to carry out design approvals. This information shall, except where the manufacturer demonstrates to the DAPIA that it is not necessary, include the following:

(1) Construction drawings and/or specifications showing structural details and layouts of frames, floors, walls and roofs, and chassis; material specifications, framing details, door locations, etc., for each floor plan proposed to be manufactured,

(2) Structural analysis and calculations, test data and/or other accepted engineering practices used by the manufacturer to validate the design,

(3) Complete heat loss calculations for each significant variation of home design,

(4) Floor plans showing room arrangement and sizes, window sizes, emergency exists and locations, locations of smoke detectors, fixed applicance range hoods, and other standards related aspects of the mobile home that can be shown on the floor plans,

(5) Diagrams of the fuel supply system, potable water system and drain, waste and vent systems. The diagrams shall specify the types of materials used,

types of fittings and methods of installing required safety equipment,

(6) Wiring diagrams, including circuit allocation of electrical load and branch circuit calculations, a table of the branch circuit protection provided, the type of wiring used, and wiring methods,

(7) Details showing the design of air supply and return systems,

(8) Details of chassis construction, components, connections and running gear including rating capacities of tires,

(9) A list of fixed and portable appliances furnished with the mobile home, including type of appliance, rating of appliance, and applicable minimum and maximum performance ratings and/or energy requirements,

(10) Detailed manufacturer installation instructions including specifications and procedures for the erection and hook-up of the home at its permanent location, and

(11) Reports of all tests that were run to validate the conformance of the design to the standards.

(c) The manufacturer shall submit to the DAPIA such information as the DAPIA may require in order to carry out quality assurance manual approvals. At a minimum, this information shall include the quality assurance manual for which approval is sought. That manual shall include the manufacturer's quality assurance program, an organizational chart showing the accountability, by position, of the manufacturer's quality control personnel, a description of production tests and test equipment required for compliance with the standards, a station-by-station description of the manufacturing process, a list of quality control inspections required by the manufacturer at each station, and identification by title of each person who will be held accountable for each quality control inspection.

(d) Manufacturers may be required to furnish supplementary information to the DAPIA if the design information or the quality assurance manual is not complete or if any information is not in accordance with accepted engineering practice.

(e) When a manufacturer wishes to make a change in an approved design or quality assurance manual, the manufacturer shall obtain the approval of the DAPIA which approved the design or manual prior to production for sale. The procedures for obtaining such approval are set out in § 3282.361.

(f) The information to be submitted to a DAPIA under § 282.203 (b) and (c) may be prepared by the manufacturer's staff or outside consultants, including other DAPIAs. However, a DAPIA may not perform design or quality assurance manual approvals for any manufacturer whose design or manual has been created or prepared in whole or in part by members of the DAPIA's organization or of any affiliated organization.

(g) Each manufacturer shall maintain a copy of the drawings, specifications, and sketches from each approved design received from a DAPIA under § 3282.361(b)(4) in each plant in which mobile homes are being produced to the design. Each manufacturer shall also maintain in each manufacturing plant a copy of the approved quality assurance manual received from a DAPIA under § 3282.361(c)(3) that is being followed in the plant. These materials shall be kept current and shall be readily accessible for use by the Secretary or other parties acting under these regulations.

§ 3282.204 IPIA services.

(a) Each manufacturer shall obtain the services of an IPIA as set out in § 3282.362 for each manufacturing plant operated by the manufacturer.

(b) The manufacturer shall make available to the IPIA operating in each of its plants a copy of the drawings and specifications from the DAPIA approved design and the quality assurance manual for that plant, and the IPIA shall perform an initial factory inspection as set out in § 3282.362(b). If the IPIA issues a deviation report after the initial factory inspection, the manufacturer shall make any corrections or adjustments which are necessary to conform with the DAPIA approved designs and manuals. After the corrections required by the deviation report are completed to the satisfaction of the IPIA, the IPIA shall issue the certification report as described in § 3282.362(b)(2). In certain instances a DAPIA may provide the certification report. (See § 3282.362) The manufacturer shall maintain a current copy of each certification report in the plant to which the certification report relates.

(c) After the certification report has been signed by the IPIA, the manufacturer shall obtain labels from the IPIA and shall affix them to completed mobile homes as set out in § 3282.362(c)(2). During the initial factory certification, the IPIA may apply labels to mobile homes which it knows to be in compliance with the standards if it is performing complete inspections of all phases of production of each mobile home and the manufacturer authorizes it to apply labels.

(d) During the course of production the manufacturer shall maintain a complete set of approved drawings, specifications, and approved design changes for the use of the IPIA's inspector and always available to that inspector when in the manufacturing plant.

(e) If, during the course of production, an IPIA finds that a failure to conform to a standard exists in a mobile home in production, the manufacturer shall correct the failure to confirm in any mobile homes still in the factory and held by distributors or dealers and shall carry out remedial actions under § 3282.404 and § 3282.405 with respect to any other mobile homes which may contain the same failure to conform.

§ 3282.205 Certification requirements.

(a) Every manufacturer shall make a record of the serial number of the first mobile homes in the sequence of production of the assembly line on June 15, 1976 and a duly authorized representative of the manufacturer shall certify that the first mobile home and all subsequent mobile homes in the sequence of production manufactured on or after June 15, 1976, have been constructed in accordance with the Federal standards. The manufacturer shall furnish a copy of that certification to the IPIA for the purpose of determining which mobile homes are subject to the notification and correction requirements of subpart I of these regulations. If the manufacturer does not have the services of an IPIA and is using transition certification labels under § 3282.207, it shall keep a certified record of mobile homes produced on or after June 15, 1976, and furnish that record to the IPIA that performs the first plant approval or the Secretary if the manufacturer discontinues production at the expiration of the transition period.

(b) Every manufacturer of mobile homes shall certify on the data plate as set out in § 3280.5 of Chapter II of 24 CFR and § 3282.362(c)(3) that the mobile home is designed to comply with the Federal mobile home construction and safety standards in force at the time of manufacture in addition to providing other information required to be completed on the data plate.

(c) Every manufacturer of mobile homes shall furnish to the dealer or distributor of each such mobile home produced by such manufacturer a certification that such mobile home, to the best of the manufacturer's knowledge and belief, conforms to all applicable Federal construction and safety standards. Such certification shall be in the form of the label provided by the IPIA under § 3282.362(c)(2), except when the manufacturer provides the label under § 3282.207. Such labels shall be affixed only at the end of the last stage of production of the mobile home.

(d) The manufacturer shall apply the label only to a mobile home it knows by its inspections to be in compliance with the standards. The label described in § 3282.362(c)(2) or the self certification label described in § 3282.207 shall only be applied to mobile homes manufactured on or after June 15, 1976. Mobile homes manufactured in compliance with the Federal standards prior to June 15, 1976, shall bear the label described in § 3282.362(c)(2) or the self-certification label described in § 3282.207 of these regulations.

§ 3282.206 Disagreement with IPIA or DAPIA.

Whenever a manufacturer disagrees with a finding by a DAPIA or an IPIA acting in accord with subpart H of this Part, the manufacturer may request a hearing or presentation of views as provided in § 3282.152. The manufacturer shall not, however, produce mobile homes pursuant to designs which have not been approved by a DAPIA or produce mobile homes which the relevant IPIA believes not to conform to the standards unless and until: (a) The Secretary determines that the manufacturer is correct in believing the design of the mobile home conforms to the standards; or (b) extraordinary interim relief is granted

under § 3282.154; or (c) the DAPIA or IPIA otherwise resolves the disagreement. These prohibitions shall not apply to manufacturers acting under the transition certification program set out in § 3282.207.

§ 3282.207 Transition certification program.

(a) If a manufacturer cannot contract for the services of a DAPIA or IPIA such manufacturer shall notify the Secretary and any State with an approved SAA into which it intends to ship mobile homes that it will apply transition certification labels under this section to a specified number of mobile homes for a specified period of time until it can obtain the necessary PIA services. The use of transition certification labels shall be limited to the time required to obtain PIA services, and in no case shall it extend beyond 90 days after the effective date of the standards. The manufacturer may continue to use certification labels during this 90 day period only if it is acting diligently to obtain necessary PIA services as quickly as possible. The Secretary may monitor manufacturers' performance under this section.

(b) Mobile homes bearing a transition certificate label may be subject to such reasonable inspections and reasonable inspection fees as States may require, though no State may require any design approval or require a mobile home to meet a standard other than the Federal standard. A State may prohibit the entry into or sale in the State of a mobile home certified under this subsection if the State has inspected the mobile home and found a failure to conform to the federal standards. If a State, through inspections under this subsection, finds that a manufacturer or a particular plant is consistently producing homes which fail to conform to the standard, the State shall so inform the Secretary, who shall take appropriate action; including seeking injunctive relief to halt production, if necessary. A State may not prohibit entry into or sale in the State of a mobile home unless the State has inspected that home and found a failure to conform.

(c) A manufacturer acting under this section is not subject to the labeling provisions of § 3282.362(c)(2) of this part or § 280.7 of Part 280 of Chapter II of 24 CFR.

(d) Transition certification labels shall be handled as follows:

(1) The transition certification label shall be 1½ in. by 4 in. in size and shall either be typed on a piece of paper hermetically sealed between two pieces of plastic with a ¼ in. border of clear plastic around the paper, or printed on adhesive backed aluminum foil. The paper sealed in plastic shall be permanently attached to the mobile home by means of 4 blind rivets, drive screws, or other means that render it difficult to remove without being defaced. The adhesive backed foil shall be permanently attached to the mobile home by placing it on a surface which is suitable for the adhesive. The label number shall be a sequential 4 digit number which the manufacturer shall type sequentially on each label used.

(2) The transition certification label shall be supplied by the manufacturer and located as specified in § 3282.362(c)(2)(i)(E).

(3) Transition certification labels that are damaged, destroyed, or otherwise made illegible or removed may be replaced by the manufacturer with new transition certification labels of a different serial number. They shall not be replaced by labels of the type described in § 3282.361(c).

(4) The wording of the transition label shall be as follows: AS EVIDENCED BY THIS LABEL NO. XXX (THE MANUFACTURER'S NAME) CERTIFIES THAT, TO THE BEST OF HIS KNOWLEDGE AND BELIEF, THIS MOBILE HOME IS IN COMPLIANCE WITH THE FEDERAL MOBILE HOME CONSTRUCTION AND SAFETY STANDARDS IN EFFECT ON THE DATE OF MANUFACTURE. SEE DATA PLATE.

(e) The manufacturer shall furnish a data plate as specified in § 3282.362(c)(3), except that after "design approval by", the manufacturer shall insert the term "none".

§ 3282.208 Remedial actions—general description.

(a) *Notification.* A manufacturer may be required to provide formal notice to mobile home owners and dealers, as set out in subpart I of this Part, if the manufacturer, the Secretary, or a State Administrative Agency determines under that subpart that an imminent safety hazard, serious defect, defect, or noncompliance exists or may exist in a mobile home produced by that manufacturer.

(b) *Correction.* A manufacturer may be required to correct imminent safety hazards and serious defects which the manufacturer or the Secretary determines under subpart I exist in mobile homes produced by the manufacturer. This correction would be carried out in addition to the sending of formal notice as described in paragraph (a).

(c) *Cooperation.* The manufacturer shall be responsible for working with the DAPIA, IPIA, any SAA, the Secretary, and the Secretary's agent as necessary in the course of carrying out investigations and remedial actions under subpart I.

(d) *Avoidance of formalities.* The provisions for notification and required correction outlined in paragraphs (a) and (b) of this section and described more fully in subpart I may be waived or avoided in certain circumstances under that subpart.

§ 3282.209 Report requirements.

The manufacturer shall submit reports to the PIAs, SAAs, and the Secretary as required by Subpart L of these regulations.

§ 3282.210 Payment of monitoring fee.

(a) Each manufacturer shall pay the monitoring fee established under §§ 3282.455 and 3282.307 for each mobile home which it manufactures under the Federal standards.

(b) The monitoring fee shall be paid in the form of a check made payable to the Secretary or the Secretary's agent as follows:

(1) When the first set of labels is obtained from an IPIA under § 3282.362(c)(2), the manufacturer shall give to the IPIA the required check in the amount of the number of labels received plus the number of mobile homes to which transition certification labels have been applied multiplied by the amount of the fee per mobile home.

(2) When the second set of labels is obtained, the manufacturer shall pay an amount equal to the number of labels received multiplied by the amount of the fee per mobile home, except that the manufacturer shall receive a credit equal to the amount paid by the manufacturer in the first payment which was greater than the amount determined by the number of mobile homes to which the labels were applied multiplied by the amount of the fee per mobile home. This credit results because the monitoring inspection fee is to be paid for each mobile home rather than for each transportable section of a mobile home.

(3) Each time a set of labels is obtained, the manufacturer shall make a payment as determined in paragraph (2) above, and if a credit is greater than the amount to be paid, the credit shall carry over until it is exhausted.

§ 3282.211 Record of purchasers.

(a) Information requirements for purchasers. (1) Every manufacturer of mobile homes shall, for each mobile home manufactured under the Federal standards, provide with the mobile home a booklet containing at least 3 detachable cards as described in paragraph (a)(2) of this section. On the front of the booklet, in bold faced type, shall be printed the following language:

"Keep this booklet with your mobile home. Title VI of the Housing and Community Development Act of 1974 provides you with protection against certain construction and safety hazards in your mobile home. To help assure your protection, the manufacturer of your mobile home needs the information which these cards, when completed and mailed, will supply. If you bought your home from a dealer, please be sure that your dealer has completed and mailed a card for you. If you acquired your home from someone who is not a dealer, you should promptly fill out and send a card to the manufacturer. It is important that you keep this booklet and give it to any person who buys the mobile home from you."

(2) The detachable cards shall contain blanks for the following information:

(i) Name and address of the dealer or other person selling the mobile home to the purchaser;

(ii) Name and complete mailing address of the mobile home purchaser;

(iii) Address where the mobile home will be located, if not the same as item (ii);

(iv) Date of sale to the purchaser;

(v) Month, day and year of manufacture;

(vi) Identification number of the mobile home;

(vii) Model and/or type designation of the mobile home as provided by the manufacturer; and

(viii) A designation of the zones for which the mobile home is equipped, as set forth in § 280.305 of Chapter II of this title.

Additionally, the cards shall have the name and address of the manufacturer printed clearly on the reverse side and shall contain adequate postage or business reply privileges to ensure return to the manufacturer. The manufacturer shall have the responsibility for filling in the blanks on the cards for items (v), (vi), (vii), and (viii).

(3) The manufacturer shall maintain all cards received so that the manufacturer has a readily accessible record of the current purchaser or owner and the current address of all mobile homes manufactured by it for which a card has been received.

Subpart F—Dealer and Distributor Responsibilities

§ 3282.251 Scope and purpose.

(a) This subpart sets out the responsibilities which shall be met by distributors and dealers with respect to mobile homes manufactured after the effective date of the standards for sale to purchasers in the United States. It prohibits the sale, lease, or offer for sale or lease of mobile homes known by the distributor or dealer not to be in conformance with the standards, and it includes responsibilities for maintaining certain records and assisting in the gathering of certain information.

(b) The purpose of this subpart is to inform distributors and dealers when they may sell mobile homes, when they are prohibited from selling mobile homes, and what they may do in order to prepare a mobile home for sale if it is not in conformance with the standards.

(c) For purposes of this Part, any manufacturer or distributor who sells, leases, or offers for sale or lease a mobile home to a purchaser shall be a dealer for purposes of that transaction.

§ 3282.252 Prohibition of sale.

(a) No distributor or dealer shall make use of any means of transportation affecting interstate or foreign commerce or the mails to sell, lease, or offer for sale or lease in the United States any mobile home manufactured on or after the effective date of an applicable standard unless:

(1) There is affixed to the mobile home a label certifying that the mobile home conforms to applicable standard as required by § 3282.205(c), and

(2) The distributor or dealer, acting as a reasonable distributor or dealer, does not know that the mobile home does not conform to any applicable standards.

(b) This prohibition applies to any affected mobile homes until the completion of the entire sales transaction. A sales transaction with a purchaser is considered completed when all the goods and services that the dealer agreed to provide at the time the contract was entered into have been provided. Completion of a retail sale will be at the time the dealer completes set-up of the mobile home if the dealer has agreed to provide the set-up, or at the time the dealer delivers the home to a transporter, if the dealer has not agreed to transport or set up the mobile home, or to the site if the dealer has not agreed to provide set-up.

(c) This prohibition of sale does not apply to mobile homes which are placed in production prior to the effective date of the standards, and it does not apply to "used" mobile homes which are being sold or offered for sale after the first purchase in good faith for purposes other than the resale.

§ 3282.253 Removal of prohibition of sale.

(a) If a distributor or dealer has a mobile home in its possession or a mobile home with respect to which the sales transaction has not been completed, and the distributor or dealer, acting as a reasonable distributor or dealer, knows as a result of notification by the manufacturer or otherwise that the mobile home contains a failure to conform or imminent safety hazard, the distributor or dealer may seek the remedies available to him under § 3282.415.

(b) When, in accordance with § 3282.415, a manufacturer corrects a failure to conform to the applicable standard or an imminent safety hazard, the distributor or dealer, acting as a reasonable distributor or dealer, may accept the remedies provided by the manufacturer as having corrected the failure to conform or imminent safety hazard. The distributor or dealer, therefore, may sell, lease, or offer for sale or lease any mobile home so corrected by the manufacturer.

(c) When a distributor or dealer is authorized by a manufacturer to correct a failure to conform to the applicable standard or an imminent safety hazard and completes the correction in accordance with the manufacturer's instructions, the distributor or dealer may sell, lease or offer for sale or lease the mobile home in question, provided that the distributor or dealer, acting as a reasonable distributor or dealer knows that the mobile home conforms to the standards. A distributor or dealer and a manufacturer, at the manufacturer's option, may agree in advance that the distributor or dealer is authorized to make such corrections as the manufacturer believes are within the expertise of the dealer.

(d) If the corrections made under paragraphs (b) and (c) of this section do not bring the mobile home into conformance or correct the imminent safety hazard, the provisions of § 3282.415 will continue in effect prior to completion of the sales transaction.

§ 3282.254 Distributor and dealer alterations.

(a) If a distributor or dealer alters a mobile home in such a way as to create an imminent safety hazard or to create a condition which causes a failure to conform with applicable Federal standards, the mobile home affected may not be sold, leased, or offered for sale or lease.

(b) After correction by the distributor or dealer of the failure to conform or imminent safety hazard, the corrected mobile home may be sold, leased, or offered for sale or lease.

(c) Distributors and dealers shall maintain complete records of all alterations made under paragraphs (a) and (b) of this section.

§ 3282.255 Completion of information card.

(a) Whenever a distributor or dealer sells a mobile home subject to the standards to a purchaser, the distributor or dealer shall fill out the card with information provided by the purchaser and shall send the card to the manufacturer. (See § 3282.211.)

(b) Whenever a distributor or dealer sells a mobile home to an owner which was originally manufactured under the standards, the distributor or dealer shall similarly use one of the detachable cards which was originally provided with the mobile home. If such a card is no longer available, the distributor or dealer shall obtain the information which the card would require and send it to the manufacturer of the mobile home in an appropriate format.

§ 3282.256 Distributor or dealer complaint handling.

(a) When a distributor or dealer believes that a mobile home in its possession which it has not yet sold to a purchaser contains an imminent safety hazard, serious defect, defect, or noncompliance, the distributor or dealer shall refer the matter to the manufacturer for remedial action under § 3282.415. If the distributor or dealer is not satisfied with the action taken by the manufacturer, it may refer the matter to the SAA in the state in which the mobile home is located, or to the Secretary if there is no such SAA.

(b) Where a distributor or dealer receives a consumer complaint or other information concerning a mobile home sold by the distributor or dealer, indicating the possible existence of an imminent safety hazard, serious defect, defect, or noncompliance in the mobile home, the distributor or dealer shall refer the matter to the manufacturer.

Subpart G—State Administrative Agencies

§ 3282.301 General—scope.

This subpart sets out procedures to be followed and requirements to be met by States which wish to participate as State Administrative Agencies (SAA) under the Federal standards enforcement program. Requirements relating to States which wish to participate as primary inspection agencies under the Federal standards enforcement program are set out in Subpart H of this part. Requirements which States must meet in order to receive full or conditional approval as SAAs and the responsibilities of such agencies are set out in § 3282.302. Reporting requirements for approved and conditionally approved SAAs are set out in Subpart L.

§ 3282.302 State plan.

A State wishing to qualify and act as a SAA under this subpart shall make a State Plan Application under this sec-

tion. The State Plan Application shall be made to the Director, Office of Mobile Home Standards, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, and shall include:

(a) An original and one copy of a cover sheet which shall show the following:

(1) The name and address of the State agency designated as the sole agency responsible for administering the plan throughout the state,

(2) The name of the administrator in charge of the agency,

(3) The name, title, address, and phone number of the person responsible for handling consumer complaints concerning standards related problems in mobile homes under subpart I of this part,

(4) A list of personnel who will carry out the State plan,

(5) The number of mobile home manufacturing plants presently operating in the State,

(6) The estimated total number of mobile homes manufactured in the State per year,

(7) The estimated total number of mobile homes set up in the State per year, and

(8) A certification signed by the administrator in charge of the designated State agency stating that, if it is approved by the Secretary, the State plan will be carried out in full, and that the regulations issued under the Act shall be followed,

(b) An original and one copy of appropriate materials which:

(1) Demonstrate how the designated State agency shall assure effective handling of consumer complaints and other information referred to it that relate to noncompliances, defects, serious defects, and imminent safety hazards as set out in subpart I of this Part, including the holding of hearings and presentations of views and the fulfilling all other responsibilities of SAAs as set out in that subpart G:

(2) Provide that personnel of the designated agency shall, under State law or as agents of HUD, have the right at any reasonable time to enter and inspect all factories, warehouses, or establishments in the State in which mobile homes are manufactured,

(3) Provide for the imposition under State authority of civil and criminal penalties which are identical to those set out in section 611 of the Act, 42 USC 5410 except that civil penalties shall be payable to the State rather than to the United States,

(4) Provide for the notification and correction procedures under subpart I of this Part where the State Administrative Agency is to act under that subpart by providing for and requiring approval by the State Administrative Agency of the plan for notification and correction described in § 3282.410, including approval of the number of units that may be affected and the proposed repairs, and by providing for approval of corrective actions where appropriate under subpart I,

(5) Provide for oversight by the SAA of (i) remedial actions carried out by manufacturers for which the SAA approved the plan for notification or correction under §§ 3282.405, or 3282.407, or for which the SAA has waived formal notification under §§ 3282.405 or 3282.-407, and (ii) a manufacturer's handling of consumer complaints and other information under § 3282.404 as to plants located within the State,

(6) Provide for the setting of monitoring inspection fees in accordance with guidelines established by the Secretary and provide for participation in the fee distribution system set out in § 3282.307,

(7) Contain satisfactory assurances in whatever form is appropriate under State law that the designated agency has or will have the legal authority necessary to carry out the State plan as submitted for full or conditional approval,

(8) Contain satisfactory assurances that the designated agency has or will have, in its own staff or provided by other agencies of the state or otherwise, the personnel, qualified by education or experience necessary to carry out the State plan,

(9) Include the resumes of administrative personnel in policy making positions and of all inspectors and engineers to be utilized by the designated agency in carrying out the State plan,

(10) Include a certification that none of the personnel who may be involved in carrying out the State plan in any way are subject to any conflict of interest of the type discussed in § 3282.359 or otherwise, except that members of councils, committees, or similar bodies providing advice to the designated agency are not subject to the requirement,

(11) Include an estimate of the cost to the State of carrying out all activities called for in the State plan, under this section and § 3282.303, which estimate shall be broken down by particular function and indicate the correlation between the estimate and the number of mobile homes manufactured in the State and the number of mobile homes imported into the State, and the relationship of these factors to any fees currently charged and any fees charged during the preceding two calendar years. A description of all current and past State activities with respect to mobile homes shall be included with this estimate.

(12) Give satisfactory assurances that the State shall devote adequate funds to carrying out its State plan,

(13) Indicate that State Law requires manufacturers, distributors, and dealers in the State to make reports pursuant to Section 614 of the Act 42 U.S.C. 5413 and this chapter of these regulations in the same manner and to the same extent as if the State plan were not in effect,

(14) Provide that the designated agency shall make reports to the Secretary as required by subpart L of this Part in such form and containing such information as the Secretary shall from time to time require,

(c) A State plan may be given conditional approval if all of the requirements of the previous paragraphs except (b)(2), (b)(3), (b)(6), or (b)(13) are met. When conditional approval is given, the State shall not be considered approved under section 623 of the Act, 42 U.S.C. 5422, but it will participate in all phases of the program as called for in its State plan. Conditional approval shall last a maximum of three years, by which time all requirements shall have been met for full approval, or conditional approval shall lapse.

(d) If a State wishes to discontinue participation in the Federal enforcement program as an SAA, it shall provide the Secretary with a minimum of 90 days notice.

(e) A State which wishes to act as an exclusive IPIA under § 3282.352 shall so indicate in its State plan, and shall include in the information provided under paragraph (b)(11) of this section, the fee schedule for its activities as an IPIA and the relationship between the proposed fees and the other information provided under that subsection. The State shall submit to the Secretary before June 15, 1976, a Statement of its intent to act as an exclusive IPIA. It shall also submit its State Plan Application no later than July 15, 1976. The State shall also demonstrate in its State Plan Application that it has the present capability to act as an IPIA for all plants operating in the State. Where the intent to act as an exclusive IPIA is not indicated by June 15, 1976, the State may not act as an exclusive IPIA act for three years, from that date. A state so precluded may apply for exclusive IPIA status as of June 15, 1979. Where the State does not demonstrate that it has the present capability to act as an exclusive IPIA the State shall also be so precluded, unless the Secretary determines in the public interest that the State has an acceptable plan for meeting this requirement, in which case the State may act as an exclusive IUIA only when it has the required capability. If the Secretary determines that the fees to be charged by a State acting as an IPIA are unreasonable, the Secretary shall not grant the State status as an exclusive IPIA.

§ 3282.303 State plan—suggested provisions.

The following are not required to be included in the State plan, but they are urged as necessary to provide full consumer protection and assurances of mobile home safety:

(a) Provision for monitoring of dealers' lots within the State for transit damage, seal tampering, and dealer performance generally,

(b) Provision of approvals of all alterations made to certified mobile homes by dealer in the State. Under this program, the State would assure that alterations did not result in the failure of the mobile home to comply with the standards.

(c) Provision for monitoring of the installation of mobile homes set up in the State to assure that the homes are prop-

erly installed and, where necessary, tied down,

(d) Provision for inspection of used mobile homes and requirements under State authority that used mobile homes meet a minimal level of safety and durability at the time of sale, and,

(e) Provision for regulation of mobile home transportation over the road to the extent that such regulation is not preempted by Federal authority.

§ 3282.304 Inadequate state plan.

If the Secretary determines that a State plan submitted under this subpart is not adequate, the designated State agency shall be informed of the additions and corrections required for approval. A revised State plan shall be submitted within 30 days of receipt of such determination. If the revised State plan is inadequate or if the State fails to resubmit within the 30 day period or otherwise indicates that it does not intend to change its State plan as submitted, the Secretary shall notify the designated State agency that the State plan is not approved and that it has a right to a hearing on the disapproval in accordance with Subpart D of this Part.

§ 3282.305 State plan approval.

The Secretary's approval or conditional approval of a State plan Application shall qualify that State to perform the functions for which it has been approved.

§ 3282.306 Withdrawal of state approval.

The Secretary shall, on the basis of reports submitted by the State, and on the basis of HUD monitoring, make a continuing evaluation of the manner in which each State is carrying out its State plan and shall submit the reports of such evaluation to the appropriate committees of the Congress. Whenever the Secretary finds, after affording due notice and opportunity for a hearing in accordance with Subpart D of this Part, that in the administration of the State program there is a failure to comply substantially with any provision of the State plan or that the State plan has become inadequate, the Secretary shall notify the State of withdrawal of approval or conditional approval of the State program. The State program shall cease to be in effect at such time as the Secretary may establish.

§ 3282.307 Monitoring inspection fee establishment and distribution.

(a) Each approved State shall establish a monitoring inspection fee in an amount established by the Secretary. This monitoring inspection fee shall be an amount paid by each mobile home manufacturer in the State for each mobile home produced by the manufacturer in that State. In non-approved and conditionally-approved States, this monitoring inspection fee shall be set by the Secretary.

(b) The monitoring inspection fee shall be paid by the manufacturer to the Secretary or the Secretary's agent, who shall distribute the fees collected from all mobile home manufacturers among the approved and conditionally-approved States based on the number of new mobile homes whose first location after leaving the manufacturing plant is on the premises of distributor, dealer, or purchaser in that State, and the extent of participation of the State in the joint team monitoring program set out in § 3282.309(a).

§ 3282.308 State participation in monitoring of primary inspection agencies.

(a) An SAA may provide personnel to participate in joint team monitoring of primary inspection agencies as set out in Subpart J. If an SAA wishes to do so, it must include in its State plan a list of what personnel would be supplied for the teams, their qualifications, and how many person-years the State would supply. All personnel will be subject to approval by the Secretary or the Secretary's agent. A person-year is 2,080 hours of work.

(b) If an SAA wishes to monitor the performance of primary inspection agencies acting within the State, it must include in its State plan a description of how extensively, how often, and by whom this will be carried out. This monitoring shall be coordinated by the Secretary, or the Secretary's agent with monitoring carried out by joint monitoring teams, and in no event shall an SAA provide monitoring where the State is also acting as a primary inspection agency.

§ 3282.309 Hearings and presentations of views held by SSAs.

(a) When an SAA is the appropriate agency to hold a hearing or presentation of views under § 3282.407 of subpart I, the SAA shall follow the procedures set out in §§ 3282.152 and 3282.153, with the SAA acting as the Secretary otherwise would under that section. Where § 3282.152 requires publication of notice in the FEDERAL REGISTER, the SAA shall, to the maximum extent possible, provide equivalent notice throughout the state by publication in a newspaper or newspapers having state-wide coverage or otherwise. The determination of whether to provide a presentation of views under § 3282.153(f) or a hearing section under § 3282.152(g) is left to the SAA.

(b) Notwithstanding the provisions of § 3282.152(f)(2) and (g)(2) relating to the conclusive effect of a final determination, any party, in a proceeding held at an SAA under this section, including specifically the owners of affected mobile homes, States in which affected mobile homes are located, consumer groups representing affected owners and manufacturers (but limited to parties with similar substantial interest) may appeal to the Secretary in writing any Final Determination by an SAA which is adverse to the interest of that party. This appeal on the record shall be made within 30 days of the date on which the Final Determination was made by the SAA.

Subpart H—Primary Inspection Agencies

§ 3282.351 General.

(a) This subpart sets out the requirements which must be met by States or private organizations which wish to qualify as primary inspection agencies under these regulations. It also sets out the various functions which will be carried out by primary inspection agencies.

(b) There are four basic functions which are performed by primary inspection agencies: (1) Approval of the manufacturer's mobile home design to assure that it is in compliance with the standard, (2) approval of the manufacturer's quality control program to assure that it is compatible with the design (3) approval of the manufacturer's plant facility and manufacturing process to assure that the manufacturer can perform its approved quality control program and can produce mobile homes in conformance with its approved design, and (4) performance of ongoing inspections of the manufacturing process in each manufacturing plant to assure that the manufacturer is continuing to perform its approved quality control program and, with respect to those aspects of mobile homes inspected, is continuing to produce mobile homes in performance with its approved designs and in conformance with the standards (see § 3282.362(c)(1)).

(c) There are two types of primary inspection agencies which perform these functions: (1) Those which approve designs and quality control programs (Design Approval Primary Inspection Agencies—DAPIAs) and (2) those which approve plants and perform ongoing inspections in the manufacturing plants (Production Inspection Primary Inspection Agencies—IPIAs).

(d) States and private organizations whose submissions under this subpart are acceptable shall be granted provisional acceptance. Final acceptance shall be conditioned upon adequate performance, which will be determined through monitoring of the actions of the primary inspection agencies. Monitoring of all primary inspection agencies shall be carried out as set out in Subpart J. HUD accepted agencies can perform DAPIA functions for any manufacturer in any State and IPIA functions in any State except those in which the State has been approved to act as the exclusive IPIA under § 3282.352.

(e) Primary inspection agencies approved under this subpart may contract with mobile home manufacturers (see § 3282.202) to provide the services set out in this subpart. Any PIA which charges fees which are excessive in relation to the services rendered shall be subject to disqualification under § 3282.356.

§ 3282.352 State exclusive IPIA functions.

(a) Any State which has an approved State Administrative Agency may, if accepted as an IPIA, act as the exclusive IPIA within the State. A State which acts as an IPIA but is not approved as an SAA may not act as the exclusive IPIA in

the State. A State which acts as an exclusive IPIA shall be staffed to provide IPIA services to all manufacturers within the state and may not charge unreasonable fees for those services.

(b) States which wish to act as exclusive IPIAs shall apply for approval to do so in their State plan applications. They shall specify the fees they will charge for IPIA services and shall submit proposed fee revisions to the Secretary prior to instituting any change in fees. If at any time the Secretary finds that those fees are not commensurate with the fees generally being charged for similar services, the Secretary will withhold or revoke approval to act as an exclusive IPIA. States acting as DAPIAs and also as exclusive IPIAs shall establish separate fees for the two functions and shall specify what additional services (such as approval of design changes and full time inspections) these fees cover. As provided in § 3282.302(b)(II), each State shall submit fee schedules for its activties and, where appropriate, the fees presently charged for DAPIA and IPIA services, and any fees charged for DAPIA and IPIA services during the preceding two calendar years.

(c) A State's status as an exclusive IPIA in the State shall commence upon approval of the State Plan Application and acceptance of the State's submission under section 3282.355, except as provided herein. Where a State was approved to provide IPIA functions under the Title I program, the State's status as an exclusive IPIA shall commence on the date the State submits to the Secretary a statement that it intends to act as an exclusive IPIA, but only if affirms that the State has the present capacity to provide IPIA services for all manufacturing plants in the State. If the State indicates its desire to act as an exclusive IPIA, though it does not have the present capacity to do so, but affirms that it will within 90 days have the capacity to provide IPIA services to all manufacturers in the State then the State's status as an exclusive IPIA shall commence on the date the State affirms it will have such capacity. Continuation of such a State's status as an exclusive IPIA is conditioned upon submittal of the State Plan Application as required by § 3282.302(e) and upon final approval of that application. It is also conditioned upon the State adequately fulfilling its affirmation to provide IPIA services to all manufacturing plants in the State. Where a private organization accepted or provisionally accepted as an IPIA under this Subpart operating in a manufacturing plant within the State on the date the State's status as an exclusive IPIA would commence under this paragraph, the organization may provide IPIA services in that plant for 90 days after that date.

§ 3282.353 Submission format.

States and private organizations which wish to act as primary inspection agencies shall submit to the Director, Office of Mobile Home Standards, Department of Housing and Urban Development, 451 Seventh St. SW., Washington, D.C. 20410, an application which includes the following:

(a) A cover sheet which shall show the following:

(1) Name and address of the party making the application;

(2) The capacity (DAPIA, IPIA) in which the party wishes to be approved to act;

(3) A list of the key personnel who will perform the various functions required under these regulations;

(4) The number of mobile home manufacturers and manufacturing plants for which the submitting party proposes to act in each of the capacities for which it wishes to be approved to act;

(5) The estimated total number of mobile homes produced by those manufacturers and in those plants per year;

(6) The number of years the proposed primary inspection agency has been actively engaged in the enforcement of mobile home standards;

(7) A certification by the party applying that it will follow the Federal mobile home construction and safety standards set out at 24 CFR Part 280 and any interpretations of those standards which may be made by the Secretary; and

(8) Whether the submitting party is approved to act as a primary inspection agency under the Title I program, and if so, in what capacity.

(b) A detailed schedule of fees to be charged broken down by the services for which they will be charged.

(c) A detailed description of how the submitting party intends to carry out all of the functions for which it wishes to be approved under this subpart, with appropriate cross-references to sections of this subpart, including examples and complete descriptions of all reports, tests, and evaluations which the party would be required to make. Where appropriate, later sections of this subpart identify particular items which must be included in the submission. The Secretary may request further detailed information, when appropriate.

(d) A party wishing to be approved as a DAPIA shall submit a copy of a mobile home design that it has approved (or if it has not approved a design, one that it has evaluated and a deviation report showing where the design is not in conformance with the standards) and a copy of a quality assurance manual that it has approved (or if it was not approved a manual, one that it has evaluated and a deviation report showing where the manual is inadequate).

(e) A party wishing to be approved as an IPIA shall submit a copy of a certification report which it has prepared for a mobile home plant or, if it has not prepared such a report, an evaluation of a manufacturing plant which it has inspected with a description of what changes shall be made before a certification report can be issued. A party that has not previously inspected mobile homes may nevertheless be accepted on the basis of the qualifications of its personnel and its commitment to perform the required functions.

(f) A primary inspection agency which has been approved under the Title I program, shall submit a statement reaffirming all commitments made under Title I, names and resumés of new key personnel, a certification that it will enforce the standard in accordance with these regulations, and a statement of fees as required by § 3282.353(b).

§ 3282.354 Submittal of false information or refusal to submit information.

The submittal of false information or the refusal to submit information required under this subpart may be sufficient cause for the Secretary to revoke or withhold acceptance.

§ 3282.355 Submission acceptance.

(a) A party whose submission is determined by the Department to be adequate shall be granted provisional acceptance until December 15, 1976, or for a six month period from the date of such determination, whichever is later.

(b) A party that has been accepted as a primary inspection agency under the Title I program shall be granted provisional acceptance for 30 days as of the effective date of these regulations. This provisional acceptance shall be extended to December 15, 1976, when the submission required by § 3282.353(f) has been made, within 30 days of the effective date of these regulations.

(c) Final acceptance of a party to act as a primary inspection agency will be contingent upon adequate performance during the period of provisional acceptance as determined through monitoring carried out under Subpart J and upon satisfactory acceptance under § 3282.361(e) or 3282.362(e). Final acceptance shall be withheld if performance is inadequate.

(d) Continued acceptance as a primary inspection agency shall be contingent upon continued adequacy of performance as determined through monitoring carried out under Subpart J. If the Secretary determines that a primary inspection agency that has been granted final acceptance is performing inadequately, the Secretary shall suspend the acceptance, and the primary inspection agency shall be entitled to a hearing or presentation of views as set out in subpart D of this part.

§ 3282.356 Disqualification and requalification of primary inspection agencies.

(a) The Secretary, based on monitoring reports or other reliable information, may determine that a primary inspection agency which has been accepted under this subpart is not adequately carrying out one or more of its required functions. In so doing, the Secretary shall consider the impact of disqualification on manufacturers and other affected parties and shall seek to assure that the manufacturing process is not unnecessarily disrupted thereby. Whenever the Secretary disqualifies a primary inspection agency under this section, the primary inspection agency shall have a right to a hearing or presentation of views under Subpart D of this part.

(b) Interested persons may petition the Secretary to disqualify a primary inspection agency under the provisions of § 3282.156(b).

(c) A primary inspection agency which has been disqualified under paragraph (a) may resubmit an application under § 3282.353. The submission shall include a full explanation of how problems or inadequacies which resulted in disqualifications have been rectified and how the primary inspection agency shall assure that such problems shall not recur.

(d) When appropriate, the Secretary shall publish in the FEDERAL REGISTER or otherwise make available to the public for comment a disqualified PIA's application for requalification, subject to the provisions of § 3282.54.

§ 3282.357 Background and experience.

All private organizations shall submit statements of the organizations' experience in the housing industry, including a list of housing products, equipment, and structures for which evaluation, testing and follow-up inspection services have been furnished. They shall also submit statements regarding the length of time these services have been provided by them. In addition, all such submissions shall include a list of other products for which the submitting party provides evaluation, inspection, and listing or labeling services and the standard applied to each product, as well as the length of time it has provided these additional services.

§ 3282.358 Personnel.

(a) Each primary inspection agency shall have qualified personnel capable of carrying out all of the functions for which the primary inspection agency is seeking to be approved or disapproved. Where a State intends to act as the exclusive IPIA in the State, it shall show that it has adequate personnel to so act in all plants in the State.

(b) Each submission shall indicate the total number of personnel employed by the submitting party, the number of personnel available for this program, and the locations of the activities of the personnel to be used in the program.

(c) Each submission shall include the names and qualifications of the administrator and the supervisor who will be directly responsible for the program, and résumés of their experience.

(d) Each submission shall contain the information set out in paragraphs (d)(1) through (d)(9) of this section. Depending upon the functions (DAPIA, or IPIA) to be undertaken by a particular primary inspection agency, some of the categories of personnel listed may not be required. In such cases, the submission should indicate which of the categories of information are not required and explain why they are not needed. The submission should identify which personnel will carry out each of the functions the party plans to perform. The qualifications of the personnel to perform one or more of the functions will be judged in accordance with the requirements of ASTM Standard E–541 except that the requirement for registration as a professional engineer or architect may be waived for personnel whose qualifications by experience or education equal those of a registered engineer or architect. The categories of personnel to be included in the submission are as follows:

(1) The names of engineers practicing structural engineering who will be involved in the evaluation, testing, or followup inspection services, and résumés of their experience.

(2) The names of engineers practicing mechanical engineering who will be involved in the evaluation, testing, or followup, inspection services and resumes of their experience.

(3) The names of engineers practicing electrical engineering who will be involved in the evaluation, testing, or followup inspection services and resumes of their experience.

(4) The names of engineers practicing fire protection engineering who will be involved in the evaluation, testing, or followup inspection services, and resumes of their experience.

(5) The names of all other engineers assigned to this program, the capacity in which they will be employed, and resumes of their experience.

(6) The names of all full-time and part-time consulting architects and engineers, their registration, and resumes of their experience.

(7) The names of inspectors and other technicians along with resumes of experience and a description of the type of work each will perform.

(8) A general outline of the applicant agency's training program for assuring that all inspectors and other technicians are properly trained to do each specific job assigned.

(9) The names and qualifications of individuals serving on advisory panels that assist the applicant agency in making its policies conform with the public interest in the field of public health and safety.

(e) All information required by this section shall be kept current. The Secretary shall be notified of any change in personnel or management or change of ownership or State jurisdiction within 30 days of such change.

§ 3282.359 Conflict of interest.

(a) All submissions by private organizations shall include a statement that the submitting party is independent in that it does not have any actual or potential conflict of interest and is not affiliated with or influenced or controlled by any producer, supplier, or vendor of products in any manner which might affect its capacity to render reports of findings objectively and without bias.

(b) A private organization shall be judged to be free of conflicting affiliation, influence, and control if it demonstrates compliance with all of the following criteria:

(1) It has no managerial affiliation with any producer, supplier, or vendor of products for which it performs PIA services, and is not engaged in the sale or promotion of any such product or material;

(2) The results of its work do not accrue financial benefits to the organization via stock ownership of any producer, supplier or vendor of the products involved;

(3) Its directors and other management personnel and its engineers and in spectors involved in certification activities hold no stock in and receive no stock option or other benefits, financial, or otherwise, from any producer, supplier, or vendor of the product involved, other than compensation under § 3282.202 of this part;

(4) The employment security status of its personnel is free of influence or control of any producer, supplier, or vendor, and

(5) It does not perform design or quality assurance manual approval services for any manufacturer whose design or manual has been created or prepared in whole or in part by engineers of its organization or engineers of any affiliated organization.

(c) All submissions by States shall include a statement that personnel who will be in any way involved in carrying out the State plan or PIA function are free of any conflict of interest except that with respect to members of councils, committees or similar bodies providing advice to the designated agency are not subject to this requirement.

§ 3282.360 PIA acceptance of product certification programs or listings.

In determining whether products to be included in a mobile home are acceptable under the standards set out in Part 280 of Chapter II of 24 CFR, all PIAs shall accept all product verification programs, labelings, and listings unless the PIA has reason to believe that a particular certification is not acceptable in which case, the PIA shall so inform the Secretary and provide the Secretary with full documentation and information on which it bases its belief. Pending a determination by the Secretary, the PIA shall provisionally accept the certification. The Secretary's determination shall be binding on all PIAs.

§ 3282.361 Design Approval Primary Inspection Agency (DAPIA).

(a) *General.* (1) The DAPIA selected by a manufacturer under section 3282.203 shall be responsible for evaluating all mobile home designs submitted to it by the manufacturer and for assuring that they conform to the standards. It shall also be responsible for evaluating all quality control programs submitted to it by the manufacturer by reviewing the quality assurance manuals in which the programs are set out to assure that the manuals reflect programs which are compatible with the designs to be followed and which commit the manufacturer to make adequate inspections and tests of every part of every mobile home produced.

(2) A design or quality assurance manual approved by a DAPIA shall be accepted by all IPIAs acting under

§ 3282.362 who deal with the design, quality assurance manual, or mobile homes built to them, and by all other parties, as, respectively, being in conformance with the Federal standards or as providing for adequate quality control to assure conformance. However, each design and quality assurance manual is subject to review and verification by the Secretary or the Secretary's agent at any time.

(b) *Designs.* (1) In evaluating designs for compliance with the standards, the DAPIA will not allow any deviations from accepted engineering practice standards for design calculations or any deviations from accepted test standards, except that the DAPIA, for good cause, may request the Secretary to accept innovations which are not yet accepted practices. Acceptances by the Secretary shall be published in the form of interpretative bulletins, where appropriate.

(2) The DAPIA shall require the manufacturer to submit floor plans and specific information for each mobile home design or variation which the DAPIA is to evaluate. It shall also require the submission of drawings, specifications, calculations, and test records of the structural, electrical and mechanical systems of each such mobile home design or variation. The manufacturer need not supply duplicate information where systems are common to several floor plans. Each DAPIA shall develop and carry out procedures for evaluating original mobile home designs by requiring manufacturers to submit necessary drawings and calculations and carry out such verifications and calculations as it deems necessary. Where compliance with the standards cannot be determined on the basis of drawings and calculations, the DAPIA shall require any necessary tests to be carried out at its own facility, at separate testing facilities or at the manufacturer's plant.

(3) Design deviation report. After evaluating the manufacturer's design, the DAPIA shall furnish the manufacturer with a design deviation report which specifies in detail, item by item with appropriate citations to the standards, the specific deviations in the manufacturer's design which must be rectified in order to produce mobile homes which comply with the standards. The design deviation report may acknowledge the possibility of alternative designs, tests, listings, and certifications and state the conditions under which they will be acceptable. The design deviation report shall, to the extent practicable, be complete for each design evaluated in order to avoid repeated rejections and additional costs to the manufacturer.

(4) Design approval. The DAPIA shall signify approval of a design by placing its stamp of approval or authorized signature on each drawing and each sheet of test results. The DAPIA shall clearly cross-reference the calculations and test results to applicable drawings. The DAPIA may require the manufacturer to do the cross-referencing if it wishes. It shall indicate on each sheet how any deviations from the standards have been or shall be resolved. Within 5 days after approving a design, the DAPIA shall forward a copy of the design to the manufacturer and the Secretary or the Secretary's agent (prior to the effective date of the standards the latter copy shall go to the Secretary.)

The DAPIA shall maintain a complete up-to-date set of approved designs and design changes approved under paragraph (b)(5) of this section which it can duplicate and copies of which it can furnish to interested parties as needed when disputes arise.

(5) Design change approval. The DAPIA shall also be responsible for approving all changes which a manufacturer wishes to make in a design approved by the DAPIA. In reviewing design changes, the DAPIA shall respond as quickly as possible to avoid disruption of the manufacturing process. Within 5 days after approving a design change, the DAPIA shall forward a copy of this change to the manufacturer and the Secretary or the Secretary's agent as set out in paragraph (b)(4) of this section to be included in the design to which the change was made.

(c) *Quality Assurance Manuals.* (1) In evaluating a quality assurance manual, the DAPIA shall identify any aspects of designs to be manufactured under the manual which require special quality control procedures. The DAPIA shall determine whether the manual under which a particular design is to be manufactured reflects those special procedures, and shall also determine whether the manuals which it evaluates provide for such inspections and testing of each mobile home so that the manufacturer, by following the manual, can assure that each mobile home it manufactures will conform to the standards. The manual shall, at a minimum, include the information set out in § 3282.203(c).

(2) Manual Deviation Report. After evaluating a manufacturer's quality assurance manual, the DAPIA shall furnish the manufacturer with a manual deviation report which specifies in detail any changes which a manufacturer must make in order for the quality assurance manual to be acceptable. The manual deviation report shall, to the extent practicable, be complete for each design in order to avoid repeated rejections and additional costs to the manufacturer.

(3) Manual Approval. The DAPIA shall signify approval of the manufacturer's quality assurance manual by placing its stamp of approval or authorized signature on the cover page of the manual. Within 5 days of approving a quality assurance manual, the DAPIA shall forward a copy of the quality assurance manual to the manufacturer and the Secretary or the Secretary's agent (prior to the effective date of the standards, the latter copy shall go to the Secretary). The DAPIA shall maintain a complete up-to-date set of approved manuals and manual changes approved under paragraph (c)4 of this section which it can duplicate and copies of which it can furnish to interested parties as needed when disputes arise.

(4) Manual Change Approval. Each change the manufacturer wishes to make in its quality assurance manual shall be approved by the DAPIA. Within 5 days after approving a manual change, the DAPIA shall forward a copy of the change to the manufacturer and the Secretary or the Secretary's agent as set out in paragraph (c)(3) of this section to be included in the manual to which the change was made.

(d) *Special provision—Title I approvals.* A design that has been approved by an organization accepted by the Secretary prior to June 15, 1976, under the Title I program need not be reevaluated, but it shall be revised to bring it into conformance with the Federal standards. When the DAPIA that approved a Title I design to the ANSI standard has approved the design changes that bring the design into conformance with the Federal standards, that design shall be considered approved for purposes of these regulations. Quality assurance manuals that have been approved under the Title I program shall be considered approved for purposes of these regulations. The DAPIA that approved the Title I design and any required design changes or the quality assurance manual shall assure that copies of each are distributed as new designs, manuals, and changes will be accomplished under paragraphs (b) and (c) of this section. New copies need not be distributed to parties which already have copies.

(e) *Requirements for full acceptance—DAPIA.* (1) Before granting full acceptance to a DAPIA, the Secretary or the Secretary's agent shall review and evaluate at least one complete design and one quality assurance manual which has been approved by the DAPIA. These shall be designs and manuals approved to the Federal standards, and they shall be chosen at random from those approved by the DAPIA during the period of provisional acceptance.

(2) If the Secretary determines that a design or quality assurance manual shows an inadequate level of performance, the Secretary or the Secretary's agent shall carry out further evaluations. If the Secretary finds the level of performance to be unacceptable, the Secretary shall not grant full acceptance. If full acceptance has not been granted by the end of the provisional acceptance period, provisional acceptance shall lapse unless the Secretary determines that the failure to obtain full acceptance resulted from the fact that the Secretary or her agent has not had adequate time in which to complete an evaluation.

§ 3282.362 Production Inspection Primary Inspection Agencies (IPIAs).

(a) *General.* (1) IPIA Responsibilities. An IPIA selected by a manufacturer under section 3282.204 to act in a particular manufacturing plant shall be responsible for assuring:

(i) That the plant is capable of following the quality control procedures set out in the quality assurance manual to be followed in that plant;

(ii) That the plant continues to follow the quality assurance manual;

(iii) That any part of any mobile home that it actually inspects conforms with the design, or where the design is not specific with respect to an aspect of the standards, to the standards, and

(iv) That whenever it finds a mobile home in production which fails to conform to the design or where the design is not specific, to the standards, the failure to conform is corrected before the mobile home leaves the manufacturing plant; and

(v) That if a failure to conform to the design, or where the design is not specific, to the standards, is found in one mobile home, all other homes still in the plant which the IPIA's records or the records of the manufacturer indicate might not conform to the design or to standards are inspected and, if necessary, brought up to the standards before they leave the plant.

The IPIA is also generally responsible for reviewing and concurring in or disputing manufacturer determinations of the number of mobile homes affected under section 3284.404 and for otherwise fulfilling its responsibilities set out in subpart I. The IPIA shall also make any reports called for under subpart L.

(2) No more than one IPIA shall operate in any one manufacturing plant, except that where a manufacturer decides to change from one IPIA to another, the two may operate in the plant simultaneously for a limited period of time to the extent necessary to assure a smooth transition.

(b) *Plant approval.* (1) Each IPIA shall, with respect to each manufacturing plant for which it is responsible, evaluate the quality control procedures being followed by the manufacturer in the plant to determine whether those procedures are consistent with and fulfill the procedures set out in the DAPIA approved quality assurance manual being followed in the plant. As part of this evaluation, and prior to the issuance of any labels to the manufacturer, the IPIA shall make a complete inspection of the manufacture of at least one mobile home through all of the operations in the manufacturer's plant. The purpose of this initial factory inspection is to determine whether the manufacturer is capable of producing mobile homes in conformance with the approved design and, to the extent the design is not specific with respect to an aspect of the standards, with the standards and to determine whether the manufacturer's quality control procedures as set out in the quality assurance manual, plant equipment, and personnel, will assure that such conformance continues. This inspection should be made by one or more qualified engineers who have reviewed the approved design and by an inspector who has been carefully briefed by the engineers on the restrictive aspects of the design. The mobile home shall be inspected to the approved design for the home except that where the design is not specific with respect to any aspect of the standards, the inspection shall be to the standards as to that aspect of the mobile home. If the first mobile home inspected fails to conform to the design or, with respect to any aspect of the standards not specifically covered by the design, to the standards, additional units shall be similarly inspected until the IPIA is satisfied that the manufacturer is conforming to the approved design, or where the design is not specific with respect to an aspect of the standards, to the standards and quality assurance manual.

(2) Certification report. If, on the basis of the initial comprehensive factory inspection required by paragraph (b)(1) of this section, the IPIA determines that the manufacturer is performing adequately, the IPIA shall prepare and forward to the manufacturer, to HUD, and to HUD's agent a certification report as described in this paragraph (b)(2). The issuance of the certification report is a prerequisite to the commencement of production surveillance under paragraph (c) of this section in the plant for which the report is issued. At the time the certification report is issued, the IPIA may provide the manufacturer with a two to four week supply of labels to be applied to mobile homes produced in the plant. The IPIA shall maintain a copy of each certification report which it issues.

(3) The certification report shall include.

(i) The name of the DAPIA which approved the manufacturer's design and quality assurance manual and the dates of those approvals,

(ii) The names and titles of the IPIA engineers and inspectors who performed the initial comprehensive inspection.

(iii) A full report of inspections made, serial numbers inspected, any failures to comply which were observed, corrective actions taken, and dates of inspections, and

(iv) A certification that at least one mobile home has been completely inspected in all phases of its production in the plant, that the manufacturer is performing in conformance with the approved designs and quality assurance manual and, to the extent the design is not specific with respect to any aspects of the standards, with the standards, and the IPIA is satisfied that the manufacturer can produce mobile homes in conformance with the designs, and where the designs are not specific, with the standards on a continuing basis.

(4) Inadequate manufacturer performance. Where an IPIA determines that the performance of a manufacturer is not yet adequate to justify the issuance of a certification report and labels to the manufacturer, the IPIA may label mobile homes itself by using such of its personnel as it deems necessary to perform complete inspections of all phases of production of each mobile home being produced and labeling only those determined after any necessary corrections to be in conformance with the design and, as appropriate, with the standards. This procedure shall continue until the IPIA determines that the manufacturer's performance is adequate to justify the issuance of a certification report.

(5) Transition provision. (i) Prior to the effective date of the standards, when the IPIA finds that it does not have adequate staff to perform the initial comprehensive inspection in a manufacturing plant soon enough for that manufacturer to be in production on the effective date of the standards, or after the effective date of the standards with respect to a manufacturer which is acting under the transition certification process set out in § 3282.207, the IPIA may arrange to have a DAPIA perform the initial comprehensive in-factory inspection under paragraph (b)(1) and issue the certification report under paragraph (b)(2). The IPIA shall then issue a two-to-four-week supply of labels to be used beginning on the effective date of the standards. If the DAPIA is unable to complete the initial comprehensive factory inspection and is unable to complete the initial comprehensive factory inspection and issue the certification report prior to the effective date of the standards, the DAPIA shall submit a deviation report to the IPIA listing all conditions that shall be corrected in the factory prior to the issuance of the certification report and labels. Upon receipt of the DAPIA's deviation report, the IPIA may initiate full-time inspection in the factory with such personel as it deems necessary to provide complete inspections of mobile homes in production, and it shall apply labels to those mobile homes that it knows by its own inspections to be in conformance with the design and, as appropriate under paragraph (b)(1), with the standards. The IPIA shall continue its full-time inspection in the plant until all deviations cited by the DAPIA have been corrected and the IPIA is satisfied that the manufacturer is conforming to the approved designs and quality assurance manual and as appropriate under paragraph (b)(1), with the standards, when these conditions have been met the IPIA shall issue the certification report and a two-to-four-week supply of labels to the manufacturer to be used prior to the commencement of production surveillance under paragraph (c) of this section.

(ii) A certification report for a particular plant accepted under the Title I program shall be accepted as a certification report under paragraph (b)(2). The IPIA which originally issued the certification report or a different IPIA acting for the manufacturer under this section shall assure that copies of it are distributed as new reports would be under paragraph (b)(2), except that copies need not be distributed to parties which already have copies.

(c) Production surveillance. (1) After it has issued a certification report under subsection (b) of this section, the IPIA shall carry out ongoing surveillance of the manufacturing process in the plant. The IPIA shall be responsible for conducting representative inspections to assure that the manufacturer is performing its quality control program pursuant to and consistent with its approved quality assurance manual and to assure that whatever part of a mobile home is actually inspected by the IPIA is fully in

conformance with the design and, as appropriate under paragraph (a)(1)(iii) of this section, with the standards before a label is issued for or placed on that mobile home. The surveillance visits shall commence no later than that date on which the IPIA determines they must commence so that the IPIA can assure that every mobile home to be produced after the effective date of the standards to which a label provided for in paragraph (c)(2) of this section is affixed, is inspected in at least one stage of its production. The frequency of subsequent visits to the plant shall continue to be such that every mobile home is inspected at some stage in its production. In the course of each visit, the IPIA shall make a complete inspection of every phase of production and of every visible part of every mobile home which is at each stage of production. The inspection shall be made to the approved design except where the design is not specific with respect to an aspect of the standards, in which case the inspection of that aspect of the mobile home shall be made to the standards. The IPIA shall assure that no label is placed on any mobile home which it finds fails to conform with the approved design or, as appropriate, the standards in the course of these inspections and shall assure that no labels are placed on other mobile homes still in the plant which may also not conform until those homes are inspected and if necessary corrected to the design or the standards. If an IPIA finds a mobile home that fails to conform to the design, or as appropriate under paragraph (a)(1)(iii) of this section, to the standards, the IPIA may, in addition to withholding the label for the unit, proceed to red tag the home until the failure to conform is corrected. Only the IPIA is authorized to remove a red tag. When mobile homes repeatedly fail to conform to the design, or as appropriate under paragraph (a)(1)(iii), to the standards in the same assembly station or when there is evidence that the manufacturer is ignoring or not performing under its approved quality assurance manual, the IPIA shall increase the frequency of these inspections until it is satisfied that the manufacturer is performing to its approved quality assurance manual. Failure to perform to the approved manual justifies withholding labels until an adequate level of performance is attained. As part of its function of assuring quality control, the IPIA shall inspect materials in storage and test equipment used by the manufacturer at least once a month, and more frequently if unacceptable conditions are observed. With the prior approval of the Secretary, an IPIA may decrease the frequency of any inspections.

(2) Labeling. (i) Labels required. (A) The IPIA shall continuously provide the manufacturer with a two- to four-week supply (at the convenience of the IPIA and the manufacturer) of the labels described in this subsection, except that no labels shall be issued for use when the IPIA is not present if the IPIA is not satisfied that the manufacturer can and is producing mobile homes which conform to the design and, as appropriate, to the standards. Where necessary, the IPIA shall reclaim labels already given to the manufacturer. In no event shall the IPIA allow a label to be affixed to a mobile home if the IPIA believes that the mobile home fails to conform to the design, or, where the design is not specific with respect to an aspect of the standards, to the standards. Labels for such mobile homes shall be provided only after the failure to conform has been remedied, or after the Secretary has determined that there is no failure to conform.

(B) Except where a manufacturer acts under the transition certification program under section 3282.207, a permanent label shall be affixed to each transportable section of each mobile home for sale or lease to a purchaser in the United States in such a manner that removal will damage the label so that it cannot be reused. This label is provided by the IPIA and is separate and distinct from the data plate which the manufacturer is required to provide under § 280.5 of Chapter II of 24 CFR.

(C) The label shall read as follows:

AS EVIDENCED BY THIS LABEL NO. ABC 000 001, THE MANUFACTURER CERTIFIES THAT THIS MOBILE HOME HAS BEEN INSPECTED IN ACCORDANCE WITH THE REQUIREMENTS OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND TO THE BEST OF THE MANUFACTURER'S KNOWLEDGE AND BELIEF, IS CONSTRUCTED IN CONFORMANCE WITH THE FEDERAL MOBILE HOME CONSTRUCTION AND SAFETY STANDARDS IN EFFECT ON THE DATE OF MANUFACTURE. SEE DATA PLATE.

(D) The label shall be 2 in. by 4 in. in size and shall be permanently attached to the mobile home by means of 4 blind rivets, drive screws, or other means that render it difficult to remove without defacing it. It shall be etched on .032 in. thick aluminum plate. The label number shall be etched or stamped with a 3 letter IPIA designation which the Secretary shall assign and a 6 digit number which the label supplier shall stamp sequentially on labels supplied to each IPIA.

(E) The label shall be located at the tail-light end of each transportable section of the mobile home approximately one foot up from the floor and one foot in from the road side, or as near that location on a permanent part of the exterior of the mobile home as practicable. The roadside is the right side of the mobile home when one views the mobile home from the tow bar end of the mobile home. It shall be applied to the mobile home unit in the manufacturing plant by the manufacturer or the IPIA, as appropriate.

(F) The label shall be provided to the manufacturer only by the IPIA. The IPIA shall provide the labels in sequentially numbered series. The IPIA may obtain labels from the Secretary or the Secretary's agent, or where the IPIA obtains the prior approval of the Secretary, from a label manufacturer. However, if the IPIA obtains labels directly from a label supplier, those labels must be sequentially numbered without any duplication of label numbers.

(G) Whenever the IPIA determines that a mobile home which has been labeled, but which has not yet been released by the manufacturer may not conform to the design or, as appropriate under paragraph (a)(1)(iii) of this section, to the standards, the IPIA by itself or through an agent shall red tag the mobile home. Where the IPIA determines that a mobile home which has been labeled and released by the manufacturer, but not yet sold to a purchaser (as described in § 3282.252(b) may not conform, the IPIA may, in its discretion, proceed to red tag the mobile home. Only the IPIA is authorized to remove red tags, though it may do so through agents which it deems qualified to determine that the failure to conform has been corrected. Red tags may be removed when the IPIA is satisfied, through inspections, assurances from the manufacturer, or otherwise, that the affected homes conform.

(H) Labels that are damaged, destroyed, or otherwise made illegible or removed shall be replaced by the IPIA, after determination that the mobile home is in compliance with the standards, by a new label of a different serial number. The IPIA's labeling record shall be permanently marked with the number of the replacement label and a corresponding record of the replacement label.

(ii) Label control. The labels used in each plant shall be under the direct control of the IPIA acting in that plant. They shall be provided to the manufacturer only by the IPIA. The IPIA shall assure that the manufacturer does not use any other label to indicate conformance to the standards. This paragraph (c)(2)(ii) does not apply to transition-certification labels used under § 3282.207.

(A) The IPIA shall be responsible for obtaining labels. Labels shall be obtained from HUD or its agent, or with the approval of the Secretary, from a label manufacturer. The labels shall meet the requirements of this section. Where the IPIA obtains labels directly from a label manufacturer, the IPIA shall be responsible for assuring that the label manufacturer does not provide labels directly to the manuer of mobile omes, if to the manufacturer of mobile homes. If the label manufacturer fails to supply correct labels or allows labels to be released to parties other than the IPIA, the IPIA shall cease dealing with the label manufacturer.

(B) The labels shall be shipped to and stored by the IPIA's at a location which permits ready access to manufacturing plants under its surveillance. The labels shall be stored under strict security and inventory control. They shall be released only by the IPIA to the manufacturer under these regulations.

(C) The IPIA shall be able to account for all labels which it has obtained through the date on which the mobile home leaves the manufacturing plant, and it shall be able to identify the serial number of the mobile home to which each particular label is affixed.

(D) The IPIA shall keep in its central record office a list of the serial numbers

of labels issued from the label producer to the IPIA and by the IPIA to the manufacturing plant.

(E) Failure to maintain control of labels through the date the mobile home leaves the manufacturing plant and failure to keep adequate records of which label is on which mobile home shall render the IPIA subject to disqualification under § 3282.356.

(3) Data plate. (i) The IPIA shall assure that each mobile home produced in each manufacturing plant under its surveillance is supplied with a data plate which meets the requirements of this section and of § 280.5 of Chapter II or 24 CFR. The data plate shall be furnished by the manufacturer and affixed inside the mobile home on or near the main electrical distribution panel. The data plate shall contain the following information:

(A) The name and address of the manufacturing plant in which the mobile home was manufactured,

(B) The serial number and model designation of the unit and the date the unit was manufactured,

(C) The statement "This mobile home is designed to comply with the Federal Mobile Home Construction and Safety Standards in force at the time of manufacture.",

(D) A list of major factory-installed equipment including the manufacturer's name and the model designation of each appliance,

(E) Reference to the structural zone and wind zone for which the home is designed and duplicates of the maps as set forth in § 280.305(c)(4) of Chapter II of 24 CFR. This information may be combined with the heating/cooling certificate and insulation zone maps required by §§ 280.510 and 280.511 of Chapter II of 24 CFR.

(F) The statement "design approval by" followed by the name of the DAPIA which approved the design,

(ii) A copy of the data plate shall be furnished to the IPIA, and the IPIA shall keep a permanent record of the data plate as part of its labeling record so that the information is available during the life of the mobile home in case the data plate in the mobile home is defaced or destroyed.

(d) Permanent records. The IPIA shall maintain the following records as appropriate:

(1) Records of all labels issued, applied, removed, and replaced by label number, mobile home serial number, mobile home type, manufacturer's name, dealer destination, and copies of corresponding data plates.

(2) Records of all mobile homes which are red tagged, and the status of each home.

(3) Records of all inspections made at each manufacturing plant on each mobile home serial number, each failure to conform found, and the action taken in each case.

(4) Records of all inspections made at other locations of mobile homes identified by manufacturer and serial number, all mobile homes believed to contain the same failure to conform, and the action taken in each case.

All records shall specify the precise section of the standard which is in question and contain a clear and concise explanation of the process by which the IPIA reached any conclusions. All records shall be traceable to specific mobile home serial numbers and through the manufacturer's records to dealers and purchasers.

(e) Requirements for full acceptance—IPIA. (1) Before granting full acceptance to an IPIA, the Secretary or the Secretary's agent shall review and evaluate at least one certification report which has been prepared by the IPIA during the period of provisional acceptance. The Secretary or the Secretary's agent shall also review in depth the IPIA's administrative capabilities and otherwise review the IPIA's performance of its responsibilities under these regulations.

(2) Where the Secretary determines on the basis of these reviews that an IPIA is not meeting an adequate level of performance, the Secretary or the Secretary's agent shall carry out further evaluations. If the Secretary finds the level of performance to be unacceptable, the Secretary shall not grant full acceptance. If full acceptance has not been granted by the end of the provisional acceptance period, provisional acceptance shall lapse unless the Secretary determines that the failure to obtain full acceptance resulted from the fact that the Secretary or the Secretary's agent has not had adequate time in which to complete an evaluation.

§ 3282.363 Right of entry and inspection.

Each primary inspection agency shall secure from each manufacturer and manufacturing plant under its surveillance an agreement that the Secretary, the State Administrative Agency and the primary inspection agency have the right to inspect the plant and its mobile home inspection, labeling, and delivery records, and any of its mobile homes in the hands of dealers or distributors at any reasonable time.

§ 3282.364 Inspection responsibilities and coordination.

All primary inspection agencies shall be responsible for acting as necessary under their contractual commitment with the manufacturer to determine whether alleged failures to conform to the standards may exist in mobile homes produced under their surveillance and to determine the source of the problems. The DAPIA may be required to examine the designs in question or the quality assurance manual under which the mobile homes were produced. The IPIA may be required to reexamine the quality control procedures which it has approved to determine if they conform to the quality assurance manual, and the IPIA shall have primary responsibility for inspecting actual units produced and, where necessary, for inspecting units released by the manufacturer. All primary inspection agencies acting with respect to particular manufacturer or plant shall act in close coordination so that all necessary functions are performed effectively and efficiently.

§ 3282.365 Forwarding monitoring fee.

The IPIA shall, whenever it provides labels to a manufacturer, obtain from the manufacturer the monitoring fee to be forwarded to the Secretary or the Secretary's agent as set out in § 3282.210. If a manufacturer fails to provide the monitoring fee as required by § 3282.210 to be forwarded by the IPIA under this section, the IPIA shall immediately inform the Secretary; or the Secretary's Agent.

Subpart I—Consumer Complaint Handling and Remedial Actions

§ 3282.401 Scope.

(a) This subpart sets out procedures to be followed by parties acting under these regulations, and in particular by manufacturers, State Administrative Agencies, primary inspection agencies, and the Secretary, when they receive a consumer complaint or other information indicating the possible existence of an imminent safety hazard, serious defect, defect, or noncompliance in a mobile home which has been sold or otherwise released by a manufacturer to another party. The information as used herein includes knowledge of an imminent safety hazard or failure to conform to the standards found in the plant which may exist in any mobile home already sold or released by the manufacturer. This subpart governs how the information is to be handled, what remedial actions may be required, and how and by whom those remedial actions shall be taken.

(b) Nothing in this subpart or in these regulations shall limit the rights of the purchaser under any contract or applicable law.

§ 3282.402 Purpose.

The purpose of this subpart is to establish a system under which the protections of the Act are provided with a minimum of formality and delay in the majority of cases, but in which the rights of all parties are protected.

§ 3282.403 Consumer complaint and information referral.

(a) Consumer complaints or other information relating to possible imminent safety hazards or to possible failures to conform to the Federal standards should be sent directly to the manufacturer of the mobile home in question. It is the policy of these regulations that all consumer complaints or other information indicating the possible existence of an imminent safety hazard, serious defect, defect, or noncompliance should be referred to the manufacturer of potentially affected mobile homes as early as possible so that the manufacturer can begin to take any necessary remedial actions.

(b) When a consumer complaint or other information indicating the possible existence of a failure to conform or imminent safety hazard is received by a State Administrative Agency concerning

a mobile home not located in that state or is received by the Secretary, the SAA or the Secretary shall forward the complaint or other information to the SAA of the State in which the mobile home in question is located unless it appears from the complaint or otherwise that mobile homes containing the same possible failure to conform or imminent safety hazards are located in more than one State. If it appears that possibly affected mobile homes are located in more than one State, the complaint shall be forwarded to the SAA of the State where the homes were manufactured, unless it further appears that the mobile homes were manufactured in more than one State, in which case the complaint shall be forwarded to the Secretary. If the complaint or information concerns a mobile home located in the State, the SAA shall act under this subpart. Where there is no SAA in the state in which the allegedly affected mobile homes are located or manufactured, as appropriate, the complaint shall be sent to the Secretary, and the Secretary shall act under this subpart. In all cases, a copy of the complaint or other information shall simultaneously be sent to the manufacturer of the mobile homes that may be affected.

§ 3282.404 Manufacturer initiated response.

(a) Whenever a manufacturer receives from a source other than the Secretary or a State Administrative Agency a consumer complaint or other information which indicates the possible existence of an imminent safety hazard, serious defect, defect, or noncompliance in a mobile home which has been sold or otherwise released by the manufacturer, the manufacturer shall investigate the possible existence of the imminent safety hazard or failure to conform in the mobile home or homes to which the complaint or information relates.

(b) Within 10 days of receipt of the complaint or other information, the manufacturer by investigation of the complaint, inspection of the mobile home, or otherwise shall determine whether or not an imminent safety hazard, serious defect, defect or noncompliance exists in the mobile home.

(1) If the manufacturer determines that no imminent safety hazard, serious defect, defect, or noncompliance exists, the manufacturer shall, on or before the tenth day after receipt of the complaint or other information, mail or otherwise communicate the manufacturer's determination to any complaining or inquiring parties and keep a permanent record of the determination and the action taken.

(2) If the manufacturer determines that an imminent safety hazard, serious defect, defect, or noncompliance exists, the manufacturer shall, within 5 days of making the determination, search its records and take such other steps as may be necessary to determine whether or not the imminent safety hazard or failure to conform is unique to the complained of mobile home.

(c) The manufacturer may determine that an imminent safety hazard or failure to conform is unique to a mobile home if the cause of the imminent safety hazard or failure to conform is not likely to result in the same or a similar problem in one or more other mobile homes. Each determination that no other mobile homes are affected shall be concurred in or disputed by the IPIA in the plant in which the affected mobile home was manufactured.

(1) If the IPIA disputes the determination of uniqueness, the manufacturer shall proceed as it would under paragraph (d) of this section.

(2) If the IPIA concurs in the determination of uniqueness. (i) The manufacturer shall correct the imminent safety hazard or failure to conform within 30 days of the date on which the manufacturer determined the existence of an imminent safety hazard or failure to conform to the standards so that the mobile home is brought into conformance with the standards in effect at the time the mobile home was manufactured and any imminent safety hazard or failure to conform is removed, and,

(A) The manufacturer shall keep complete records of all determinations and corrections made under this paragraph (c)(2)(i). These records shall include the date the complaint was received, the action taken and the date the action was completed, and the appropriate statement under § 3282.413(b);

(B) These records shall be subject to oversight by an SAA or the Secretary, and an incorrect determination or inadequate repair may subject the manufacturer to a requirement to act further under §§ 3282.405, 3282.406, or 3282.407;

(C) The manufacturer need make no further reports or actions taken hereunder; or

(ii) The manufacturer shall proceed as it would under section (d) of this section.

(d) If the manufacturer determines that the imminent safety hazard or failure to conform may not be unique to one mobile home, the manufacturer shall, within 5 days of the date on which the determinaiton of nonuniqueness is made under paragraph (b)(2) of this section, report the existence of the imminent safety hazard or failure to conform and identity of the units which may be affected. The manufacturer, in determining what mobile homes are affected, shall check mobile homes manufactured in all other plants in which the same factors which caused the original imminent safety hazard or failure to conform may exist or have existed. The manufacturer shall attach to the report a statement from the IPIA in each such plant that it concurs in or disputes the manufacturer's determination of which homes are affected. This report shall be sent to the State Administrative Agency of the State in which the affected mobile homes are located unless they are located in more than one State, in which case the report shall be sent to the State Administrative Agency of the State where the mobile homes were manufactured, except that where the mobile homes were manufactured in more than one State, the report shall be sent to the Secretary. Where there is no State Administrative Agency in the appropriate State under the previous sentence, the report shall be sent to the Secretary. At the same time that this report is being submitted, the manufacturer shall proceed under § 3282.405.

§ 3282.405 Notification pursuant to manufacturer's determination.

(a) When a manufacturer determines that an imminent safety hazard, serious defect or defect may exist under § 3282.404(b)(2) and does not act under § 3282.404(c)(2)(i), the manufacturer shall prepare and submit a plan as set out in § 3282.410 to the same agency to which the report required by § 3282.404(d) was submitted.

(1) In cases in which the manufacturer has proceeded under § 3282.404(c)(2)(ii), this plan shall be submitted within 5 days of the determination of the possible existence of an imminent safety hazard or serious defect and within 10 days of the determination of the possible existence of a defect.

(2) In cases where the manufacturer has proceeded under § 3282.404(d), the plan shall be submitted within 5 days of the due date of the report required by that section if the plan concerns an imminent safety hazard or serious defect or within 10 days if the plan concerns a defect.

(b) All plans for notification and correction shall meet the requirements of § 3282.410 and shall be available for public inspection.

(c) After any necessary consultation with the manufacturer, the SAA or the Secretary to which the plan was sent shall approve the plan as submitted or make whatever modifications the SAA or the Secretary deems necessary, and shall notify the manufacturer of such approval or modification. The manufacturer shall be responsible for carrying out the plan as approved or modified by the SAA or the Secretary. If the manufacturer believes that the plan as modified and approved by the SAA or the Secretary is incorrect and wishes to contest the modification, the manufacturer shall so inform the SAA or the Secretary within 5 days of the SAA or the Secretary approval of the plan as modified. The SAA or the Secretary shall, if it does not accept the manufacturer's position, act as follows:

(1) If the manufacturer contends that the mobile home contains a defect rather than an imminent safety hazard or serious defect as the SAA or the Secretary contends, the SAA or the Secretary shall refer the matter to the Secretary for determination under § 3282.407(a).

(2) If the manufacturer contends that the number of units affected is different from that stated by the SAA or the Secretary or that the contents of the notice or the correction are different from what

the SAA or the Secretary would require, then:

(i) If the SAA or the Secretary and the manufacturer agree that a defect exists, the SAA or the Secretary shall make preliminary determination under § 3282.407 (b), and the parties shall proceed under that section, or

(ii) If the SAA or the Secretary and the manufacturer agree that an imminent safety hazard or serious defect exists, the SAA or the Secretary shall refer the matter to the Secretary for action under § 3282.407(a).

However, in any case in which the only question in dispute is whether more units are affected than the manufacturer has stated in its plan, the manufacturer shall carry out the plan with respect to those units covered by it if the plan is otherwise acceptable, and time limits applicable to this action shall run from the date of determination by the manufacturer of the possible existence of an imminent safety hazard, serious defect, or defect.

(d) The manufacturer may undertake any corrections required by this subpart prior to approval of the plan. However, actions taken under this paragraph are subject to review by the agency that approved the plan under paragraph (a)(3) of this section, and if found unacceptable, shall not fulfill the requirement of this section.

(e) The formal notification requirements which would result from any determination by the manufacturer under this section may be waived by the SAA or the Secretary that would otherwise approve the plan under paragraph (a)(3) of this section upon receipt of satisfactory assurances from the manufacturer that:

(1) The manufacturer has identified all possibly affected mobile homes which have been sold to purchasers, dealers and distributors;

(2) The manufacturer has corrected, at the manufacturer's expense, all affected mobile homes; and

(3) The repairs, in the SAA or the Secretary's judgment, are adequate to remove the imminent safety hazard or failure to conform. The manufacturer may, before acting under this paragraph (c), obtain the concurrence in the proposed corrections from the SAA or the Secretary that would otherwise approve the plan under paragraph (a)(3) of this section. All actions taken under this paragraph (b) by the manufacturer shall be completed within 30 days of the decision of the manufacturer to act under this § 3282.405 if the problem is an imminent safety hazard or serious defect or 60 days if the problem is a defect unless the SAA or the Secretary which would have approved the plan under paragraph (a)(3) of this section, agrees to a longer period of time in extraordinary circumstances.

§ 3282.406 SAA or secretarial initiated response.

(a) When a consumer complaint or other information indicating the possible existence of an imminent safety hazard, serious defect, defect, or noncompliance is referred to the Secretary or an SAA under § 3282.403(b), the Secretary or SAA shall expeditiously contact the manufacturer of the mobile home or homes in question. The Secretary or SAA must provide the manufacturer all information which it has concerning the possible imminent safety hazard or failure to conform and shall inform the manufacturer that the manufacturer shall report to the Secretary or SAA within 10 days of the contact as specified in paragraph (b) of this section. The SAA or the Secretary may extend the time period to 20 days upon satisfactory indications by the manufacturer that it is diligently investigating the situation, except that such extension shall not be granted if it is not in the interest of the purchasers or owners.

(b) The manufacturer shall respond to the SAA or the Secretary which contacted it under paragraph (a) of this section within 10 days of the contact (unless an extension is granted). In this report the manufacturer shall indicate whether it knew of the complaint or information and

(1) If it knew of the complaint or information, or other complaints or information relating to the problem, what actions it has taken and the reasons therefor.

(2) If it did not know of the complaint or information, whether the manufacturer has classified the problem to which the complaint or information relates as an imminent safety hazard, serious defect, defect, or noncompliance, with the reasons for this classification or whether the manufacturer has determined that the problem complained of fits none of these classifications.

(c) If the manufacturer determines and responds under paragraph (b)(2) of this section that there is an imminent safety hazard, serious defect, defect, or noncompliance in the mobile homes, it shall proceed under § 3282.404(b)(2), and if the manufacturer further proceeds under § 3282.404(d), the manufacturer shall send a copy of the report required by that section to the SAA or the Secretary which forwarded the complaint or information to it under paragraph (a) of this section concerning the same imminent safety hazard or failure to conform.

(d) If the manufacturer determines and reports under paragraph (b)(2) of this section that no imminent safety hazard, serious defect, defect, or noncompliance exists in the complained of mobile home or homes, the SAA or the Secretary to which the response is made under paragraph (b)(2) shall proceed as follows:

(1) If the SAA or the Secretary on the basis of the information reported by the manufacturer and any other information the SAA or the Secretary may have, agrees with the determination of the manufacturer, the SAA or the Secretary shall so inform the manufacturer and the complainants and shall consider the matter closed.

(2) If the SAA or the Secretary is not convinced by the information submitted by the manufacturer or otherwise believes that further investigation is necessary, the SAA or the Secretary shall investigate and, within 10 days of receipt of the manufacturer's report, shall inform the manufacturer of the results of its investigation.

(i) If the SAA or the Secretary agrees with the manufacturer's determination, it shall act as it would under paragraph (d)(1).

(ii) If the SAA or the Secretary believes that an imminent safety hazard, serious defect, defect, or noncompliance exists, it shall so inform the manufacturer, and the manufacturer may act as it would under paragraph (c) of this section. If the manufacturer does not choose to act under that paragraph, the SAA or the Secretary shall proceed under § 3282.407, including holding any requested hearing or presentation of views, making any Preliminary or Final Determination, and approving any plan for notification correction.

(e) The manufacturer may obtain from any SAA to which a copy of the response required under paragraph (b)(2) of this section is sent approval of proposed corrections for only those mobile homes located in that state to which the complaint or information forwarded by the SAA to the manufacturer related but only for these mobile homes. If the manufacturer properly effects corrections pursuant to such approval, the manufacturer need not modify the correction at a later time despite the fact that the plan which is approved under §§ 3282.405(a)(3) or 3282.407(a)(3) or (b)(3) contains different specifications for the correction. If a manufacturer provides correction under this paragraph, such correction does not constitute an admission by the manufacturer that an imminent safety hazard, serious defect, defect, or noncompliance exists, and it is not a concession by the manufacturer that the approved corrections are appropriate or necessary in any other mobile home. However, actions taken under this paragraph are subject to review by the SAA or the Secretary that approved the plan under paragraph (a)(3) of this section, and if found unacceptable, shall not fulfill the requirements of this section.

(f) An SAA or the Secretary acting under paragraph (a) of this section or under § 3282.407 may, if at any point after contacting the manufacturer it determines that the consumer complaint or other information about which it has contacted the manufacturer (i) relates to a noncompliance of such a minor or technical nature that its existence will not contribute to the deterioration of the mobile home and will not interfere with the use and enjoyment of the mobile home, or (ii) does not constitute a failure to conform or imminent safety hazard, inform the manufacturer and any complainants of this determination and cease further action under this section or § 3282.407.

§ 3282.407 **Notification pursuant to administrative determination.**

(a) *Imminent safety hazards and serious defects.* The Secretary shall act under this paragraph upon receipt of the opinion of an SAA that an imminent safety hazard or serious defect exists in one or more mobile homes and upon forming an opinion under section 3282.406(d)(2)(ii) that an imminent safety hazard or serious defect exists. The Secretary may also act upon the receipt of any other information indicating the possible existence of an imminent safety hazard or serious defect. Only the Secretary may make Preliminary and Final determinations that an imminent safety hazard or serious defect exists.

(1) *Preliminary procedures.* Upon receipt of any information indicating the possible existence of an imminent safety hazard or serious defect, but where such information is not adequate to support a Preliminary determination of an imminent safety hazard or serious defect under paragraph (a)(2) of this section, the Secretary shall direct the manufacturer to furnish information with respect to the imminent safety hazard or serious defect, including information about the mobile homes potentially affected, within a time prescribed by the Secretary. If the manufacturer fails to furnish information within such time or if, after a consideration of the manufacturer's response or other information the Secretary may receive or obtain, the Secretary is satisfied that an imminent safety hazard or serious defect may exist, the Secretary shall make a Preliminary determination of an imminent safety hazard or serious defect under paragraph (a)(2) of this section.

(2) *Preliminary determination.* (i) Whenever the Secretary determines that there is reason to believe that an imminent safety hazard or serious defect exists in a mobile home, the Secretary shall make a preliminary determination to that effect. The Secretary shall within 5 days notify the manufacturer of such preliminary determination and inform the manufacturer that it may request a hearing or presentation of views under subpart D to establish that there is no such imminent safety hazard or serious defect.

(ii) Notice shall be sent by certified mail and shall include:

(A) The preliminary determination made by the Secretary;

(B) The factual basis for the determination;

(C) The date on which the determination was made;

(D) The identifying criteria of the mobile homes that may be affected.

The notice shall inform the manufacturer that the preliminary determination of the Secretary shall become final unless the manufacturer responds within 5 days after receipt of such notice and requests a hearing or presentation of views to rebut the Secretary's determination. The Secretary shall further notify the manufacturer as to whether such imminent safety hazard or serious defect is one which the manufacturer may be required to correct at the manufacturer's expense pursuant to § 3282.408. The manufacturer shall also be advised in the notice that any information upon which the Preliminary Determination has been based, such as test results and records of investigations, shall be available for inspection by the manufacturer.

(iii) Promptly upon receipt of a manufacturer's request for a hearing or presentation of views, one shall be provided pursuant to § 3282.152.

(3) *Final determination.* If the manufacturer fails to respond to the Secretary's notice of Preliminary Determination or if the Secretary decides that the views and evidence presented by the manufacturer or others are insufficient to rebut the preliminary determination, the Secretary shall make a final determination that an imminent safety hazard or serious defect exists. In the event of a final determination, the Secretary shall direct the manufacturer to furnish notification and, where applicable, to correct the defect or hazards and to submit a plan in accordance with § 3282.410. The Secretary's order shall be published in the FEDERAL REGISTER.

(b) *Defects and noncompliances.* The SAA or the Secretary identified by § 3282.404(d) may make a Preliminary Determination that a defect or noncompliance exists in one or more mobile homes sold or otherwise released by a manufacturer or proceed under this section where an appropriate preliminary determination has been made under § 3282.405(a)(3)(ii) or a tentative finding has been made under § 3282.406(d)(2)(ii), or where the SAA or the Secretary, as appropriate otherwise has information which indicates the possible existence of a defect or noncompliance.

(1) *Preliminary determination.* (i) Whenever the SAA or the Secretary acting under this paragraph determines that there is reason to believe that one or more mobile homes contain a defect or noncompliance and makes a preliminary determination to that effect, under this section or whenever the SAA or the Secretary acting under this section receives the preliminary determination of another SAA or the Secretary under § 3282.405(a)(3)(ii), the SAA or the Secretary shall notify the manufacturer within 10 days of such preliminary determination and inform the manufacturer that it may request a hearing or presentation of views under subpart D to establish that there is no such defect or noncompliance.

(ii) Notice shall be sent to the manufacturer by certified mail and shall include:

(A) The preliminary determination made by the SAA or the Secretary;

(B) The factual basis for the determination;

(C) The date on which the determination was made;

(D) The indentifying criteria of the mobile homes known to be affected.

The notice shall inform the manufacturer that the preliminary determination of defect or noncompliance shall become final unless the manufacturer responds within 5 days after receipt of such notice and requests a hearing or presentation of views to rebut the SAA or the Secretary's determination. The notice shall also state that any information upon which the preliminary determination of noncompliance or defect has been based, such as test results and records of investigations, shall be available for inspection by the manufacturer.

(iii) Promptly upon receipt of a manufacturer's request for a hearing or presentation of views, one shall be held pursuant to § 3282.152.

(2) *Final determination.* If the manufacturer fails to respond to the notice of preliminary determination, or, if the SAA or the Secretary decides that the views and evidence presented by the manufacturer of others are insufficient to rebut the Preliminary Determination, the agency shall make a final determination that a defect or noncompliance exists. In the event of a Final Determination, the SAA or the Secretary shall direct the manufacturer to furnish notification and to submit a plan in accordance with § 3282.410.

(3) *Appeals.* When an SAA has made a final determination that a defect or noncompliance exists, the manufacturer within 10 days after the receipt of the notice of such final determination, may request an appeal to the Secretary under § 3282.309.

(c) *Waiver.* The formal notification requirements which would result from a determination made under this section may be waived by the SAA or the Secretary handling the matter upon receipt of satisfactory assurances from the manufacturer that:

(1) The manufacturer has identified all affected mobile homes which have been sold to purchasers, dealers and distributors;

(2) The manufacturer has performed the correction, at the manufacturer's expense, on all affected mobile homes; and

(3) The repairs, in the SAA or the Secretary's judgment, are adequate to meet the problem.

The manufacturer may, before acting under this subsection (c) obtain the concurrence of the SAA or the Secretary. Any action taken under this subsection (c) shall be completed within 30 days of the date of a Final Determination of imminent safety hazard or serious defect or 60 days of the date of a final determination of defect or noncompliance, unless the SAA or Secretary agrees to a longer period of time in extraordinary circumstances.

§ 3282.408 **Required manufacturer correction.**

(a) A manufacturer required to furnish notification under § 3282.405 or § 3282.407 shall correct, at its expense, any imminent safety hazard or serious defect which can be related to an error in design or assembly of the mobile home by the manufacturer, including an error in design or assembly of any component or system incorporated in the mobile home by the manufacturer.

(b) Where the manufacturer questions whether correction is required under paragraph (a) of this section, the Secretary shall provide an opportunity for a

hearing or presentation of views at which interested persons may present oral and written views prior to the issuance of an order directing the manufacturer to provide correction at its expense. The procedures of § 3282.152 shall apply to any proceedings which may be conducted under this section. To the maximum extent possible, actions taken under this section shall be coordinated with actions taken under § 3282.407 so that only one hearing need be held to determine both whether a defect or imminent safety hazard exists and whether correction is required.

§ 3282.409 Reimbursement for prior correction by owner.

(a) A manufacturer, required to correct under § 3282.408, shall provide reimbursement for reasonable cost to an owner of an affected mobile home who chose to make the correction. Any dispute over the amount to be reimbursed shall be referred by the manufacturer to the SAA where the mobile home is located, or to the Secretary if there is no SAA in that State, and the decision of the SAA or the Secretary shall be administratively Final.

(b) Whenever a manufacturer who agreed voluntarily to correct under § 3282.405(b) or § 3282.407(c) finds that the owner of an affected mobile home has already corrected the failure to conform or imminent safety hazard, the manufacturer shall reimburse the owner in an amount equal to the reasonable cost to the manufacturer of making the correction.

§ 3282.410 Manufacturer's plan for notification and correction.

(a) The plan required to be submitted by § 3282.405(a) and § 3282.407 (a)(3) and (b)(3) shall indicate how the manufacturer will fulfill its responsibilities under this section. The plan shall include a copy of the notice which meets the requirements of § 3282.411.

(b) Time and manner of notification. (1) If not waived notification of an imminent safety hazard shall be communicated within 5 days after receipt of the order approving the manufacturer's plan for notification and remedy, except that the notification shall be furnished within a shorter period if there is incorporated in the order a finding that such period is in the public interest.

(2) Notice of serious defects, defects or noncompliances shall be mailed or otherwise communicated within 10 days after receipt of the order approving the manufacturer's plan for notification shall be furnished within a shorter period if there is incorporated in the order a finding that such period is in the public interest.

(3) The plan shall provide for notification to be accomplished:

(i) By mail to the first purchaser (not including any dealer or distributor of such manufacturer) of each mobile home containing the imminent safety hazard, serious defect, defect, or noncompliance, and any subsequent purchaser to whom any warranty provided by the manufacturer or required by Federal, State or local law on such mobile home has been transferred, to the extent feasible;

(ii) By mail to any other person who is a registered owner of each mobile home containing the imminent safety hazard, serious defect, defect, noncompliance and whose name has been ascertained pursuant to § 3282.211;

(iii) By mail or other more expeditious means to the dealers or distributors of such manufacturer to whom such mobile home was delivered. Where a serious defect or imminent safety hazard is involved, notification shall be sent by certified mail if it is mailed.

§ 3282.411 Contents of notice.

The notice shall include the following:

(a) An opening statement: "This notice is sent to you in accordance with the requirements of the National Mobile Home Construction and Safety Standards Act of 1974."

(b) The following statement, as appropriate: "(Manufacturer's name or the Secretary, or the appropriate SAA)" has determined that:

(1) An imminent safety hazard may exist in (identifying criteria of mobile home).

(2) A serious defect may exist in (identifying criteria of mobile home).

(3) A defect may exist in (identifying criteria of mobile home).

(4) (Identifying criteria of mobile home) may not comply with an applicable Federal Home Construction or Safety Standard."

(c) A clear description of the imminent safety hazard, serious defect, defect, or noncompliance which shall include:

(1) The location of the imminent safety hazard, serious defect, defect, or noncompliance in the mobile home;

(2) A description of any hazards, malfunctions, deterioration or other consequences which may result from the imminent safety hazard, serious defect, defect, or noncompliance;

(3) A statement of the conditions which may cause such consequences to arise; and

(4) Precautions, if any, that the owner should take to reduce the chance that the consequences will arise before the mobile home is repaired.

(d) An evaluation of the risk to mobile home occupants' safety and the durability of the mobile home reasonably related to such imminent safety hazard, serious defect, defect, or noncompliance, including:

(1) The type of injury which may occur to occupants of the mobile home;

(2) The types of injuries which have occurred, including particularly any deaths, which appear to have resulted from the imminent safety hazard, defect or noncompliance; and

(3) Whether there will be any warning that a dangerous occurrence may take place and what that warning would be, and any signs which the owner might see, hear, smell, or feel which might indicate danger or deterioration of the mobile home as a result of the imminent safety hazard, serious defect, defect, or noncompliance.

(e) A statement of the measures needed to repair the imminent safety hazard, serious defect, defect, or noncompliance, in accordance with whichever of the following is appropriate:

(1) Where the manufacturer must bring the mobile home into compliance with applicable standards and correct the imminent safety hazard, have it corrected at no cost to the owner pursuant to § 3282.408, the statement shall include:

(i) A statement that the correction will be made at the manufacturer's expense;

(ii) A general description of the work involved in the repair;

(iii) The manufacturer's estimates of the date on which the manufacturer's agents will make the repair;

(iv) The method by which the owner will be contacted further when the repair date is to be carried out;

(v) The manufacturer's estimate of the time reasonably necessary to perform the labor required to correct the imminent safety hazard or serious defect;

(vi) Any other information set out in the plan for notification which may be helpful to the owner.

(2) When the manufacturer does not bear the cost of repair, the notification shall include:

(i) A statement that the manufacturer is not required by the Act to remedy without charge;

(ii) A description, including approximate price, of all material that must be added or replaced;

(iii) A description of any modifications that must be made to existing materials;

(iv) A detailed description, including appropriate illustrations, of each step required for correction;

(v) The manufacturer's estimate of the time reasonably necessary to perform the labor required to correct the defect;

(3) Where a determination has been made that notification is required, but a final determination has not been made as to the manufacturer's responsibility to bear the cost of correction, the Secretary may, after providing an opportunity for a hearing or presentation of views under § 3282.152, direct the manufacturer to issue a notification with a statement that the issue is being considered and, that a further notification will be sent when a determination has been made under § 3282.408.

(f) A statement informing the owner that he may submit a complaint to the Secretary if the owner believes that:

(1) The notification or the remedy described therein is inadequate; or

(2) The manufacturer has failed or is unable to remedy the problem in accordance with his notification; or

(3) The manufacturer has failed or is unable to remedy within a reasonable time after the owner's first attempt to obtain remedy; or

(g) A statement that any actions taken by the manufacturer under the Act in no way limit the rights of the owner or any other person under any contract or other applicable law and that the owner may

have further rights under contract or other applicable law.

§ 3282.412 Time for implementation of plan.

The manufacturer's plan submitted under § 3283.410 shall provide for implementation of notification and correction actions as follows:

(a) Imminent safety hazards. Implementation of the plan for notification and correction shall be completed within 30 days from the date of discovery or Final Determination of an imminent safety hazard or serious defect.

(b) Defects and Noncompliances. Implementation of the manufacturer's plan for notification shall be completed within 60 days from the date of discovery or final determination of defect or noncompliance.

(c) The Secretary may grant an extension of time for implementing the plan where the manufacturer shows good cause for the delay and the Secretary determines the extension is justified as extraordinary circumstances. When the Secretary grants an extension, the Secretary shall notify the manufacturer and publish notice of such extension in the FEDERAL REGISTER. The manufacturer shall implement its plan for notification and correction as approved by the Secretary.

§ 3282.413 Completion of remedial actions and report.

(a) Where a manufacturer is required to provide notification under this subpart, the manufacturer shall maintain in its files for five years from the date the notification campaign is completed a copy of the notice sent and a complete list of the people and their addresses.

(b) Where a manufacturer is required to provide correction under § 3282.408, or where the manufacturer otherwise corrects under § 3282.404(c)(2)(i), § 3282.405(b) or § 3282.407(c), the manufacturer shall maintain in its files, for five years from the date the correction campaign is completed, one of the following, as appropriate:

(1) A statement signed by the owner to the effect that the problem appears to have been corrected and that the owner is satisfied with the correction,

(2) Where the owner refuses to sign such a statement, a certification by the manufacturer that the repair was made to the standards in effect at the time the mobile home was manufactured, that any imminent safety hazard has been eliminated, and that the owner has refused to sign the statement in the previous paragraph, or

(3) Where the owner refuses to allow the manufacturer to repair the home, a certification by the manufacturer that it has informed the owner of the problem which may exist in the mobile home, that it has informed the owner of any risk to safety or durability of the mobile home which may result from the problem, and that the manufacturer has attempted to repair the problems only to have the owner refuse the repair.

(c) If any actions taken under §§ 3282.404(c)(2)(i), 3282.405(b) or 3282.407(c) are found by the SAA of the State in which the home is located or by the Secretary not to meet the standards or otherwise not to be adequate under the approved plan, the manufacturer may be required to provide notification or correction pursuant to this subpart.

(d) If, in the course of making corrections under any of the provisions of this subpart, the manufacturer creates an imminent safety hazard or serious defect the manufacturer shall correct the imminent safety hazard or serious defect under § 3282.408.

(e) Upon completion of an approved plan and upon completion of any remedial actions under this subpart except repairs made under § 3282.404(c)(2)(i), the manufacturer shall, within 30 days of the time limits set out in § 3282.412, provide a complete report of the action taken to the agency which provided the plan under § 3282.405 or 3282.410 or which would have approved the plan had one been required and any agency which contacted the manufacturer under § 3282.406(a) concerning the problem. This report shall identify by serial numbers the homes affected. The number of homes found to have the failure to conform or imminent safety hazard, and where in the distribution chain (manufacturer, distributor, dealer, purchaser, owner) they were found.

§ 3282.414 Replacement or repurchase of mobile home from purchaser.

(a) Whenever an imminent safety hazard or serious defect which must be corrected by the manufacturer at his expense under § 3282.408 is of such severity that it cannot be repaired within 60 days in accordance with section 615(i) of the Act, the Secretary may require—

(1) That the mobile home be replaced by the manufacturer with a mobile home substantially equal in size, equipment, and quality, and either new or in the same condition the defective mobile home would have been in at the time of discovery of the imminent safety hazard or serious defect had the imminent safety hazard or serious defect not existed; or

(2) That the manufacturer take possession of the mobile home and refund the purchase price in full, less a reasonable allowance for depreciation based on actual use if the home has been in the possession of the owner for more than one year. Such depreciation shall be based upon an appraisal system approved by the Secretary, and shall not take into account damage or deterioration resulting from the imminent safety hazard or serious defect.

(b) In determining whether to order replacement or refund by the manufacturer, the Secretary shall consider:

(1) The threat of injury or death to mobile home occupants;

(2) Any costs and inconvenience to mobile home owners which will result from the lack of adequate repair within the specified period;

(3) The expense to the manufacturer;

(4) Any obligations imposed on the manufacturer under contract or other applicable law of which the Secretary has knowledge; and

(5) Any other relevant factors which may be brought to the attention of the Secretary.

(c) In those situations where under contract or other applicable law the owner has the right of election between replacement and refund, the manufacturer shall inform the owner of such right of election and shall inform the Secretary of the election, if any, by the owner.

(d) This section applies where an attempted correction of an imminent safety hazard or serious defect relieves the safety problem but does not bring the home in conformity to the standards.

(e) Where replacement or refund by the manufacturer is ordered under this section, it shall be carried out within 30 days of the Secretary's order to replace the mobile home or refund the purchase price unless the Secretary, for good cause shown, grants an extension of time for implementation of such order and publishes notice of extension in the FEDERAL REGISTER.

§ 3282.415 Mobile homes in the hands of dealers and distributors.

(a) The manufacturer is responsible for correcting any failure to conform any imminent safety hazards which exist in mobile homes which have been sold or otherwise released to a distributor or dealer but which have not yet been sold to a purchaser. This section sets out the procedures to be followed by dealers and distributors for handling mobile homes in such cases.

(b) Whenever a dealer or distributor finds a problem in a mobile home which the manufacturer is responsible for correcting under paragraph (a) of this section, the dealer or distributor shall contact the manufacturer, provide full information concerning the problem, and request appropriate action by the manufacturer in accord with paragraph (c) of this section. Where the manufacturer agrees to correct, the manufacturer shall maintain a complete record of its actions. Where the manufacturer authorized the dealer to make the necessary corrections on a reimbursable basis, the dealer or distributor shall maintain a complete record of its actions. Agreement by the manufacturer to correct or to authorize corrections on a reimbursable basis under this subsection constitutes a determination of the Secretary for purposes of section 613(b) of the Act with respect to judicial review of the amount which the manufacturer agrees to reimburse the dealer or distributor for corrections.

(c) Upon a final determination by the Secretary or a State Administration Agency under § 3282.407, or upon a determination by a court or competent jurisdiction that a mobile home fails to conform to the standard or contains an imminent safety hazard after such mobile home is sold or otherwise resold by a manufacturer to a distributor or a dealer and prior to the sale of such mobile home by such distributor or dealer to a pur-

chaser, the manufacturer shall have the option either to:

(1) Immediately furnish, at the manufacturer's expense, to the purchasing distributor or dealer the required conforming part or parts or equipment for installation by the distributor or dealer on or in such mobile home, and shall reimburse such distributor or dealer for the reasonable value of such installation plus a reasonable reimbursement of not less than one per centum per month of the manufacturer's or distributor's selling price prorated from the date of receipt by certified mail of notice of noncompliance to the date such mobile home is brought into compliance with the standards, so long as the distributor or dealer proceeds with reasonable diligence with the installation after the part or component is received; or

(2) Immediately repurchase, at the manufacturer's expense, such mobile home from such distributor or dealer at the price paid by such distributor or dealer, plus all transportation charges involved and a reasonable reimbursement of not less than one per centum per month of such price paid prorated from the date of receipt by certified mail of notice of the imminent safety hazard, serious defect, defect or noncompliance to the distributor. The value of such reasonable reimbursements as specified in this paragraph shall be fixed by mutual agreement of the parties or by a court in an action brought under section 613 (b) of the Act.

(d) This section shall not apply to any mobile home purchased by a dealer or distributor which has been leased by such dealer or distributor to a tenant for purposes other than resale. In that instance the dealer or distributor has the remedies available to a purchaser under this subpart.

§ 3282.416 Notices, bulletins and other communications.

Each manufacturer shall, at the time of dispatch, furnish to the Secretary a true or representative copy of all notices, bulletins, and other written communications to the dealers or distributors of such manufacturer or purchasers or owners of mobile homes of such manufacturer regarding any serious defect or imminent safety hazard which may exist in any such mobile homes produced by such manufacturer. Manufacturers shall keep complete records of all other communications with dealers, owners, and purchasers regarding insignificant noncompliances, noncompliances, and defects.

§ 3282.417 Supervision of notification and correction actions.

(a) The IPIA in each manufacturing plant shall be responsible for assuring that notifications are sent to all owners, purchasers, dealers, or distributors of whom the manufacturer has knowledge under § 3282.418 or otherwise as required by these regulations, and the IPIA shall be responsible for assuring that the required corrections are carried out by auditing the certifications required by § 3282.412.

(b) The SAA or Secretary to which the report required by § 3282.413(e) is sent shall be responsible for assuring through oversight that remedial actions described in the report have been carried out as described in the report.

(c) The SAA of the state in which an affected mobile home is located may inspect that mobile home to determine is no plan, to the standards or other apwhether any required correction is carried out to the approved plan or, if there proval obtained by the manufacturer under § 3282.405(b) or 3282.407(c).

Subpart J—Monitoring of Primary Inspection Agencies

§ 3282.451 General.

The actions of all primary inspection agencies accepted under subpart H shall be monitored by the Secretary or the Secretary's agent to determine whether the PIAs are fulfilling their responsibilities under these regulations. This monitoring shall be carried out primarily through joint monitoring teams made up of personnel supplied by SAAs and by the Secretary or the Secretary's agent. Monitoring parties shall make recommendations to the Secretary with respect to final acceptance of PIAs under §§ 3282.361(e) and 3282.362(e), continued acceptance, and disqualification or requalification under § 3282.356, and with respect to any changes which PIAs should make in their operations in order to continue to be approved. Based on this monitoring, the Secretary shall determine whether PIAs should continue to be approved under these regulations.

§ 3282.452 Participation in monitoring.

(a) *Joint monitoring teams.* (1) The Secretary or the Secretary's agent shall develop and coordinate joint monitoring teams which shall be made up of qualified personnel provided by SAAs and by the Secretary or the Secretary's agent. The Secretary or the Secretary's agent shall determine whether personnel are qualified based on education or experience.

(2) The joint monitoring teams will operate generally on a regional basis. To the extent possible, the teams shall be so scheduled that personnel provided by an SAA will be monitoring operations in mobile home plants from which mobile homes are shipped into their State.

(3) Personnel from an SAA shall not participate on joint monitoring teams operating within their State.

(4) States are encouraged but not required to participate on joint monitoring teams.

(b) State monitoring. A State may carry out monitoring of IPIA functions at plant facilities within the State if the State is not acting as an IPIA. Where a State wishes to carry out monitoring activities it shall do so in coordination with the Secretary and the Secretary's agent. To the extent that the State is performing adequate monitoring, the frequency of the joint team monitoring may be reduced to one visit per year consistent with the requirements of § 3282.453.

(c) Review of staff capability. The monitoring party shall review the capability of the PIA's staff to perform the functions it is required to perform.

(d) Review of interpretations. The monitoring party shall review all records of interpretations of the standards made by the PIA to determine whether they are consistent and to determine whether there are any conflicts which should be referred to the Secretary for determination.

(e) DAPIA. Monitoring parties shall review on a random basis at least 10 percent of the design and quality assurance manual approvals made by each DAPIA in each year.

(f) IPIA. The monitoring parties shall assure that the IPIAs are carrying out all of the functions for which they have been accepted. In particular, they shall assure that the manufacturing process is as stated in the certification reports, that the IPIAs are carrying out the required number of inspections, that inspections are effective, and that the IPIAs are maintaining complete label control as required by § 3282.362. A monitoring team shall monitor the IPIA's office procedures, files, and label control and the monitoring team shall send copies of its report to the Secretary or the Secretary's agent, which shall send copies to all monitoring teams which monitor the operations of the subject IPIA.

(g) Remedial actions. The monitoring parties shall review the remedial action records of the manufacturers and of the primary inspection agencies closely to determine whether the primary inspection agencies have been carrying out their responsibilities with respect to remedial actions.

§ 3282.453 Frequency and extent of monitoring.

(a) The actions of all primary inspection agencies shall be monitored at a frequency adequate to assure that they are performing consistently and fulfilling their responsibilities under these regulations. Every aspect of the primary inspection agencies' performance shall be monitored.

(b) Frequency of monitoring. The performance of each primary inspection agency shall be monitored during its period of provisional acceptance by a complete review of its records and, in the case of IPIAs, by a complete inspection of the operations of at least one manufacturing plant which it has approved or in which it is operating. After the initial inspection, the performance of each primary inspection agency shall be monitored four times per year, except that the number of monitoring visits may be decreased to a minimum of one per year if the performance of the primary inspection agency is deemed by the Secretary or the Secretary's agent to be superior, and it may be increased as necessary if performance is suspect. There shall be a minimum of one review per year of the records of each primary inspection agency, and there shall be more reviews as needed.

§ 3282.454 Monitoring inspection fee.

(a) There is hereby established a monitoring inspection fee of $19.00 which is to be paid by manufacturers for each mobile home manufactured in non-approved and conditionally approved states as described in § 3282.210.

(b) The monitoring inspection fee to be established by approved states under § 3282.307(a) shall be in the amount of $19.00 per mobile homes produced therein.

Subpart K—Departmental Oversight

§ 3282.501 General.

The Secretary shall oversee the performance of SAAs, the Secretary's agent, and primary inspection agencies as follows:

(a) The Secretary shall review SAA reports to ensure that States are taking appropriate actions with regard to the enforcement of the standards and with respect to the functions for which they are approved under these regulations.

(b) The Secretary shall review monitoring reports submitted by the Secretary's agent to determine that it is performing in accordance with the contract between it and the Secretary.

(c) The Secretary shall review monitoring reports to determine whether PIAs are fulfilling their responsibilities under these regulations.

(d) The Secretary shall make random visits for the purpose of overseeing the activities of SAAs and the Secretary's agent.

(e) The Secretary shall take such other actions to oversee the system established by these regulations as it deems appropriate.

(f) All records maintained by all parties acting under these regulations with respect to those actions shall be available to the Secretary, the Secretary's agent, and where appropriate, SAAs and PIAs for review at any reasonable time.

§ 3282.502 Departmental implementation.

To the extent that SAAs or any parties contracting with the Secretary do not perform functions called for under these regulations, those functions shall be carried out by the Secretary with its own personnel or through other appropriate parties.

§ 3282.503 Determinations and hearings.

The Secretary shall make all the determinations and hold such hearings as are required by these regulations, and the Secretary shall resolve all disputes arising under these regulations.

Subpart L—Manufacturer, IPIA and SAA Reports

§ 3282.551 Scope and purpose.

This subpart describes the reports which shall be submitted by manufacturers, PIAs and SAAs as part of the system of enforcement established under these regulations. Additional reports described in subpart I are required when corrective actions are taken under that subpart.

§ 3282.552 Manufacturer reports for joint monitoring fees.

For each month, the manufacturer shall submit to the IPIA in each of its manufacturing plants a report that includes the serial numbers of each mobile home manufactured at that plant during that preceding month, and the State of first location, after leaving the manufacturing plant, of such mobile homes. The State of first location for the purpose of this report is the State of the premises of the distributor, dealer or purchaser to whom the mobile home is first shipped. The report for each month shall be submitted by the tenth day of the following month.

§ 3282.553 IPIA reports.

Each IPIA shall submit by the twentieth day of each month to each SAA, or if no SAA to the Secretary, in each state where it is engaged in the inspection of manufacturing plants, a report of the operations of each manufacturer in that State for the preceding month which includes the following information:

(a) The number of single-wide and double-wide mobile homes labeled in the preceding month;

(b) The number of inspection visits made to each manufacturing plant in the preceding month; and

(c) The number of mobile homes with a failure to conform to the standards or an imminent safety hazard during the preceding month found in the manufacturing plant.

The manufacturers report for the preceding month described in § 3282.552 shall be attached to each such IPIA report as an appendix thereto.

§ 3282.554 SAA reports.

Each SAA shall submit, prior to the last day of each month, to the Secretary a report covering the preceding month which includes:

(a) The description and status of all presentations of views, hearings and other legal actions during the preceding month; and

(b) The description of the SAA's oversight activities and findings regarding consumer complaints, notification and correction actions during the preceding month. The IPIA report for the preceding month described in § 3282.553, as well as the reports described in § 3282.413 and manufacturer reports under § 3282.404(d), which were received during the preceding month, shall be attached to each such SAA report as an appendix thereto.

Effective date: This Part 3282 is effective May 13, 1976.

CONSTANCE B. NEWMAN,
Assistant Secretary for Consumer Affairs and Regulatory Functions.

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PART IV:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Low Income Housing

■

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM— EXISTING HOUSING

Title 24—Housing and Urban Development

CHAPTER VIII—LOW INCOME HOUSING

[Docket No. R-76-381]

PART 882—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—EXISTING HOUSING

Miscellaneous Amendments

The Department gave notice on March 8, 1976, at 41 FR 9998, that it was proposing to amend 24 CFR Part 882. The purposes of the proposed changes to the Section 8 Existing Housing Program were to simplify processing and administrative procedures, increase operating flexibility, and incorporate various technical and editorial changes. The comment period closed April 5, 1976.

The Department has received more than 75 comments in response to the March 8, 1976, publication. All comments were carefully considered, and changes have been made to the proposed regulations, as set forth below, based on these comments. A discussion of the principal changes and of the more recurrent and significant comments is set forth below.

1. Sec. 882.101(b), "Conversion of Section 23 Housing Projects," has been revised in several respects.

(a) In response to a comment, Sec. 882.101(b)(1) has been clarified to state that no HUD policy or procedure shall affect prior rights of a tenant, as well as of an owner, under a lease entered into under section 23 of the U.S. Housing Act of 1937.

(b) In response to several comments, a new Sec. 882.101(b)(7) has been added to provide that a completed Section 23 New Construction or Substantial Rehabilitation Project may be converted to Section 8 under contractual arrangement for such term and on such conditions as may be agreed to by all the parties and approved by HUD. The applicable Fair Market Rents shall be those for Section 8 Existing Housing, except that for any unit which was completed no more than six years prior to the leasing thereof, the applicable rent shall be determined in accordance with Sec. 882.120(b). This change incorporates in the regulation certain material included in a HUD Notice dated May 1, 1975, which was sent to Regional Administrators, Field Office Directors and PHAs.

2. The definition of Allowance for Utilities and Other Services has been revised by deleting the second sentence (see Sec. 882.102). This is a technical clarification only.

3. The definition of "Eligible Family" in Sec. 882.102 has been modified by moving the substance of the last sentence regarding continued Family eligibility to Sec. 882.212, "Reexamination of Family Income, Composition, and Extent of Exceptional Medical or Other Unusual Expenses." This is a technical correction to move the material to a more appropriate place in the regulations. (See item 38 of this preamble.) In addition, the term "handicapped" has been clarified to specify that it includes mentally or physically handicapped.

4. The definition of "Housing Assistance Plan" has been revised to conform to the definition in the regulations to be issued pursuant to section 213 of the HUD Act.

5. In response to comments that Sec. 882.103(a) be clarified, the provision has been revised to state that a Certificate holder shall be responsible for finding a unit suitable to the holder's needs and desires in any area where the PHA determines that it is not legally barred from entering into Contracts. The comparable language in the proposed regulations was "any area wherein the PHA is authorized to execute Contracts." (See also Secs. 882.209(e)(1) and (2).)

6. Several comments suggested that Sec. 882.103(a) be revised to require the PHA to provide assistance to certain Families which are unable to locate approvable units. Accordingly, the provision has been amended to require that such assistance be provided if it is requested by the Family.

7. It was suggested that Sec. 882.103(c) be clarified. Accordingly, the provision has been revised to state that PHAs are encouraged to promote greater choice of housing opportunities by (1) seeking participation of Owners in any area in which the PHA has determined that it is not legally barred from entering into Contracts, (2) advising Families of their opportunity to lease housing in all such areas, (3) cooperating with other PHAs by issuing Certificates to Families already receiving the benefit of Section 8 housing assistance payments who wish to move from the operating area of one PHA to another, and (4) developing administrative arrangements with other PHAs to permit Certificate holders to seek housing in the broadest possible area. In any geographic area established for the purpose of allocating funds, HUD will give preference in funding to PHAs which provide Families the broadest geographical choice of units.

8. Sec. 882.104(a), "Maximum Total ACC Commitment," as been changed to provide that the maximum total annual contribution that may be contracted for shall not exceed the total for all the units of the Fair Market Rents or such higher rent as approved by HUD for a unit size or type pursuant to Sec. 882.106(a)(3), instead of the total of the Fair Market Rents plus an allowance for the fee for the regular costs of PHA administration. No amount may be added for the fee for the regular costs of PHA administration except with the approval of the Assistant Secretary for Housing Production and Mortgage Credit, where the need for the additional funds is evident from the estimates of required annual contributions on the prescribed forms submitted pursuant to Sec. 882.204(b)(2).

9. Sec. 882.106(a), "Fair Market Rent Limitation," has been revised in a number of respects. Several comments suggested that the requirement in paragraph (a) of the proposed regulations that PHA approvals of rents higher than published Fair Market Rents must be compensated for by other lower rents was inappropriate because it is unrealistic to expect an equal number of units to be available at compensating lower rents. Other comments objected to the provision limiting this PHA authority to not more than 20 percent of the units under their ACC. There were also objections to the requirements that the PHA specify the factors on which each higher rent approval is based, and maintain written certifications for inspection by HUD.

A problem from HUD's viewpoint in connection with authorization to PHAs to make such higher rent determinations is the need for safeguards to maintain an appropriate relationship between program costs and program objectives in terms of numbers of units to be assisted. After careful consideration of the foregoing, as well as other comments, and all relevant considerations, Sec. 882.106 has been revised to authorize a PHA to approve Gross Rents on a unit-by-unit basis which exceed the Fair Market Rents by up to 10 percent with respect to no more than 20 percent of the units under its ACC, and to exercise such authority with respect to more units only with HUD approval; however, in considering whether to grant such approval, HUD will review the appropriateness of the applicable Fair Market Rents and the relationship of estimated program costs to program objectives.

A new paragraph (a)(3) has been added which provides that HUD may approve, upon request from a PHA supported by a statement of the special circumstances, maximum Gross Rents of up to 20 percent above the Fair Market Rents for all units of a given size or type within a designated municipality, county, or similar locality. However, HUD will review the appropriate Fair Market Rents and the relationship of estimated program costs to program objectives. Moreover, in no event shall a maximum Gross Rent, as increased under paragraph (a)(3), exceed the rent determined by HUD to be the average rent currently being charged for a standard unit of similar size or type in the applicable municipality or county. This limitation will not apply to approvals of similarly higher rents under paragraph (a)(4), where the approval can only be granted by the Regional Administrator.

10. Sec. 882.106(b), "Rent Reasonableness Limitation," has been reorganized and clarified in several respects. A provision has been added to clarify that for a rent controlled unit, comparable units are those which are rent controlled, and for a unit not subject to rent control, comparable units are those not rent controlled. In addition, PHAs are required to maintain for three years all certifications and relevant documentation for inspection by HUD.

11. Sec. 882.108, "Rent Adjustments," has been revised to delete the requirement that the Owner submit with his request for a rent adjustment a certification signed by the Owner and the Family that the unit is Decent, Safe, and Sanitary and that the Owner is otherwise in compliance with the terms of the Lease. This change is in response to comments which suggested that this requirement is an un-

necessary burden on the Owner since the PHA makes at least annual inspections and the Owner certifies by the endorsement on his monthly checks (see item 40 of this preamble) that the unit is in Decent, Safe, and Sanitary condition. Paragraph (a)(2), "Special Adjustments," has been revised to clarify that the effective date of a special adjustment need not be the anniversary date of the Contract if the Owner otherwise has the legal right to terminate the tenancy on the effective date. (See also Section 2.7 of the Contract, Appendix II, where conforming changes have been made.)

12. In response to comments, Sec. 882.109(b), "Food Preparation and Refuse Disposal," has been revised to clarify under the Acceptability Criteria that the cooking stove or range and the refrigerator may be supplied by either the Owner or the Family.

13. It was suggested that Sec. 882.109 (f), "Structure and Materials," be revised to require that mobile homes be tied down. Accordingly, the provision has been clarified to require that a mobile home be securely anchored by a ti-edown to appropriate ground anchors.

14. Many comments suggested that the definition of Congregate Housing in Sec. 882.109(m) be revised to permit Families to select units in community residences which contain shared facilities and which are especially appropriate for retarded persons. This provision has not been revised, pending completion of the environmental impact statement process. The Department is considering amending the regulation at that time to provide for this type of housing. See the discussion on environmental requirements following the last numbered item of this preamble.

15. Sec. 882.110(b) has been revised to provide that the Fair Market Rent for each unit of Congregate Housing shall be the same as for 0-bedroom units, except that if the unit consists of two or more private rooms, the Fair Market Rent shall be the same as for a 1-bedroom unit. In addition, in determining the reasonableness of the rents, consideration shall be given to the presence or absence of common rather than private cooking and dining facilities.

16. Secs. 882.110 (c) and (d) have been clarified to include a reference to the Farmers Home Administration section 515 program. Sec. 882.110(d) has been clarified by the inclusion of a reference to State or locally subsidized units.

17.(a) In response to comments, Sec. 882.110(c) has been revised to provide that in any section 221(d)(3) (BMIR), section 202, section 236 (insured or non-insured) or Farmers Home Administration section 515 interest credit project: (1) units receiving section 23 or rent supplement assistance may continue to receive such assistance or, upon conversion of section 23 units to section 8, the occupants may receive assistance under section 8, and (2) occupants of units not receiving such assistance may receive section 8 assistance if the total number of units in the project receiving such assistance, together with units receiving assistance under the section 23, rent supplement, or section 236 "deep subsidy" programs, or under any State or local subsidy (other than property tax exemption or abatement) assistance programs, does not exceed 40 percent of the total number of units in the project. Upon request, this limitation may be exceeded for the purpose of relieving hardship of a particular Family or Families only with the approval of the Regional Administrator. Prior to granting such authorization, the Regional Administrator will review the request to determine whether assistance under Part 886, Subpart A, "Additional Assistance Program for Projects with HUD-Insured and HUD-Held Mortgages," (41 FR 12170, March 23, 1976) is more appropriate and can be scheduled.

(b) Language has been added to Sec. 882.110(c) to clarify that, in the case of State or locally subsidized projects, the term subsidized does not include exemption or abatement of property tax for the purpose of the 40 percent limitation.

18. Many comments suggested that Section 882.115, "Rent Reduction Incentive," be deleted because it tends to restrict choice to low cost housing areas, results in a credit being paid to Families remaining in place, is not worth the administrative time involved, or has no effect where vacancy rates are low. The Department has determined not to delete the provision pending recommendations to be received from a major study now being undertaken to evaluate the program, including this important feature. The comments received will be considered in connection with these recommendations.

19. The title of Sec. 882.115 is changed from "Shopping Incentive Credit to Family for Savings of Government Assistance Payments" to "Rent Reduction Incentive." The new title is more appropriate because (a) the purpose of the section is to provide for more efficient use of available funds, and (b) the Rent Credit is equally available to a Family which negotiates a lower rent for the unit it already occupies, and, therefore, is not "shopping" for a unit in the usual sense.

20. Sec. 882.115 has also been revised to base the amount of the Rent Credit on the difference between the proposed Contract Rent plus any Allowance and the Fair Market Rent or such higher rent as approved by HUD for a unit size or type pursuant to Sec. 882.106(a)(3).

21. The prohibition against use of a Rent Credit if the Family selects a unit receiving the benefit of Federal, State or local subsidy is continued (Sec. 882.115(c)), but a new provision has been added stating that HUD may, on its own initiative or at the request of a PHA, authorize applicability of the Rent Credit to subsidized units if HUD determines that it is in the public interest to do so because of high vacancies or high turnover in the project. The PHA is required to inform Certificate holders that the approved units are not subject to the general prohibition.

22. In response to comments, Sec. 882.116(r) has been clarified to state that the PHA is responsible for compliance with equal opportunity requirements, including efforts to provide opportunities for Families to seek housing outside areas of economic and racial concentration.

23. In response to comments, Sec. 882.116(j) has been revised to include a provision that the PHA is responsible for assuring compliance with the 40 percent limitation on the number of Section 8 assisted units and other subsidized units which may be included in a project. (See item 17 of this preamble).

24. Several comments suggested that Sec. 882.116, "Responsibilities of the PHA," be revised to require the PHA to supply the Family with a list of Owners interested in participating in the program. The regulations do not prohibit a PHA from supplying such lists. The Department has determined that this is a matter which should be left to the discretion of the PHA.

25. In response to comments, Sec. 882.120, "Recently Completed Housing," has been clarified and revised in several respects.

(a) Sec. 882.120(a) provides that HUD may invite and approve applications for use of Existing Housing units at the higher Fair Market Rents authorized by paragraph (b) of the section, where construction or rehabilitation of such units was completed no more than 6 years prior to the date of the leasing of the unit ("Recently Completed Housing") in areas which meet two characteristics. The first of the two characteristics is being revised to state: the housing needs of Lower-Income Families in the area cannot be addressed by use of Existing Housing Units "within the rent limitations authorized under Sec. 882.106" rather than "at or below the published Fair Market Rents for Existing Housing." See also paragraphs (a)(1)(ii) and (a)(2)(ii) where conforming changes have been made.

(b) In response to a comment, paragraph (a) has been revised to define "completed" as the first date the units were legally available for occupancy.

(c) The term "area covered by a single Fair Market Rent schedule for Existing Housing" in paragraphs (a)(1)(i) and (a)(2)(i) has been changed to "municipality, county, or similar area." This change is in response to comments that the vacancy rate determination should be sufficiently localized to permit the adaptation of the program for maximum feasibility on a local basis.

(d) In response to comments, paragraph (b) has been revised to state that rents up to 10 percent above the Fair Market Rents for Recently Completed Housing may be approved pursuant to Sec. 882.106; however, rents more than 10 percent above the applicable Fair Market Rent may not be approved for Recently Completed Housing.

(e) The last sentence of paragraph (d) has been deleted because the limitation is covered by Sec. 882.108(a).

26. A new Sec. 882.122 has been added to provide that these regulations as amended shall be applicable to Certifi-

cates outstanding on and Requests for Lease Approval pending on the date of publication to the maximum extent and in the manner that the PHA deems feasible.

27. Sec. 882.202 has been revised to require the field office to consider any applicable State or areawide housing allocation plan, as well as any Housing Assistance Plan and other pertinent information, in determining the number and types of units to be made available.

28. In response to comments, Sec. 882.203(a) has been revised to provide that where the field office issues an invitation for Existing Housing Program applications, it shall send information concerning the invitation, rather than a copy of the invitation, to trade journals, news media, minority organizations involved in housing and community development, and fair housing groups.

29. Sec. 882.204(a)(3) has been clarified to provide that the demonstration of consistency with the Housing Assistance Plan included as part of the PHA's application must include a demonstration of consistency with the goals in the Plan for meeting the housing needs of Lower-Income Families.

30. Sec. 882.204(a)(4) of the proposed regulations, which would have required that the PHA's application include a certification that it will take affirmative action to provide opportunities to persons expected to reside in the locality because of present or planned employment, has been deleted from this clause, and in lieu thereof has been included with other certifications which are a part of the equal opportunity housing plan (see Sec. 882.204(b)(1)(iii)).

31. Sec. 882.204(b)(1)(i)(C) has been revised by deleting from this clause the specific discussion of requirements or preference systems used by the PHA in selecting applicants and by referencing the more appropriate place in the regulations where the material is now covered (see Sec. 882.209(a), "Initial Determination of Family Eligibility").

32. Sec. 882.205(b) has been revised to provide that, within 10 days after the screening of an application, the field office shall forward a notification requesting comments, in the form prescribed by HUD, to the chief executive officer of the unit of general local government in which proposed housing assistance is to be utilized, unless the comments of the appropriate executive officer in regard to the specific application have been previously submitted.

33. Sec. 882.205(c), "Evaluation of Applications," has been revised by deleting the last sentence regarding selection of applications where there are two or more approvable applications for a particular area. This statement has been replaced with a reference to the provision in Sec. 882.103(c) which provides that "in any geographic area established for the purpose of allocating funds, HUD will give preference in funling to PHAs which provide Families the broadest geographical choice of units."

34. Sec. 882.209(a), "Initial Determination of Family Eligibility," has been reorganized and revised to include in paragraph (a)(2) the material on PHA requirements and preference systems. Under the proposed regulation, Sec. 882.204(b)(1)(i)(C) included a provision that "no local residency requirements or priority systems relating to place of residence may be applied to applicants who are working in the community." Several comments suggested that residency requirements should be permitted without any restriction, while others suggested that they be prohibited for all applicants, not just those working in the community. The Department has determined that, in substance, the provision in the proposed regulation should be made final. A suggestion to include those who are "planning to work" in the community was deemed to be too vague for practical implementation.

The provision has, however, been clarified to provide that, while a residency requirement for those living in the jurisdiction of the PHA at the time of application is permissible, no requirement or preference may be based upon the identity or location of the housing which is occupied or proposed to be occupied by the applicant, nor upon the length of time the applicant has resided in the jurisdiction. Moreover, applicants who are working or who have been notified that they are hired to work in the jurisdiction are required to be treated as residents of the jurisdiction. (See also item 57.)

35. Sec. 882.209(a)(4) has been revised to state explicitly in the regulations what is implicit in the ACC that the PHA shall maintain a system to assure that it will comply, to the maximum extent feasible, with the unit distribution in the ACC, as well as maintain a system to assure that it will be able to honor all outstanding Certificates.

36. It was suggested that Sec. 882.209(d) regarding expiration and extension of Certificates be simplified. Accordingly, the provision has been revised to permit the Family, where the Certificate expires or is about to expire, to request an extension from the PHA. If the PHA finds, after reviewing the situation, that there is a reasonable possibility the Family may find a suitable unit, the PHA may grant one or more extensions not to exceed a total of 60 days. The provision permitting the Family to reapply even if the PHA determines not to extend the Certificate or has already extended the Certificate has been retained.

37. In response to comments requesting clarification of Sec. 882.209(e)(2) on the question of what consideration should be given by the PHA to a Family moving in from another jurisdiction, the provision has been revised to state that the PHA shall "either treat the Family as a Family to whom the PHA is already providing assistance who wishes to move to another unit or as a resident who has submitted an application for assistance." In either case, the PHA may not deny the Family a Certificate on the ground that it exceeds the admission income limits for the area to which the Family is moving.

38. A provision has been added to Sec. 882.212 that a Family may at any time request a redetermination of its Gross Family Contribution on the basis of changes in Family Income or other relevant circumstances. Sec. 882.212 has also been revised by inserting the provision regarding continued Family eligibility from the definition of Eligible Family as discussed in item 3 of this preamble. In response to comments suggesting that the Contract terminate when a Family's income no longer qualifies it for housing assistance payments, a provision has been added to state that (a) if the Contract terminates at a time when the Family is ineligible for payments, the Contract shall not be renewed, and (b) if one year has elapsed since the date of the last payment on behalf of the Family, the Contract shall be terminated (with the consent of the Owner if the Contract does not provide for termination under such circumstances) even if the termination date under the Contract has not yet been reached. (See also section 1.2(e)(1) of the Contract, Appendix II.)

39. A new Section 1.2(e)(2) has been added to the Contract in response to comments suggesting that a provision be added to permit the termination of assistance to a Family which does not comply with its obligations under the program. The provision states that the PHA may determine, after giving reasonable notice and opportunity to respond, that the Family is ineligible for further payments because of failure to comply with its obligations under the Certificate. The PHA shall notify the Family and the Owner of any such determination. This notification shall state that payments on behalf of the Family shall terminate as of the date of the notification. However, the Owner may qualify for continued payments for a limited time pursuant to and subject to the conditions and limitations of Section 1.4 of the Contract, if he proceeds to evict the Family as quickly as possible. (See also item 42 of this preamble.)

40. Several comments suggested that the requirement that the Owner submit monthly requests to the PHA for housing assistance payments is unduly burdensome. Accordingly, Section 2.4 of the Contract has been revised to provide that the Owner shall be paid monthly the amount due under the Contract, and that the endorsement on the check evidencing such payment (1) shall be conclusive evidence that the Owner has received full payment, and (2) shall constitute certification by the Owner as to all the basic elements entitling him to the payment. The Owner will agree that, should the PHA or HUD determine that he is not entitled to the payment, the amount of the overpayment may be deducted from any other amounts due the Owner. The Owner will further agree to notify the PHA promptly of any change of circumstances which would affect the amount of the monthly payment and to return any payment sent by the PHA which does not conform to the changed circumstances. (See also Sections 1.6 and 2.9 of the Contract and 2.13(e)(2) of the ACC where conforming changes have been made.)

41. The title of Section 2.15 of the Contract (see Appendix II) has been changed from "Nonassignability" to "Assignment of the Contract or Interest Therein," and the word "conveyance" has been deleted from the body of the section. These changes are in response to comments that Owners objected to a Contract provision which seemed to prohibit them from selling the property.

42. Paragraph (g) of the required lease provisions (see Appendix VI) has been amended to provide that the lease shall terminate on the date the Housing Assistance Payments Contract ends, including any termination due to termination of eligibility of the Lessee. The Lessee is subject to eviction by the Owner if the PHA determines, after reasonable notice and opportunity to respond, that the Lessee is ineligible because of failure to comply with the Lessee's obligations under the Certificate.

43. A number of comments which reflected misunderstanding or involved interpretations of the regulations will be handled individually as required. Such comments included matters involving Sec. 882.112, "Security and Utility Deposits," and Sec. 882.204, "Submission of Application."

44. Several comments suggested that explicit provision be made for the Family to dispute certain determinations by the PHA such as the determination of a Family's Gross Family Contribution. The PHA's administrative plan must address establishment of complaint and appeal procedures (see Sec. 882.204(b)(3)(ii)). If it becomes apparent that those procedures are not adequate, HUD will consider specific regulations.

45. Several comments from New York agencies requested that the provisions of Part 886, Subpart A, "Additional Assistance Program for Projects with HUD-Insured and HUD-Held Mortgages," be made applicable to State assisted projects. This is being responded to separately in connection with Part 886 since the subject matter is covered by that Part.

46. One comment asked which Fair Market Rents apply to mobile homes. A separate schedule of Fair Market Rents is not published for mobile homes in the Existing Housing Program. The applicable rents are those for non-elevator units of the appropriate size, subject to the reasonableness determination required by Sec. 882.106.

47. A number of comments stated that the administrative fee paid under the ACC (see Sec. 882.104) was too low. The question of the amount of the fee is part of a study being undertaken on that subject and other important features of the program and will be reconsidered on the basis of recommendations made in connection with the study.

48. It was suggested that the ACC reserve account (see Sec. 882.104) be revised to include a trigger mechanism similar to the mechanism in the New Construction and Substantial Rehabilitation ACCs. The Department has determined that this is not necessary since the Existing Housing ACC is for a relatively short term and the ACC does not contemplate any capital cost financing involving the reserve as security.

49. Several comments suggested that Sec. 882.109, "Housing Quality Standards," be revised to require that the housing meet local codes. It was felt that since code standards vary widely, the regulations should set national standards for what is Decent, Safe, and Sanitary housing, and leave local code enforcement to local officials. However, the Department has determined to continue to permit PHAs to propose local code requirements as variations to the Acceptability Criteria.

50. Several comments asked whether a Family which qualifies for, a three bedroom unit, for example, may select a two bedroom unit. The answer is "yes" so long as the standards on "Space and Security" in Sec. 882.109(c) are met. It was determined that the Family should have the flexibility to choose a smaller unit as a trade-off for other amenities such as convenience to transportation and shopping or an outdoor play area.

51. It was suggested that Sec. 882.109 (e) be revised to delete the requirement that each sleeping room include at least one window. The Department has determined not to revise the provision since many deaths from fire occur in bedrooms and a window provides an important possible escape route.

52. One comment asked whether the Project Selection Criteria apply. The answer is no. The Housing Quality Standards set forth in Sec. 882.109 are the applicable criteria for this program. The comment also asked whether the Affirmative Fair Housing Market Regulations apply. They are not applicable because these regulations apply to owners and are inappropriate for this program where the Family selects the unit (see Sec. 882.103).

53. A suggestion was received that the income limits for admission to the program should be published in the FEDERAL REGISTER. (See Sec. 882.113.) It has been determined that this would be administratively infeasible because of the thousands of areas involved and the number of revisions made. However, income limits for a particular area are available upon request at the PHA or the HUD field office.

54. Several comments suggested that families be permitted to pay more than 25 percent of their income towards the rent on a voluntary basis (see Sec. 882.-114). This maximum is a statutory requirement (see section 8(c)(3) of the U.S. Housing Act of 1937).

55. It was suggested that the requirement in Sec. 882.120, "Recently Completed Housing," that the unit be no more than six years old at leasing be dropped and that housing once identified as Recently Completed Housing be permitted to continue in that status regardless of age. This suggestion has not been adopted because the Department has determined to permit up to 75 percent of the New Construction Fair Market Rents only for the most recently completed existing housing stock which is most like newly constructed housing. Several comments also suggested that the percentage of the New Construction Fair Market Rents used to determine the Fair Market Rents for Recently Completed Housing should be higher than 75 percent. No change has been made since (a) the Fair Market Rents for new construction reflect anticipated increases during the period of construction and (b) Recently Completed Housing Fair Market Rents may be exceeded by up to 10 percent with HUD approval.

56. Several comments asked what types of priorities the PHA may include in its equal opportunity housing plan (see Sec. 882.204(b)(1)(i)(C)). In line with Congressional policy under the U.S. Housing Act of 1937 of not prescribing the types of preferences or priorities which PHAs may adopt, the regulation permits them to adopt those they deem to be appropriate and legally acceptable, such as for families living in substandard housing or under substandard conditions, such as overcrowding; displaced families; or families paying more than 25 percent of their income for rent. (See, however, item 34 of this preamble.)

57. It was suggested that the PHA monitor the use by the family of the payment it receives when its Gross Family Contribution minus the Rent Credit is less than the Allowance for Utilities and Other Services (see Sec. 882.210(c)). The purpose of such a requirement would be to assure that the Family used the payment for utilities. In the interest of encouraging energy conservation, as well as avoiding the administrative costs involved, it has been determined we will not require documentation on whether the family has used the entire Allowance for utilities.

58. Several comments suggested that Sec. 882.215, "Evictions," should be revised to delete the requirement that the PHA authorize the eviction. This is a statutory requirement (see section 8(d)(1)(B) of the U.S. Housing Act of 1937).

59. Although Sec. 882.215, "Evictions," is not being amended, the program will be subject to the regulations establishing a departmentwide policy on tenant evictions which were published for comment at 41 FR 16924 (April 22, 1976).

60. A comment suggested that the ACC be amended to permit the PHA to vary the unit mix by up to 25 percent without amending the ACC. The Department has determined not to amend the ACC in this regard, but to retain the provision in Section 1.1(d) that the PHA enter into Contracts "to the maximum extent feasible" in accordance with the specified unit mix. This provision permits adequate flexibility for practical purposes and requires an amendment of the ACC for substantial changes.

61. A comment suggested that the Owner should not be required to give the PHA and the Government access to his books and records that are pertinent to compliance with the Contract as required by Section 2.9 of the Contract. HUD has determined that this is a reasonable and necessary requirement in relation to a contract under which public funds are disbursed.

62. It was suggested that Section 2.14 of the ACC, "General Depositary Agreement," be modified to permit State agencies which are required to deposit funds with the State treasury to do so. Although the form of ACC is not being amended, the Section 8 Housing Finance and Development Agencies Regulations, 24 CFR Part 883, are being revised to permit, subject to certain requirements which will be set forth in the amendment to that Regulation, the amendment of the ACC.

A Finding of Inapplicability was prepared with respect to the Existing Housing Regulations as published for effect on May 5, 1975 (40 F.R. 19612) to the effect that Section 102(2)(C) of the National Environmental Policy Act of 1969 is inapplicable. It was nevertheless determined to prepare an environmental impact statement with respect to Section 882.109, "Housing Quality Standards," as published for comment March 8, 1976. The preamble to the regulations as published for comment noted that a draft environmental impact statement had been prepared. This statement, regarding the Housing Quality Standards, has been circulated for comment and is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Room 10141, Department of Housing and Urban Development, 451 Seventh St. SW., Washington, D.C. and in the Information Centers of the Department's Regional Offices. The comment period for the draft environment impact statement expires May 17, 1976.

The only changes being made to the Housing Quality Standards are clarifications, which relate to the manner in which the Department interprets the currently effective requirements of Sections 882.109 (b) and (f), Food Preparation and Refuse Disposal and tie-down for mobile homes, respectively (see items 12 and 13 of this preamble). Appropriate modifications may be made in Section 882.109 following completion of the environmental impact statement process.

With respect to the amendments set forth below, a Finding of Inapplicability has been made, in accordance with HUD Handbook 1390.1. A copy of the Finding is available for public inspection in the Office of the Rules Docket Clerk during regular business hours, at the address set forth above.

In addition, a Finding of Inapplicability of inflation impact statement requirements has been made in accordance with HUD procedures. A copy of this finding is available for public inspection in the Office of the Rules Docket Clerk during regular business hours, at the address set forth above.

Accordingly, 24 CFR Part 882 is revised to read as follows:

Subpart A—Applicability, Scope and Basic Policies

Sec.
882.101 Applicability and scope.
882.102 Definitions.
882.103 "Finders-keepers" policy.
882.104 Annual contributions.
882.105 Housing assistance payments to owners.
882.106 Contract rents.
882.107 Term of ACC, lease, and housing assistance payments contract.
882.108 Rent adjustments.
882.109 Housing quality standards.
882.110 Types of housing.
882.111 Equal opportunity requirements.
882.112 Security and utility deposits.
882.113 Establishments of income limit schedules; 30 percent occupancy by very low-income families.
882.114 Establishment of amount of housing assistance payments.
882.115 Rent reduction incentive.
882.116 Responsibilities of the PHA.
882.117 Responsibilities of the owner.
882.118 Responsibility of the family.
882.119 Single ACC.
882.120 Recently completed housing.
882.121 HUD administration of programs under this part.
882.122 Applicability of this part to certificates outstanding on and requests for lease approval pending on May 13, 1976.

Subpart B—Project Development and Operation

882.201 Allocations of contract authority to field offices.
882.202 Determination of number and types of units to be assisted.
882.203 Invitations for existing housing program applications.
882.204 Submission of applications.
882.205 Processing of applications.
882.206 Annual contributions contract; schedule of leasing.
882.207 Public notice to lower-income families; waiting list.
882.208 Activities to encourage participation by owners and others.
882.209 Certificates of family participation.
882.210 Request for lease approval.
882.211 Maintenance, operation and inspections.
882.212 Reexamination of family income, composition, and extent of exceptional medical or other unusual expenses.
882.213 Overcrowded unit.
882.214 Adjustment of allowance for utilities and other services.
882.215 Eviction.
882.216 Inapplicability of low-rent public housing model lease and grievance procedures.
882.217 HUD review of contract compliance.
882.218 PHA reporting requirements. [Reserved].

APPENDICES

Appendix I—Annual contributions contract.
II—Housing assistance payments contract.
III—Certificate of family participation.
IV—Request for lease approval.
V—Agency determination with respect to request for lease approval.
VI—Required lease provisions.
VII—Prohibited lease provisions.

AUTHORITY: Section 7(d), Department of HUD Act (42 U.S.C. 3535(d)); section 5(b) of the U.S. Housing Act of 1937 (42 U.S.C. 1437c(b)); section 8 of the U.S. Housing Act of 1937 (42 U.S.C. 1437f).

Subpart A—Applicability, Scope and Basic Policies

§ 882.101 Applicability and scope.

(a) *General.* (1) The policies and procedures contained herein are applicable to the making of Housing Assistance Payments on Behalf of Eligible Families leasing Existing Housing pursuant to the provisions of section 8 of the U.S. Housing Act of 1937 ("Act").

(2) For the purpose of this Part, "Existing Housing" means housing that is in Decent, Safe, and Sanitary condition except that it does not include housing: (i) Which is covered by an Agreement to Enter into Housing Assistance Payments Contract or by a Housing Assistance Payments Contract under 24 CFR, Part 800, 801, 880, or 881, or (ii) which is owned by the PHA administering the ACC under this Part, or (iii) which is subsidized under other provisions of the Act. Occupancy of housing which requires repairs in order to be made Decent, Safe, and Sanitary may be assisted under this Part only after such repairs have been made. (See also § 882.210(d)).

(b) *Conversion of Section 23 Housing Projects.* (1) No HUD policy or procedure shall affect prior rights of an owner or tenant under a lease entered into under section 23 of the Act.

(2) PHAs are encouraged to develop plans for the orderly conversion of their section 23 housing to the section 8 program.

(3) Conversions should be accomplished so as to preclude the eviction of families receiving assistance under the section 23 program.

(4) Housing under ACCs implementing the HUD Experimental Housing Allowance Program shall not be subject to the provisions of this paragraph (b).

(5) With respect to section 23 housing other than new construction and substantial rehabilitation:

(i) Where section 23 housing is to be converted to section 8, HUD will, to the extent of available contract authority, approve one section 8 unit for each section 23 unit converted. Where section 23 units are not converted, the following provisions of this paragraph (b)(5) shall apply.

(ii) Any increases in rents and/or operating costs for occupied units must be funded by the elimination of units authorized under the section 23 ACC but not leased; section 23 ACC amounts shall not be increased, except under special circumstances as authorized by HUD.

(iii) No leases for additional units shall be entered into. Lease renewals and extensions may be entered into only with respect to occupied units and units which are to be reoccupied within 30 days, but the terms of such lease renewals may not extend beyond June 30, 1978, except under special circumstances as authorized by HUD, and then only until June 30, 1979.

(6) Section 23 Existing Housing projects for which ACCs were approved, but not executed, by December 31, 1974, shall be converted to section 8 (even if an ACC was executed subsequent to December 31, 1974), unless the PHA notifies HUD that it would prefer to retain the project under section 23. In the latter case, a section 23 ACC shall be executed, but the other provisions of this paragraph (b) shall be applicable, except that for initial leasing the provisions of paragraph (b)(5)(iii) shall not apply.

(7) Any completed (legally available for occupancy) Section 23 new construction or substantial rehabilitation project may be coverted to Section 8 under contractual arrangements for such term and on such conditions as may be agreed to by all the parties and approved by HUD. The applicable Fair Market Rents shall be those for Existing Housing under this Part, except that for any unit which was completed no more than six years prior to the leasing thereof, the applicable rent shall be determined in accordance with § 882.120(b).

§ 882.102 Definitions.

ACC Reserve Account. The account established and maintained in accordance with § 882.104.

Allowance for Utilities and Other Services ("Allowance"). An amount determined by the PHA as an allowance for the cost of utilities (except telephone) and charges for other services payable directly by the Family.

Annual Contributions Contract ("ACC"). A written agreement between HUD and a PHA to provide annual contributions to the PHA to cover housing assistance payments and other expenses pursuant to the Act. (See Appendix I.)

Certificate of Family Participation ("Certificate"). A certificate issued by the PHA declaring a Family to be eligible for participation in this program and stating the terms and conditions for such participation.

Congregate Housing. Housing in which some or all of the dwelling units do not have kitchen facilities and connected with which there is a central dining facility to provide meals for the occupants. See § 882.109(m).

Contract. See definition of Housing Assistance Payments Contract.

Contract Rent. The rent payable to the Owner under his Contract including the portion of the rent payable by the Family. In the case of a cooperative, the term "Contract Rent" means charges under the occupancy agreements between the members and the cooperative.

Decent, Safe, and Sanitary. Housing is Decent, Safe, and Sanitary if the requirements of § 882.109 are met.

Eligible Family ("Family"). A family which qualifies as a Lower-Income Family and which meets the other requirements of the Act and this Part. The term Family includes an elderly, mentally or physically handicapped, disabled, or displaced person and the remaining member of a tenant family as defined in Section 3(2) of the Act. See also § 882.212.

Existing Housing. See § 882.101(a)(2).

Fair Market Rent. The rent, including utilities (except telephone), ranges and refrigerators, and all maintenance, management, and other services, which, as determined at least annually by HUD, would be required to be paid in order to obtain privately owned, existing, Decent, Safe, and Sanitary rental housing of modest (non-luxury) nature with suitable amenities. Separate Fair Market Rents shall be established for dwelling units of varying sizes (number of bedrooms) and types (e.g. elevator, non-elevator).

Gross Family Contribution. The portion of the Gross Rent payable by an Eligible Family (i.e., the difference between the amount of the Housing Assistance Payment payable on behalf of the Family and the Gross Rent), before deduction of Rent Credit, where applicable.

Gross Rent. The Contract Rent plus any Allowance for Utilities and Other Services.

HCD Act. The Housing and Community Development Act of 1974.

Housing Assistance Payments Contract ("Contract"). A written contract between a PHA and an Owner for the purpose of providing housing assistance payments to the Owner on behalf of an Eligible Family. (See Appendix II.)

Housing Assistance Payment on Behalf of Eligible Family. The amount of housing assistance payment on behalf of an Eligible Family determined in accordance with schedules and criteria established by HUD. (See § 882.114).

Housing Assistance Plan

(1) A Housing Assistance Plan submitted by a local government participating in the Community Development Block Grant Program as part of the block grant application, in accordance with the requirements of § 570.303(c) of the Community Development Block Grant regulations (24 CFR 570), and approved by HUD;

(2) A Housing Assistance Plan meeting the requirements of § 570.303(c), submitted by a local government not participating in the Community Development Block Grant Program and approved by HUD.

HUD. The Department of Housing and Urban Development or its designee.

Income. Income from all sources of each member of the household as determined in accordance with criteria established by HUD.

Lease. A written agreement between an Owner and an Eligible Family for the leasing of an Existing Housing unit in accordance with the Contract, which agreement is in compliance with the provisions of this Part.

Lower-Income Family. A Family whose Income does not exceed 80 percent of the median Income for the area as determind by HUD with adjustments for smaller or larger Families, except that HUD may establish Income limits higher or lower than 80 percent on the basis of its findings that such variations are necessary because of the prevailing levels of construction costs, unusually high or low Incomes, or other factors.

Owner. Any person or entity, including a cooperative, having the legal right to lease or sublease Existing Housing.

Public Housing Agency ("PHA"). Any State, county, municipality or other governmental entity or public body (or agency or instrumentality thereof) which is authorized to engage in or assist in the development or operation of housing for low-income Families.

Recently Completed Housing. See § 882.120.

Rent Credit. See § 882.115.

Secretary. The Secretary of Housing and Urban Development.

Very Low-Income Family. A Family whose income does not exceed 50 percent of the median income for the area, as determined by HUD, with adjustments for smaller or larger families.

§ 882.103 "Finders-Keepers" Policy.

(a) A holder of a Certificate of Family Participation shall be responsible for finding an Existing Housing unit suitable to the holder's needs and desires in any area where the PHA determines that it is not legally barred from entering into Contracts. A holder of a Certificate may select a dwelling unit which the holder already occupies if the unit qualifies as Existing Housing. Upon request, the PHA shall provide assistance in finding units for those Families who, because of age, handicap, or other reasons, are unable to locate approvable units and shall provide such assistance where the Family alleges that illegal discrimination is preventing it from finding a suitable unit. Any such assistance shall be in accordance with the PHA's approved equal opportunity housing plan (see § 882.204(b)(1)).

(b) Neither in the provision of assistance to any Family in finding units nor by any other action shall the PHA directly or indirectly reduce the Family's opportunity to choose among the available units in the housing market.

(c) PHAs are encouraged to promote greater choice of housing opportunities by: (1) seeking participation of owners in any area in which the PHA has determined that it is not legally barred from entering into Contracts, (2) advising Families of their opportunity to lease housing in all such areas, (3) cooperating with other PHAs by issuing Certificates to Families already receiving the benefit of Section 8 housing assistance payments who wish to move from the operating area of one PHA to another and (4) developing administrative arrangements with other PHAs in order to permit Certificate Holders to seek housing in the broadest possible area. In any geographic area established for the purpose of allocating funds, HUD will give preference in funding to PHAs which provide Families the broadest geographical choice of units.

§ 882.104 Maximum total ACC commitment and ACC reserve account.

(a) *Maximum Total ACC Commitment.* The maximum total annual contribution that may be contracted for in the ACC for Existing Housing shall not exceed the total for all the units of the Fair Market Rents or such higher rent as approved by HUD for a unit size or type pursuant to § 882.106(a)(3). The fee for the regular costs of PHA administration and the HUD-approved preliminary costs shall be payable out of this total. With the approval of the Assistant Secretary for Housing Production and Mortgage Credit, an amount for the fee for the regular costs of PHA administration may be added to this total in cases where the need for the additional funds is evident from the estimates of required annual contributions submitted on the

prescribed forms pursuant to § 882.204 (b)(2).

(b) *ACC Reserve Account.* An ACC reserve account will be established and maintained, in an amount determined by the Secretary, consistent with his responsibilities under section 8(c)(6) of the Act. This account shall be established and maintained by HUD as a specifically identified and segregated account, and payment shall be made therefrom only for the following purposes:

(1) Housing assistance payments,

(2) The amount of the fee for regular PHA costs of administration; and

(3) Other costs specifically authorized or approved by the Secretary.

(c) In addition, the ACC will provide that HUD will take such additional steps authorized by section 8(c)(6) of the Act as may be necessary to assure availability of funds to cover increases in housing assistance payments on a timely basis as a result of increases in Contract Rents or decreases in Family Incomes.

§ 882.105 Housing assistance payments to owners.

(a) *General.* Housing assistance payments shall be paid to an Owner in accordance with his Contract for the dwelling unit under lease by an Eligible Family. These housing assistance payments will cover the difference between the Contract Rent and the portion of said rent payable by the Family as determined in accordance with HUD-established schedules and criteria. No section 8 assistance may be provided with respect to any unit occupied by an Owner; however, cooperatives are considered rental housing rather than owner-occupied housing for this purpose.

(b) *Vacated Units.* (1) If an Eligible Family vacates its unit in violation of the provisions of the Lease or tenancy agreement, the Owner shall receive housing assistance payments in the amount of 80 percent of the Contract Rent for a vacancy period not exceeding 60 days or the expiration or other termination of the Lease or tenancy agreement, whichever comes first; provided, however, that if the Owner collects any of the Family's share of the rent for this period in an amount which, when added to the 80 percent payments, results in more than the Contract Rent, such excess shall be payable to HUD or as HUD may direct; and provided further, that if the vacancy is the result of action by the Owner, the Owner shall not receive any payment under this paragraph if his action was in violation of the Lease or the Contract or any applicable law or if the Owner failed to comply with § 882.215.

(2) The Owner shall not be entitled to any payment under this paragraph (b) unless he: (i) Immediately upon learning of the vacancy, has notified the PHA of the vacancy or prospective vacancy, (ii) has taken and continues to take all feasible actions to fill the vacancy including, but not limited to: contacting applicants on his waiting list, if any; requesting the PHA and other appropriate sources to refer eligible applicants; and advertising the availability of the unit and (iii) has not rejected any eligible applicant except for good cause acceptable to the PHA.

(3) The Owner shall not be entitled to housing assistance payments with respect to vacant units under this paragraph (b) to the extent he is entitled to payments from other sources (for example, payments for losses of rental income incurred for holding units vacant for relocatees pursuant to Title I of the HCD Act or payments under § 882.112).

§ 882.106 Contract rents.

(a) *Fair Market Rent Limitation.*— (1) The Gross Rent for any Existing Housing unit approved pursuant to § 882.210(b) shall not exceed the Fair Market Rent applicable to such unit on the date of Lease approval, except as provided in this paragraph (a).

(2) For up to 20 percent of the units authorized by an ACC, the PHA may approve Gross Rents on a unit-by-unit basis which exceed the applicable Fair Market Rents by up to 10 percent. The PHA may, in addition, exercise such authority with respect to more than 20 percent of the units authorized by an ACC if HUD approves such extension of the PHA's authority. In considering whether to grant such approval, HUD will review the appropriateness of the applicable Fair Market Rents and the relationship of estimated program costs to program objectives.

(3) HUD may approve, upon request from a PHA, maximum Gross Rents for all units of a given size or type (elevator/nonelevator) of up to 20 percent above the applicable Fair Market Rents within a designated municipality, county or similar locality. Any such request must be supported by a statement of the special circumstances warranting such increase in maximum Gross Rents, including whether such higher rents are necessary to implement a Housing Assistance Plan. In considering whether to grant such approval, HUD will review the appropriateness of the applicable Fair Market Rents and the relationship of estimated program costs to program objectives. In no event shall a maximum Gross Rent, as approved under this paragraph, exceed the rent, including Allowances for Utilities and Other Services, determined by HUD to be the average rent currently being charged for available standard units of similar size or type in the applicable municipality or county.

(4) Upon request by the PHA, the Regional Administrator may approve Gross Rents for any unit size or type of up to 20 percent above the applicable Fair Market Rents for a designated municipality, county or similar locality. Such approval shall be based upon substantially the same criteria as under paragraph (a)(3) of this section except for the last sentence thereof.

(b) *Rent Reasonableness Limitation.* (1) The PHA shall certify for each unit for which it approves a lease that the Contract Rent for such unit is:

(i) Reasonable in relation to rents currently being charged for comparable units in the private unassisted market, taking into account the location, size, type, quality, amenities, facilities and management and maintenance services of such unit, and

(ii) Not in excess of rents currently being charged by the Owner for comparable unassisted units.

(2) For a rent controlled unit, comparable units shall be those which are rent controlled; for a unit which is not subject to rent control, comparable units shall be those which are not rent controlled.

(3) The PHA shall maintain for three years all certifications and relevant documentation under this paragraph (b) for inspection by HUD.

§ 882.107 Term of ACC, lease, and housing assistance payments contract.

(a) *Term of ACC.* The term of the ACC shall be for five years.

(b) *Term of Lease and of Housing Assistance Payments Contract.* The Lease shall be for not less than one year nor more than three years but may contain a provision permitting termination upon 30 days advance written notice by either party. The term of the Contract shall be for the term of the Lease; Provided, that if a Family continues in occupancy after the expiration of the term on the same terms and conditions as the original Lease (or changes thereto which have been approved by the PHA and incorporated in the Contract where appropriate), the Contract shall continue in effect for the duration of such tenancy subject to the limitation in the next sentence. Any renewal of the Contract and Lease term, and any continuation of tenancy beyond the term, shall in no case extend beyond the term of the ACC pertaining to the Contract and the Lease.

§ 882.108 Rent adjustments.

(a) Contract Rents shall be adjusted as provided in paragraphs (a) (1) and (2) of this section upon request to the PHA by the Owner, provided that the unit is in Decent, Safe, and Sanitary condition and that the Owner is otherwise in compliance with the terms of the Lease. Subject to the foregoing and the provisions of Sec. 882.106, adjustments of Contract Rents shall be as follows:

(1) *Annual Adjustments.* An adjustment as of any anniversary date of the Lease not to exceed the percentage of change in the applicable published Existing Housing Fair Market Rent (with appropriate reduction in the adjustment where utilities are paid directly by the Family); provided that the Owner has the legal right to terminate the tenancy as of such anniversary date.

(2) *Special Adjustments.* A special adjustment, subject to HUD approval, to reflect increases in the actual and necessary expenses of owning and maintaining the unit which have resulted from substantial general increases in real property taxes, utility rates, or similar costs (i.e., assessments, and utilities not covered by regulated rates), but only if and to the extent that the Owner clearly demonstrates that such general increases have caused increases in the Owner's operating costs which are not adequately

compensated for by the annual adjustments provided for in paragraph (a)(1) of this section. The Owner shall submit financial statements to the PHA which clearly support the increase. Such adjustment shall be effective as of the date when the Owner has the legal right to terminate the tenancy, which need not be the anniversary date of the Contract.

(b) *Overall Limitation.* Notwithstanding any other provisions of this Part, adjustments as provided in this section shall not result in material differences between the rents charged for assisted and comparable (as defined in Sec. 882.106(b)) unassisted units, as determined by the PHA (and approved by HUD in the case of adjustments under paragraph (a)(2)).

§ 882.109 Housing quality standards.

Housing used in this program shall meet the Performance Requirements set forth in this section. In addition, the housing shall meet the Acceptability Criteria set forth in this section except for such variations as are proposed by the PHA and approved by HUD. Local climatic or geological conditions or local codes are examples which may justify such variations.

(a) *Sanitary Facilities.*—(1) *Performance Requirement.* The dwelling unit shall include its own sanitary facilities which are in proper operating condition, can be used in privacy, and are adequate for personal cleanliness and the disposal of human waste.

(2) *Acceptability Criteria.* A flush toilet in a separate, private room, a fixed basin with hot and cold running water, and a shower or tub with hot and cold running water shall be present in the dwelling unit, all in proper operating condition. These facilities shall utilize an approved public or private disposal system.

(b) *Food Preparation and Refuse Disposal.*—(1) *Performance Requirement.* The dwelling unit shall contain suitable space and equipment to store, prepare, and serve foods in a sanitary manner. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage where necessary.

(2) *Acceptability Criteria.* The unit shall contain the following equipment in proper operating condition: cooking stove or range and a refrigerator of appropriate size for the unit, supplied by either the Owner or the Family, and a kitchen sink with hot and cold running water. The sink shall drain into an approved public or private system. Adequate space for the storage, preparation and serving of food shall be provided. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage where necessary (e.g., garbage cans).

(c) *Space and Security.*—(1) *Performance Requirement.* The dwelling unit shall afford the Family adequate space and security.

(2) *Acceptability Criteria.* A living room, kitchen area, and bathroom shall be present; and the dwelling unit shall contain at least one sleeping or living/sleeping room of appropriate size for each two persons. Exterior doors and windows accessible from outside the unit shall be lockable.

(d) *Thermal Environment.*—(1) *Performance Requirement.* The dwelling unit shall have and be capable of maintaining a thermal environment healthy for the human body.

(2) *Acceptability Criteria.* The dwelling unit shall contain safe heating and/or cooling facilities which are in proper operating condition and can provide adequate heat and/or cooling to each room in the dwelling unit appropriate for the climate to assure a healthy living environment. Unvented room heaters which burn gas, oil or kerosene are unacceptable.

(e) *Illumination and Electricity.*—(1) *Performance Requirement.* Each room shall have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of occupants. Sufficient electrical sources shall be provided to permit use of essential electrical appliances while assuring safety from fire.

(2) *Acceptability Criteria.* Living and sleeping rooms shall include at least one window. A ceiling or wall type light fixture shall be present and working in the bathroom and kitchen area. At least two electric outlets one of which may be an overhead light, shall be present and operable in the living area, kitchen area, and each bedroom area.

(f) *Structure and Materials.*—(1) *Performance Requirement.* The dwelling unit shall be structurally sound so as not to pose any threat to the health and safety of the occupants and so as to protect the occupants from the environment.

(2) *Acceptability Criteria.* Ceilings, walls and floors shall not have any serious defects such as severe bulging or leaning, large holes, loose surface materials, severe buckling or noticeable movement under walking stress, missing parts or other serious damage. The roof structure shall be firm and the roof shall be weathertight. The exterior wall structure and exterior wall surface shall not have any serious defects such as serious leaning, buckling, sagging, cracks or holes, loose siding, or other serious damage. The condition and equipment of interior and exterior stairways, halls, porches, walkways, etc., shall be such as not to present a danger of tripping or falling. Elevators shall be maintained in safe and operating condition. In the case of a mobile home, the home shall be securely anchored by a tiedown device which distributes and transfers the loads imposed by the unit to appropriate ground anchors so as to resist wind overturning and sliding.

(g) *Interior Air Quality.*—(1) *Performance Requirement.* The dwelling unit shall be free of pollutants in the air at levels which threaten the health of the occupants.

(2) *Acceptability Criteria.* The dwelling unit shall be free from dangerous levels of air pollution from carbon monoxide, sewer gas, fuel gas, dust, and other harmful air pollutants. Air circulation shall be adequate throughout the unit. Bathroom areas shall have at least one openable window or other adequate exhaust ventilation.

(h) *Water Supply.*—(1) *Performance Requirement.* The water supply shall be free from contamination.

(2) *Acceptability Criteria.* The unit shall be served by an approved public or private sanitary water supply.

(i) *Lead Based Paint.*—(1) *Performance Requirement.* (i) The dwelling unit shall be in compliance with HUD Lead Based Paint regulations, 24 CFR, Part 35, issued pursuant to the Lead Based Paint Poisoning Prevention Act, 42 U.S.C. 4801, and the Owner shall provide a certification that the dwelling is in accordance with such HUD Regulations.

(ii) If the property was constructed prior to 1950, the Family upon occupancy shall have been furnished the notice required by HUD Lead Based Paint regulations and procedures regarding the hazards of lead based paint poisoning, the symptoms and treatment of lead poisoning and the precautions to be taken against lead poisoning.

(2) *Acceptability Criteria.* Same as Performance Requirement.

(j) *Access.*—(1) *Performance Requirement.* The dwelling unit shall be useable and capable of being maintained without unauthorized use of other private properties, and the building shall provide an alternate means of egress in case of fire.

(2) *Acceptability Criteria.* The dwelling unit shall be useable and capable of being maintained without unauthorized use of other private properties. The building shall provide an alternate means of egress in case of fire (such as fire stairs or egress through windows).

(k) *Site and Neighborhood.*—(1) *Performance Requirement.* The site and neighborhood shall be reasonably free from disturbing noises and reverberations and other hazards to the health, safety, and general welfare of the occupants.

(2) *Acceptability Criteria.* The site and neighborhood shall not be subject to serious adverse environmental conditions, natural or manmade, such as dangerous walks, steps, instability, flooding, poor drainage, septic tank back-ups, sewage hazards or mudslides; abnormal air pollution, smoke or dust; excessive noise, vibration or vehicular traffic; excessive accumulations of trash; vermin or rodent infestation; or fire hazards.

(l) *Sanitary Condition.*—(1) *Performance Requirement.* The unit and its equipment shall be in sanitary condition.

(2) *Acceptability Criteria.* The units and its equipment shall be free of vermin and rodent infestation.

(m) *Congregate Housing.* The foregoing standards shall apply except for paragraph (b) of this section, Food Preparation and Refuse Disposal. In addition the following standards shall apply:

(1) The unit shall contain a refrigerator of appropriate size.

(2) The central dining facility (and kitchen facility, if any) shall contain suitable space and equipment to store, prepare and serve food in a sanitary manner, and there shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage where necessary (e.g., garbage cans).

§ 882.110 Types of housing.

(a) Any type of Existing Housing may be utilized under this Part, including, but not limited to, existing FHA insured, section 202 direct loan, Farmers Home Administration (FmHA) insured or direct loan, or VA guaranteed properties; or properties held by the Secretary; or properties sold by the Secretary on which he has taken back a purchase money mortgage. (But see paragraph (c) of this section).

(b) Congregate housing may be utilized for eligible elderly, handicapped, disabled or displaced families or individuals. The Fair Market Rent for each unit within such a facility shall be the same as for 0-bedroom units, except that, if the unit consists of two or more private rooms, the Fair Market Rent shall be the same as for a 1-bedroom unit. In determining the reasonableness of the rents, consideration shall be given to the presence or absence of common rather than private cooking and dining facilities. The Contract Rent shall not include the cost of providing or serving food.

(c) In any section 221(d)(3) below market interest rate (BMIR), section 202, section 236 (insured or non-insured) or FmHA section 515 interest credit project: (1) units receiving assistance under the section 23 or rent supplement programs may continue to receive such assistance or, upon conversion of the section 23 units to section 8, the occupants may receive assistance under section 8, and (2) the occupants of units not receiving such assistance may receive section 8 assistance, provided that the total number of units in the project covered by Housing Assistance Payments Contracts under section 8 or receiving section 23 rental assistance, rent supplement assistance, section 236 "deep subsidy" rental assistance payments, or State or local subsidy (other than property tax exemption or abatement) does not exceed 40 percent of the total number of units in the project. Upon request, this limitation may be exceeded for the purpose of relieving hardship of a particular Family or Families only with the approval of the Regional Administrator. Prior to granting such an approval, the Regional Administrator will review the request to determine whether assistance under Part 886, Subpart A, "Additional Assistance Program for Projects with HUD-insured and HUD-held Mortgages" is more appropriate and whether such assistance can be scheduled.

(d) For any section 21(d)(3) BMIR, section 202, section 236 (insured or non-insured), or FmHA section 515 interest credit unit or any State or locally subsidized unit, the housing assistance payment shall be the amount by which the rent payable by the Eligible Family under section 23 or section 8 is less than the subsidized rent (which subsidy shall not be reduced on account of any section 23 or section 8 assistance).

(e) In no event may any occupant receive the benefit of more than one of the following: rent supplement, section 23 housing assistance, section 8 housing assistance, or section 236 "deep subsidy" rental assistance payments.

§ 882.111 Equal opportunity requirements.

Participation in this program requires compliance with Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11063 and all rules, regulations, and requirements issued pursuant thereto. The PHA shall comply with section 3 of the Housing and Urban Development Act of 1968 and all rules, regulations and requirements issued pursuant thereto.

§ 882.112 Security and utility deposits.

(a) An Owner may require a Family to pay a security deposit in an amount equal to the amount payable by the Family toward one month's Gross Rent. If a Family vacates the unit, the Owner, subject to State and local law, may utilize the deposit as reimbursement for any unpaid rent or other amount owed under the Lease. If the Family has provided a security deposit, and it is insufficient for such reimbursement, the Owner may claim reimbursement from the PHA, not to exceed an amount equal to the remainder of one month's Contract Rent. Any reimbursement under this section shall be applied first toward any unpaid rent. If a Family vacates the unit owing no rent or other amount under the Lease, or if such amount is less than the amount of the security deposit, the Owner shall refund the full amount or the unused balance, as the case may be, to the Family.

(b) In those jurisdictions where interest is payable by the Owner on security deposits, the refunded amount shall include the amount of interest payable. The Owner shall comply with all State and local laws regarding interest payments on security deposits.

(c) Families shall be expected to obtain the funds to pay security and utility deposits, if required, from their own resources and/or other private or public sources.

§ 882.113 Establishment of income limit schedules; 30 percent occupancy by very low-income families.

(a) HUD will establish schedules of Income limits for determining whether families qualify as Lower-Income Families and Very Low-Income Families.

(b) Each PHA shall administer its Existing Housing program under this Part, including the issuance of a sufficient number of Certificates to Very Low-Income Families, so that at least 30 percent of the Families for whom Leases are approved by the PHA are Very Low-Income Families. However, in connection with periodic reexamination of Family Income, the PHA shall ascertain whether at least 30 percent of all the assisted Families are Very Low-Income Families, and where the percentage is lower than 30 percent, the PHA shall thereafter use its best efforts in connection with subsequent issuance of Certificates of Family Participation to achieve at least a 30 percent level.

§ 882.114 Establishment of amount of housing assistane payments.

The amount of Housing Assistance Payment on Behalf of Eligible Family, to be determined in accordance with schedules and criteria established by HUD, will equal the difference between (a) no less than 15 percent nor more than 25 percent of the Family's Income and (b) the Gross Rent, taking into consideration the Income of the Family, the number of minor children in the household, and the extent of medical or other unusual expenses incurred by the Family, except that, in the case of a large Very Low-Income Family or a very large Lower-Income Family or a Family with exceptional medical or other unusual expenses, the amount of the housing assistance payment shall be the difference between 15 percent of the Family's Income and the Gross Rent. The term large Family means a Family which includes six or more minors (other than the head of the Family or spouse). The term very large Family means a Family which includes eight or more minors (other than the head of the Family or spouse). The amount of the housing assistance payment shall be adjusted, where appropriate, to reflect the Rent Credit pursuant to § 882.115.

§ 882.115 Rent reduction incentive.

(a) If a Family selects a unit for which the Owner's proposed Contract Rent plus any applicable Allowance is below the applicable Fair Market Rent or such higher rent as approved by HUD for a unit size or type pursuant to § 882.106(a)(3), the Family will be given credit by a reduction (Rent Credit) in its required monthly Gross Family Contribution. The applicable Fair Market Rent or such higher rent, as approved, is that in effect at the time of Lease approval for the Family size. Thereafter the applicable rent is the rent appropriate to the Family size at the time of reexamination of Family income and composition. The purpose of this provision is to provide an incentive to Families to find the most economical Decent, Safe, and Sanitary housing suitable to their needs and approvable under this Part.

(b) The amount of the monthly Rent Credit shall be the dollar amount equal to that percentage of the Gross Family Contribution which the Rent Savings is of the Fair Market Rent or such higher rent as approved by HUD for a unit size or type pursuant to § 882.106(a)(3). The Rent Savings is the amount by which the Fair Market Rent or such higher rent, as approved, exceeds the sum of the approved Contract Rent and any applicable Allowance.

(c) The Rent Credit shall not be payable if the Family selects a unit receiving

the benefit of Federal, State, or local subsidies. However, HUD may, on its own initiative or at the request of a PHA, authorize applicability of the Rent Credit to subsidized units if HUD determines that it is in the public interest to do so because the project in which the units are located is experiencing a large number of vacancies or high turnover. The PHA shall make known to Certificate holders the fact that the approved units are not subject to the prohibition otherwise applicable with respect to subsidized units.

§ 882.116 Responsibilities of the PHA.

In administering its ACC with HUD, the PHA (subject to review or audit by HUD) shall be responsible for the following:

(a) Publication and dissemination of information concerning the availability and nature of housing assistance for Lower-Income Famlies;

(b) Public invitation of Owners to make dwelling units available for leasing by Eligible Families and development of working relationships and contracts with landlords and appropriate associations and groups;

(c) Receipt and review of applications for Certificates of Family Participation, verification of family income and other factors relating to eligibility and amount of assistance, and maintenance of a waiting list in accordance with this Part;

(d) Issuance of Certificates of Family Participation to Eligible Families;

(e) Notification of families determined to be ineligible;

(f) Provision to each Certificate holder of basic information on applicable housing quality standards and inspection procedures, search for and selection of housing, landlord and tenant responsibilities, and basic program rules including the operation of the Rent Credit;

(g) Determination of amounts of Gross Family Contributions and Rent Credits, if any;

(h) Determination of amounts of housing assistance payments;

(i) Explanation of program procedures to Owners including those who have been approached by Certificate holders;

(j) Review of and action on Requests for Lease Approval, including monitoring to assure that the limitations on use of Section 8 housing assistance in subsidized projects specified in § 882.110(c) are observed;

(k) Making of housing assistance payments;

(l) Provision of housing information to assisted Families and referral of such Families to appropriate social service agencies upon request;

(m) Reexaminations of Family Income, composition, and extent of exceptional medical or other unusual expenses, and redeterminations, as appropriate, of the amount of Gross Family Contribution and amount of housing assistance payment in accordance with HUD-established schedules and criteria;

(n) Redeterminations of amount of rent payable by the Family and amount of housing assistance payment in accordance with HUD-established schedules and criteria as a result of an adjustment by the PHA of any applicable Allowance for Utilities and Other Services;

(o) Inspections prior to leasing and inspections at least annually to determine that the units are maintained in Decent, Safe, and Sanitary condition, and notifications to Owners and Families of PHA determinations;

(p) Authorization of evictions (see § 882.215);

(q) Administration and enforcement of Contracts with Owners and taking of appropriate actions in case of noncompliance or default; and

(r) Compliance by the PHA with equal opportunity requirements, including efforts to provide opportunities for recipients to seek housing outside areas of economic and racial concentration.

§ 882.117 Responsibilities of the owner.

(a) The Owner shall be responsible (subject to review or audit by the PHA or HUD) for performing all of his obligations under the Contract and Lease. The Owner's responsibilities shall include but not be limited to:

(1) Performance of all management and renting functions;

(2) Payment for utilities and services (unless paid directly by the Family);

(3) Performance of all ordinary and extraordinary maintenance;

(4) Collection of Family rents;

(5) Preparation and furnishing of information required under the Contract; and

(6) Compliance by the Owner with equal opportunity requirements.

(b) Any Owner may contract with any private or public entity to perform for a fee the services required by paragraph (a) of this section, provided that such contract shall not shift any of the Owner's responsibilities or obligations, and provided further that no such contract may be entered into with an entity which is responsible for administration of the Housing Assistance Payments Contract. If the Owner and a PHA wish to enter into a management contract, they may do so provided that the Housing Assistance Payments Contract with respect to the housing involved is administered by another PHA or by HUD or an entity acting on behalf of HUD. If no other PHA is able and willing to administer the Contract, HUD will do so or will designate an entity to do so on its behalf, pursuant to § 882.121(b).

§ 882.118 Responsibility of the family.

A Family receiving housing assistance under this program shall be responsible for fulfilling all its obligations under the Certificate of Family Participation issued to it by the PHA and under the Lease with the Owner.

§ 882.119 Single ACC.

(a) All of the Existing Housing units administered by a PHA under the Housing Assistance Payments Program (except where the PHA's area of operation is within the jurisdiction of more than one field office) shall be covered by and administered under a single ACC Part I.

(b) In the event that a PHA applies for additional Existing Housing units, the units, if approved, shall be incorporated into a revised Part I of the ACC which shall cover the PHA's entire Housing Assistance Payments Program for Existing Housing. The revised Part I shall be for a new term for the aggregate number of units starting with the date of execution of the revised ACC Part I. When the PHA applies for additional units, it shall specify the number of years for which the aggregate number of units is needed and shall demonstrate such need. On the basis of such showing, HUD shall determine whether the new term for the aggregate number of units shall be five years or such lesser number of years as HUD may find to be justified. The maximum annual contribution of the revised program shall be the sum of (1) an appropriate amount of annual contribution for the number of units prior to the revision, taking into account the existing ACC Reserve Account, plus (2) the amount approved for the additional units which shall be computed pursuant to § 882.104(a).

§ 882.120 Recently completed housing.

(a) HUD may invite and approve applications by PHAs for use of Existing Housing units at the higher Fair Market Rents authorized by paragraph (b) of this section, where construction or substantial rehabilitation of such units was completed (legally available for occupancy) no more than six years prior to the date of the leasing of the unit ("Recently Completed Housing") in areas which meet the following characteristics:

(1) The housing needs of Lower-Income Families in the area cannot be addressed by use of Existing Housing within the rent limitations authorized under Section 882.106 because:

(i) The rental vacancy rate for the municipality, county, or similar locality is inadequate. (A vacancy rate of six percent will be considered adequate except in localities experiencing very little growth, in which a vacancy rate lower than six percent may be deemed adequate); or

(ii) The housing needs of one or more particular household types (e.g., elderly/handicapped family, large family) cannot be addressed utilizing the supply of Existing Housing at or below the rents authorized under § 882.106 because of lack of availability of appropriate units. In such case, the Recently Completed Housing to be authorized will be limited to the needs of the specialized household types.

(2) The housing needs of Lower-Income Families can be addressed by use of Recently Completed Housing because:

(i) The rental vacancy rate for the municipality, county, or similar locality among Recently Completed Housing units is adequate as defined in paragraph (a)(1)(i) of this section; or

(ii) Units of Recently Completed Housing are available which will meet the housing needs of one or more house-

hold types which cannot be met utilizing the supply of housing within the rent limitations of the program.

(b) Rents up to 10% above the Fair Market Rents for Recently Completed Housing (75% of the Section 8 New Construction Fair Market Rents) may be approved by HUD pursuant to § 882.106. However, rents more than 10% above the applicable Fair Market Rent shall not be approved for Recently Completed Housing.

(c) Applications shall be submitted by the appropriate PHA or PHAs for an Existing Housing program utilizing Recently Completed Housing which may but need not be included as a part of an application for other housing assistance under this Part.

(d) The approval of such an application shall authorize the PHA to (1) publicize the availability of such Fair Market Rents for the specified number of units of Recently Completed Housing, (2) invite Owners of such housing to submit evidence that their units qualify as Recently Completed Housing, and (3) inform holders of Certificates of Family Participation of the locations of such Housing and of the applicable Fair Market Rents. Annual adjustments in Contract Rents for Recently Completed Housing made pursuant to § 882.108(a)(1) shall be based on the percentage of change in the applicable published Existing Housing Fair Market Rents.

(e) All provisions of this Part, not specifically modified by this section, shall be applicable to housing under this section.

§ 882.121 HUD administration of programs under this part.

(a) If, after sending the invitations required by Sec. 882.203, no application is received by HUD by the deadline date for operation of an Existing Housing program in the area, or if the only applications received are not approvable, the HUD field office shall make such further inquiry, including advice and offer of assistance, as in its judgment may result in the submission of an approvable application by a PHA.

(b) If, on the basis of such further inquiry and all other pertinent information available to the HUD field office, HUD determines that there is no PHA organized or that there is no PHA able and willing to implement the provisions of this Part for an area, HUD (or an entity acting on behalf of HUD) may, pursuant to section 8(b)(1) of the Act, enter into Contracts with Owners and perform the functions otherwise assigned to PHAs under this Part with respect to such area.

(c)(1) If one or more Owners wish to contract for the management of their housing by the PHA which is administering the ACC for that area under this Part, and the PHA is willing to do this, or if the PHA owns housing which is suitable for utilization under this Part, HUD shall ascertain whether there is another PHA able and willing to enter into an ACC and administer the program under this Part with respect to housing which is managed or owned by the first PHA. If so, such an ACC may be entered into, and the housing covered thereby shall be excluded from the ACC with the first PHA.

(2) If on the basis of inquiry and all other pertinent information available to the HUD field office, HUD determines there is no PHA able and willing to administer an ACC with respect to housing managed or owned by the first PHA, HUD (or another entity acting on behalf of HUD), may, pursuant to section 8(b)(1) of the Act, enter into Contracts with the Owners and perform the functions otherwise assigned to PHAs under this Part with respect to such housing.

§ 882.122 Applicability of this part to certificates outstanding on and requests for lease approval pending on May 13, 1976.

The Regulations shall be applicable to Certificates outstanding on May 13, 1976, and Requests for Lease Approval pending on May 13, 1976, to the maximum extent and in the manner that the PHA deems feasible.

Subpart B—Program Development and Operation

§ 882.201 Allocations of contract authority to field offices.

HUD field offices wil be allocated contract authority for the Section 8 Housing Assistance Payments Program for metropolitan areas and for non-metropolitan areas in conformance with section 213(d) of the HCD Act and regulations pursuant thereto (24 CFR 891).

§ 882.202 Determination of number and types of units to be assisted.

Each field office shall, after considering the contents of any Housing Assistance Plans and any other pertinent information which it has or which is brought to its attention, in relation to the factors set forth in section 213(d) of the HCD Act, including any applicable State or areawide housing allocation plan, determine the number and types of units to be made available for new construction, substantial rehabilitation and existing housing in the geographic areas established for the purpose of allocating funds (herein called "allocation areas").

§ 882.203 Invitations for existing housing program applications.

(a) *Sending of Invitation.* The HUD field office shall initiate implementation of its program with respect to Existing Housing by sending invitations for Existing Housing Program applications, for the area(s) for which applications are desired in accordance with a schedule established by the field office. The schedule may be modified at such time as circumstances require. The invitation shall be sent on the same day to appropriate PHAs, to the Governor, and to the chief executive officers of the appropriate counties, municipalities, or other governmental entities or public bodies which are authorized to engage in or assist in the development or operation of low-income housing. In addition, HUD shall send promptly information concerning its issuance of invitations to trade journals, news media (including minority media), minority organizations involved in housing and community development, and fair housing groups. Additional copies of the invitation shall be available in the HUD field office.

(b) *Contents of Invitation.* The invitation shall indicate: (1) that applications may be submitted by public housing agencies (i.e., any State, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof) which is authorized to engage in or assist in the development or operation of low-income housing), (2) the maximum number of units, (3) the geographic area, (4) the deadline for submission of applications (which shall be at least 30 but not more than 60 calendar days after the date invitations are sent as provided in the third sentence of paragraph (a) of this section), (5) the fact that application and other forms and copies of Program regulations may be obtained from the field office, (6) the fact that if no application is received by the deadline date, HUD may determine to carry out the Existing Housing program directly, pursuant to section 8(b)(1) of the Act, and (7) such other basic information as the field office may specify.

§ 882.204 Submission of Application.

The application for an Existing Housing Project shall be submitted by a PHA to the HUD field office. Advice and assistance in the preparation of the application are available from the HUD field office.

(a) The application shall be in the form and in accordance with the instructions prescribed by HUD and shall:

(1) Indicate the types of Existing Housing (e.g., elevator, non-elevator) likely to be utilized in the proposed project and whether authorization for the use of Recently Completed Housing is desired (see Sec. 882.120).

(2) Indicate the total number of units expected to be utilized by unit size (i.e., one bedroom units, two bedroom units, etc.) and the approximate number of units for occupancy by elderly, handicapped, or disabled.

(3) Demonstrate that the project requested in paragraph (a)(2) of this section is consistent with the applicable Housing Assistance Plan, including the goals for meeting the housing needs of Lower-Income Families, or in the absence of such a Plan, that the proposed project is responsive to the condition of the housing stock in the community and the housing assistance needs of Lower-Income Families (including the elderly, handicapped, disabled, large Families and those displaced) residing in or expected to reside in the community.

(4) Demonstrate that the applicant qualifies as a Public Housing Agency and is legally qualified and authorized to participate in the section 8 Existing Housing program for the area in which the Existing Housing program is to be carried out and include in such demonstration (i) the relevant enabling legislation,

(ii) any rules and regulations adopted or to be adopted by the agency to govern its operations, and (iii) a supporting opinion from the agency counsel.

(5) Include a statement that the housing quality standards to be used in the operation of the program will be as set forth in § 882.109 or that variations in the Acceptability Criteria are proposed. In the latter case, each proposed variation shall be specified and justified.

(6) Include a proposed schedule specifying the number of units to be leased

(b) For each application, or in a combined submission covering several applications, the PHA shall submit the following items with the application(s) or after application approval but no later than with the PHA-executed ACC:

(1) An equal opportunity housing plan.

(i) The plan shall describe the PHA's policies and procedures for:

(A) Fulfilling the requirements of § 882.207(a) and § 882.208.

(B) Achieving the participation of owners of units of suitable price and quality in areas outside low income and minority concentrations and outside the local jurisdiction where possible.

(C) Selecting among eligible applicants those to receive Certificates of Familly Participation, including any provisions establishing local requirements for eligibility or preferences for selection in accordance with § 882.209(a)(2).

(D) Providing assistance in finding a unit to Certificate holders who allege that illegal discrimination is preventing them from finding a suitable unit.

(ii) Relative to accomplishing the tasks set forth in paragraphs (b)(1)(i)(B) and (D) of this section, the PHA should consider the possibility of subcontracting with a community-based organization, such as a fair housing organization that has had experience in assisting families which traditionally have encountered discrimination or other difficulties in the process of finding housing in the locality.

(iii) The plan shall also include signed certification of the applicant's intention to comply with Title VI of the Civil Rights Act of 1964; Title VIII of Civil Rights Act of 1968; Executive Order 11063; and if the housing assistance may be used within an area of a Housing Assistance Plan, a certification that the applicant will take affirmative action to provide opportunities to participate in the program to persons expected to reside in the locality because of present or planned employment as indicated in the Housing Assistance Plan.

(2) Estimates of financial requirements for preliminary costs, administrative costs and housing assistance payments on the prescribed forms.

(3) An administrative plan. (i) The plan shall include: a statement of the PHA's overall approach and objectives in administering the Existing Housing program; a description of the procedures to be used in carrying out each function; and a statement of the number of employees proposed for the program, by position and functions to be performed.

(ii) The following functions should be addressed: outreach to eligible families; contact with Owners; completion of applications and determinations of family eligibility; selection of families; computation of Gross Family Contributions; briefing of Families and issuance of Certificates; use of housing quality standards and inspections; lease approval and Contract execution; payments to Owners; recertification of Incomes; provision of housing information and services to recipient Families; review and adjustment, as necessary, of Allowances for Utilities and Other Services; reinspection of units under Contracts; processing requests for rent adjustments by Owners; terminations; establishment of complaint and appeal procedures; monitoring program performance.

(4) A proposed schedule of Allowances for Utilities and Other Services with a justification of the amounts proposed.

§ 882.205 Processing of applications.

(a) *Initial Screening of Applications.* Promptly after receipt of an application, the HUD field office will check whether or not the application is complete. If an application is incomplete, the PHA will be so notified and will be given until the deadline date or, if necessary, a reasonable time thereafter within which to complete the application.

(b) *Notice to Unit of General Local Government.* Pursuant to section 213 of the HCD Act, within 10 days after screening of a complete application, the field office shall forward a notification requesting comments, in the form prescribed by HUD, to the chief executive officer (or such designee as that office may designate) of the unit of general local government in which the proposed housing assistance is to be utilized, unless the comments of the appropriate executive officer in regard to the specific application have been previously submitted. The letter shall invite a response within 30 calendar days from the date of the notification letter.

(c) *Evaluation of Applications.* HUD may begin its evaluation immediately upon receipt of the application, but no final decision of approval or disapproval of the application may be made until after the deadline for receipt of applications or the end of the opportunity for response referred to in paragraph (b) of this section, whichever is later. Each application will be evaluated by HUD on the basis of all pertinent factors under this Part, including comments, if any, received during the comment period from the unit of general local government. In selecting among approvable applications, HUD will give preference as provided in the last sentence of § 882.103(c).

(d) *Disapproval, Conditional Approval, or Approval of Applications.* If an application is disapproved, HUD shall notify the applicant by letter indicating in detail the reasons for disapproval. If an application can be approved only if certain changes are made, HUD shall notify the applicant by letter stating that the application can be approved if the PHA adopts, within a reasonable time as determined by HUD, the changes required by HUD. If an application is approved, the applicant shall be sent a notification of application approval.

§ 882.206 Annual contributions contract; schedule of leasing.

(a) *Transmittal of ACC.* After the HUD field office has prepared the ACC, shown as Appendix I, the ACC shall be transmitted to the PHA for execution by the PHA. The ACC shall be returned to HUD together with the PHA's equal opportunity housing plan, estimates of its financial requirements on the prescribed forms, administrative plan and proposed schedule of Allowances for Utilities and Other Services, if these have not been previously submitted.

(b) *Execution of ACC by HUD.* After receipt of the PHA-executed ACC and HUD approval of the equal opportunity housing plan, financial estimates, the administrative plan and the schedule of Allowances for Utilities and Other Services, HUD shall execute the ACC. HUD then shall transmit a fully executed copy of the ACC together with a leasing schedule in accordance with paragraph (c) of this section.

(c) *Schedule of Leasing.* The ACC shall include a provision relating to expeditious leasing of units under the program. HUD will review the PHA-proposed schedule specifying the number of units that are expected to be leased by the end of each three-month period, and will make such changes as it may deem appropriate. In its transmittal of the ACC to the PHA, HUD will include the HUD-approved schedule. This schedule will be established so as to implement HUD policy that all units in a section 8 Existing Housing program of 100 units or more must be leased by Eligible Families within 12 months. In the case of smaller programs, a shorter time period may be established by HUD. HUD may reduce the number of units and/or the amount of the annual contributions commitment if, in the determination of HUD, the PHA fails to demonstrate a good faith effort to adhere to this schedule or fails to adhere to the schedule for other reasons which justify a reduction in the number of units or changes in unit size.

§ 882.207 Public notice to lower-income families; waiting list.

(a) *Public Notice to Lower-Income Families.* Promptly after receiving the executed ACC, and thereafter as may be necessary, the PHA shall make known to the public, through publication in a newspaper of general circulation as well as through minority media and other suitable means, the availability and nature of housing assistance for lower-income families (including assistance with respect to units already occupied by the families) and the notice shall inform such families where they may apply for Certificates of Family Participation. The PHA shall take affirmative action to provide opportunities to participate in the program to persons who, because of such factors as race, ethnicity, sex of house-

hold head, age, or source of income, are less likely to apply for Certificates of Family Participation; and, if there is a Local Housing Assistance Plan pursuant to Title I of the HCD Act, to persons expected to reside in the community because of present or planned employment, as indicated in the plan.

(1) The notice shall also state that occupants of housing assisted under the Act (including leased housing and housing occupied with assistance under the Section 23 Housing Assistance Payments Program), applicants on a waiting list for any such housing, and holders of Certificates of Family Participation for such housing must apply specifically if they wish to be considered for a Certificate of Family Participation under this Part. In addition, the notice shall state that such applicants for Certificates will not lose their place on the public housing waiting list.

(2) Such notice shall be made in accordance with the PHA's HUD-approved equal opportunity housing plan and with the HUD guidelines for fair housing requiring the use of the equal housing opportunity logotype, statement, and slogan.

(b) *Waiting List.* The PHA shall establish and maintain a waiting list for applicants for Certificates of Family Participation under this Part. If an applicant is determined by the PHA to be eligible but the PHA has determined pursuant to Sec. 882.209(a)(3) that it cannot issue any more Certificates, the PHA shall place such Family on this waiting list and notify the Family of this fact and of the approximate date that a Certificate may be issued, insofar as such date can reasonably be determined.

(c) *Suspension of Taking of Applications.* If the number of Families on the PHA's waiting list for Certificates of Family Participation is such that there is no reasonable prospect that additional applicants could be issued Certificates within the next year, the PHA may determine to suspend the taking of further applications, and in such case the PHA shall not be required to take the actions specified in paragraph (a) of this section. Any such determination by the PHA shall be publicly announced in the same manner as provided in paragraph (a) of this section and shall be effective as of the date stated in such announcement.

§ 882.208 Activities to encourage participation by owners and others.

(a) The PHA shall invite Owners, through publication in a newspaper of general circulation as well as through minority media and other suitable means, to make dwelling units available for leasing by Eligible Families, and in doing so, the PHA shall encourage the participation of Owners of units in areas other than low-income or minority concentrated areas. Such invitation shall be made in accordance with the PHA's HUD-approved equal opportunity housing plan, and with the HUD advertising guidelines for fair housing requiring the use of the equal housing opportunity logotype, statement, and slogan. The PHA shall publicize the needs of the program in such ways as to reach a maximum number of Owners and real estate brokers.

(b) The PHA shall also (1) request the field office to furnish it with a list of Secretary-held properties available for rent, to be included in the Certificate Holder's Packet, (2) develop working relationships with local Owners and real estate broker associations, (3) establish contact with civic, charitable, or neighborhood organizations which have an interest in housing for low-income families, and public agencies concerned with obtaining housing for displacees, and (4) explain the provisions of the program, including equal opportunity requirements, to real estate, landlord, and other groups the members of which have dealings with low-income families or are interested in housing such families.

§ 882.209 Certificates of family participation.

(a) *Initial Determination of Family Eligibility.* (1) The PHA shall be responsible for determining eligibility for a Certificate of Family Participation, in accordance with schedules and criteria established by HUD. The PHA shall be responsible for verifying the sources of the family's income and other information necessary for determining eligibility and the amount of the assistance payment. If an Owner is the initial point of contact by an applicant who does not have a Certificate, he shall refer such applicant to the PHA.

(2) The PHA shall select Families for Certificates in accordance with the provisions of this Part and in accordance with the PHA's application, including any PHA rules for preferences as approved by HUD (see § 882.204(b)(1)(i)(C)). Requirements or preferences for those living in the jurisdiction of the PHA at the time of application are permissible subject to the following: No requirement or preference may be based upon the identity or location of the housing which is occupied or proposed to be occupied by the applicant for a Certificate of Family Participation, nor upon the length of time the applicant has resided in the jurisdiction; applicants who are working or who have been notified that they are hired to work in the jurisdiction shall be treated as residents of the jurisdiction. (See also § 882.209(e)(2).)

(3) Every applicant for a Certificate shall complete and sign the form of application prescribed by HUD.

(4) The PHA shall maintain a system to assure that it will be able to honor all outstanding Certificates of Family Participation within its ACC authorization and that it will comply, to the maximum extent feasible, with the unit distribution in the ACC.

(5) PHA records on applicant and certified Families shall be maintained so as to provide HUD with racial, gender, and ethnic data.

(b) *Issuance of Certificate of Family Participation, and Certificate Holder's Packet.* If an applicant is determined by the PHA to be eligible and is selected for participation, he shall be given a Certificate of Family Participation (see Appendix III) signed by the PHA. At the same time, the Family shall be given one Certificate Holder's Packet, which shall include:

(1) Request for Lease Approval (see Appendix IV);

(2) Required Lease Provisions and Prohibited Lease Provisions (see Appendices VI and VII);

(3) Information regarding lead based paint poisoning hazards, symptoms and precautions;

(4) The PHA's forms for inspection of housing units and certification of compliance with the PHA's housing quality standards;

(5) Fair Housing U.S.A. (HUD–63–EO(6)), or the Spanish translation thereof (HUD–169–EO–(2)), as appropriate, both issued by the U.S. Department of Housing and Urban Development;

(6) A list of Secretary-held properties available for rent;

(7) Information concerning Recently Completed Housing, if any, including the locations of such housing and the applicable Fair Market Rents;

(8) Information as to the Gross Family Contribution, the Fair Market Rent appropriate for the Family size and composition, and the benefit of the Rent Credit for rents below the Fair Market Rent or such higher rent as approved by HUD for a unit size or type pursuant to § 882.106(a)(3);

(9) The PHA's schedule of Allowances for Utilities and Other Services; and

(10) Such other items as the PHA may determine should be included.

(c) *Briefing of Certificate Holders.* When a Family initially receives its Certificate of Family Participation, a full explanation of the following shall be provided to assist the Family in finding a suitable unit and to apprise the Family of its responsibilities and the responsibilities of the Owner (this may be done either in group or individual sessions; adequate opportunity shall be provided for Families to raise questions and to discuss the information provided):

(1) Family and Owner responsibilities under the Lease and Contract;

(2) How to find a suitable unit;

(3) The general locations and characteristics of the full range of neighborhoods in which the PHA is able to execute Contracts and in which units of suitable price and quality may be found.

(4) Applicable housing quality standards and procedures for Family and Owner inspections and for their individual certifications of compliance with those standards;

(5) Significant aspects of the applicable State and local laws;

(6) Significant aspects of Federal, State and local fair housing laws;

(7) Applicable Fair Market Rent, determination of Gross Family Contribution, establishment of housing assistance payments and operation of the Rent Credit; and

(8) That the family may obtain copies of the Housing Quality Standards, the

Contract and other pertinent forms or documents, on request.

(d) *Expiration and Extension of Certificate.* (1) The Certificate of Family Participation shall expire at the end of 60 days unless within that time the Family submits a Request for Lease Approval (Appendix IV).

(2) If a Certificate expires or is about to expire, a Family may submit the Certificate to the PHA with a request for an extension. The PHA shall review with the Family the efforts it has made to find a suitable dwelling unit and the problems it has encountered and shall determine what advice or assistance might be helpful. If the PHA believes that there is a reasonable possibility that the Family may, with the additional advice or assistance, if any, find a suitable unit, the PHA may grant one or more extensions not to exceed a total of 60 days. Expiration of a Certificate shall not preclude the Family from filing a new application for another certificate.

(e) *Continued Participation When Assisted Family Moves.* (1) If an assisted Family notifies the PHA that it wishes to obtain another Certificate of Family Participation for the purpose of finding another dwelling unit within the area in which the PHA has determined that it is able to enter into Contracts or that it has found another such unit to which it wishes to move, the PHA shall (unless it does not have sufficient ACC authority for continued assistance to the Family) issue another Certificate or process a Request for Lease Approval, as the case may be, unless the PHA determines that the Owner is entitled to payment pursuant to § 882.112 on account of nonpayment of rent or other amount owed under the Lease and that the Family has failed to satisfy any such liability.

(2) If an assisted Family wishes to move out of the area in which the PHA has determined that it is able to enter into Contracts and the Family qualifies under paragraph (e)(1) of this section, the Family may obtain housing assistance in the jurisdiction to which it is moving, provided that the Family obtains a Certificate of Family Participation from the appropriate PHA. The appropriate PHA shall treat the Family either as a Family to whom the PHA is already providing assistance who wishes to move to another unit or as a resident who has submitted an application for assistance. In either case the PHA shall not deny the Family a Certificate on the ground that its Income is above limits for admission in that jurisdiction, and any requirements and preferences of the PHA as to admission are subject to the requirements of § 882.209(a)(2).

(f) *Families Determined by the PHA to be Ineligible.* If an applicant is determined by the PHA to be ineligible on the basis of Income or family composition, or for any other reason, the PHA shall promptly notify the applicant by letter of the determination and the reasons therefor, and the letter shall state that the applicant has the right within a reasonable time (specified in the letter) to request an informal hearing. If, after conducting such an informal hearing, the PHA determines that the applicant is ineligible, it shall so notify the applicant in writing. The procedures of this paragraph do not preclude the applicant from exercising its other rights if it believes it is being discriminated against on the basis of race, color, creed, religion, sex, or national origin. The PHA shall retain for three years a copy of the application, the notification letters, the applicant's response if any, the record of any informal hearing, and a statement of final disposition.

§ 882.210 Request for lease approval.

(a) *Information to Owners and Requests to PHA for Lease Approval.* (1) The PHA will respond to inquiries from Owners who have been approached by Certificate holders by explaining major program procedures including lease provisions, lease approval procedures, housing quality inspections, Contract provisions and payment procedures and by furnishing copies of the pertinent forms.

(2) When a Family has found a unit it wants and the Owner is willing to lease, the Family shall submit to the PHA a Request for Lease Approval signed by the Owner of the unit and the Family, together with the completed dwelling unit inspection report on the form provided by the PHA. At the same time, the Family shall submit a copy of the proposed lease, which shall contain all required provisions shown in Appendix VI and shall be complete except for execution and entry of the portion of monthly rental which the Family shall be obligated to pay to the Owner.

(b) *Amount of Contract Rent to Owner.* (1) The PHA shall determine whether the requested Contract Rent is approvable in accordance with § 882.106. If the Family is to pay directly for any of the utilities or services, the PHA shall determine the amount of the Allowance on account thereof. Inasmuch as the Fair Market Rents are established for a geographic area within which the rents for modest Decent, Safe, and Sanitary housing may vary substantially, the PHA shall make an analysis to determine the reasonable rent for the particular unit. If the requested Contract Rent plus any applicable Allowance is at or below the reasonable rent and at or below the Fair Market Rent, it may be approved.

(2) If the otherwise approvable Contract Rent to Owner plus the applicable Allowance, if any, is higher than the applicable Fair Market Rent, and if the PHA determines that such higher rent is justified, it shall take the action required by § 882.106 to have a higher rent approved.

(c) *Amount of Rent Payable by Family to Owner.* The amount of rent payable by the Family to the Owner shall be the amount of the Gross Family Contribution, or the amount of such Contribution less the amount of any Allowance for utilities and other services not to be provided by the Owner. If the Family is entitled to a Rent Credit pursuant to § 882.115, the amount of the rent otherwise payable by the Family to the Owner shall be reduced by the amount of the Credit. If the Gross Family Contribution minus the Rent Credit is less than the Allowance for Utilities and Other Services, the PHA shall pay the difference directly to the Family.

(d) *Decent, Safe, and Sanitary Condition of Unit.*

(1) Before approving a Lease, the PHA shall inspect the unit for compliance with the PHA's housing quality standards as established in accordance with Sec. 882.109, or cause it to be so inspected on the date on which the Owner indicates that the unit will be ready for inspection, or as promptly as possible thereafter.

(2) If there are defects or deficiencies which must be corrected in order for the unit to be Decent, Safe, and Sanitary, the Owner shall be advised by the PHA of the work required to be done. Before a Contract is executed, the unit must be reinspected to ascertain that the necessary work has been performed and that the unit is Decent, Safe, and Sanitary.

(3) A report for every inspection and reinspection under this paragraph (d) shall be prepared and maintained in the files of the PHA. Each such report shall specify (i) any defects or deficiencies which must be corrected in order for the unit to be Decent, Safe, and Sanitary, and (ii) any other defects or deficiencies, a record of which shall be maintained for use in the event of a subsequent claim by the Owner that they were caused during the period of occupancy by the Family.

(e) *Oversized Unit.* No otherwise acceptable unit shall be disapproved on the ground that it is too large for the Family, provided that the rent to Owner plus any Allowance does not exceed the Fair Market Rent or such higher rent as approved by HUD for a unit size or type pursuant to § 882.106(a)(3) for the smaller size unit initially determined appropriate for the Family.

(f) *Lease Requirements.* (1) *Term of Lease.* The PHA shall determine that the term of Lease is consistent with Sec. 882.107(b).

(2) *Required Provisions.* The Lease shall contain the required provisions specified in Appendix VI.

(3) *Prohibited Provisions.* The Lease shall not contain any clause which falls within the classifications listed in Appendix VII.

(g) *Approval of Lease and Execution of Related Documents.* If the PHA determines that a unit which an Eligible Family wishes to lease is in Decent, Safe, and Sanitary condition, that the rent is approvable, and that the proposed lease complies with the requirements of this Part, the PHA shall approve the lease, and shall notify the Owner and the Family of its determination utilizing Appendix V. The Contract and Lease shall thereafter be executed by the appropriate parties. A copy of the notification shall be maintained in the PHA's files together with the original Request for Lease Approval and the inspection report(s) relating to the unit.

(h) *Disapproval of Lease.* If the PHA determines that the lease cannot be approved for any reason, including the condition of the unit, the PHA shall so notify the Owner and the Family using Appen-

dix V. A copy of this notification shall be maintained in the PHA's files together with the original Request for Lease Approval and the inspection report(s) relating to the unit.

§ 882.211 Maintenance, operation and inspections.

(a) *Maintenance and Operation.* The Owner shall provide all the services, maintenance and utilities which he agrees to provide under the Contract, subject to abatement of housing assistance payments or other applicable remedies if he fails to meet these obligations.

(b) *Periodic Inspection.* In addition to the initial inspection provided under § 882.210(d)(1), the PHA will inspect or cause to be inspected each dwelling unit leased to an Eligible Family at least annually and at such other times as may be necessary to assure that the Owner is meeting his obligations to maintain the unit in Decent, Safe, and Sanitary condition and to provide the agreed upon utilities and other services. The PHA will take into account complaints and any other information coming to its attention in scheduling inspections. All complaints by Families concerning compliance by the Owner with the PHA's housing quality standards shall be retained in the PHA's files for three years.

(c) *Units Not Decent, Safe, and Sanitary.* If the PHA notifies the Owner that he has failed to maintain a dwelling unit in Decent, Safe, and Sanitary condition and the Owner fails to take corrective action within the time prescribed in the notice, the PHA may exercise any of its rights or remedies under the Contract, including abatement of housing assistance payments (even if the Family continues in occupancy) and termination of the Contract. If the Family wishes to be rehoused in another dwelling unit with Section 8 assistance and the PHA determines to terminate the Housing Assistance Payments Contract, the PHA shall issue to the Family another Certificate of Family Participation.

§ 882.212 Reexamination of family income, composition, and extent of exceptional medical or other unusual expenses.

Reexamination of Family Income, composition, and the extent of medical or other unusual expenses incurred by the Family shall be made by the PHA at least annually (except that such reviews may be made at intervals no longer than two years in the case of elderly families), and appropriate redeterminations shall be made by the PHA of the amount of Gross Family Contribution and the amount of the housing assistance payment, all in accordance with schedules and criteria established by HUD. A Family's eligibility for housing assistance payments shall continue until the amount payable by the Family equals the Gross Rent for the dwelling unit it occupies. However, the termination of eligibility at such point shall not affect the Family's other rights under its Lease nor shall such termination preclude resumption of payments as a result of subsequent changes in income or rents or other relevant circumstances during the term of the Contract. If the Contract terminates at a time when the Family is ineligible for payments, the Contract shall not be renewed. In addition, if one year has elapsed since the date of the last housing assistance payment, the Contract shall be terminated (with the consent of the Owner if the Contract does not provide for termination under such circumstances) even if the termination date has not yet been reached. A Family may at any time request a redetermination of its Gross Family Contribution on the basis of changes in Family Income or other relevant circumstances.

§ 882.213 Overcrowded unit.

If the PHA determines that a dwelling unit is not Decent, Safe, and Sanitary by reason of increase in Family size, the Family and the PHA shall try to find an acceptable unit as soon as possible. If an acceptable unit is found that is available for occupancy by the Family, and the Lease with the first Owner can be terminated in accordance with its terms, the Contract with the first Owner shall be terminated and housing assistance payments shall be made available to the Family for occupancy in the acceptable unit. Housing assistance payments will not be terminated unless the Family rejects without good reason the offer of a unit which the PHA judges to be acceptable.

§ 882.214 Adjustment of allowance for utilities and other services.

(a) *Annual Review.* At least annually, the PHA shall determine whether there has been a substantial change in utility rates or other charge of general applicability, and whether an adjustment is required in the Allowance of Utilities and Other Services by reason of such changes or because of errors in the original determination. If the PHA determines that an adjustment should be made, the PHA shall establish a schedule of adjustments taking into account size and type of dwelling units and other pertinent factors and shall furnish HUD with a copy of the adjusted schedule.

(b) *Adjustments in Payments Under Contracts in Effect.* The PHA shall then determine the amounts of adjustments to be made in the amount of rent to be paid by affected Families and the amount of housing assistance payments and shall notify the Owners and Families accordingly.

(c) *Effect on Fair Market Rents.* If the PHA finds that utility cost changes are causing substantial difficulties in leasing Decent, Safe and Sanitary housing within the existing Fair Market Rent limitations, the PHA shall furnish appropriate documentation to HUD with a request for consideration of the need for a change in the Fair Market Rents.

§ 882.215 Eviction.

The Owner shall not evict any Family unless the Owner complies with the requirements of local law, if any, and of this section. The Owner shall give the Family a written notice of the proposed eviction, stating the grounds and advising the Family that it has 10 days (or such greater number, if any, that may be required by local law) within which to respond to the Owner. The Owner must obtain the PHA's authorization for an eviction; accordingly, a copy of the notice shall be furnished simultaneously to the PHA, and the notice shall also state that the Family may, within the same period, present its objections to the PHA in writing or in person. The PHA shall forthwith examine the grounds for eviction and shall authorize the eviction unless it finds the grounds to be insufficient under the Lease. The PHA shall notify the Owner and the Family of its determination within 20 days of the date of the notice to the Family, whether or not the Family has presented objections to the PHA. If the Owner has not received a response from the PHA within 20 days, he shall telephone the PHA and shall be informed by the PHA whether a notice of determination has been mailed. If the PHA informs the Owner that no notice has been mailed within the 20 day period, the PHA shall be deemed to have authorized the eviction.

§ 882.216 Inapplicability of low-rent public housing model lease and grievance procedures.

Model lease and grievance procedures established by HUD for PHA-owned low-rent public housing are not applicable to the Section 8 Housing Assistance Payments Program under this Part.

§ 882.217 HUD review of contract compliance.

HUD will review program operations at such intervals as it deems necessary to ensure that the Owner and the PHA are in full compliance with the terms and conditions of the Contract and the ACC. Equal Opportunity review may be conducted with the scheduled HUD review or at any time deemed appropriate by HUD.

§ 882.218 PHA reporting requirements.

[Reserved]

APPENDIX I

U.S. Department of Housing and Urban Development, Section 8 Housing Assistance Payments Program

MASTER SECTION 8 ANNUAL CONTRIBUTIONS CONTRACT NO. _____ NEW CONSTRUCTION, SUBSTANTIAL REHABILITATION, EXISTING HOUSING

This Annual Contributions Contract (ACC) is entered into on the ____ day of _____, 19____, (the date of execution by the Government) by and between the United States of America (herein called the "Government"), pursuant to the United States Housing Act of 1937, as amended (42 U.S.C. 1437, et seq.), herein called the "Act", and the Department of Housing and Urban Development Act (42 U.S.C. 3531), and _____ (herein called the "PHA"), which is a "public housing agency" as defined in the Act. In consideration of the mutual covenants hereinafter set forth, the parties hereto agree as follows:

0.1 *Project or Projects.* The PHA is undertaking to provide Decent, Safe, and Sanitary housing for Families (as defined in Section 2.1) pursuant to Section 8 of the Act by means of Housing Assistance Payments

Contracts ("Contracts") with Owners (as defined in Section 2.1). Such undertaking may involve an agreement for the use of housing to be constructed ("New Construction"), an agreement for the use of existing housing to be substantially rehabilitated ("Substantial Rehabilitation"), or the use of existing housing without substantial rehabilitation ("Existing Housing"). In each instance, the numbers and sizes of dwelling units with respect to which a certain maximum Annual Contributions commitment is made shall constitute a Project hereunder and shall be identified by a stated Project number.

0.2 *Part I and Part II of this Annual Contributions Contract.*

(a) Certain provisions of the ACC, principally those which are specifically applicable to a designated Project, are contained in Part I. Separate forms of Part I are used for different types of Projects (i.e., New Construction, Substantial Rehabilitation, and Existing Housing). A Separate Part I, on the applicable form thereof, has been executed with respect to each Project hereunder, and each such Part I, so executed, constitutes a part of this ACC.

(b) The remaining provisions of this ACC, which are applicable to all Projects hereunder, are contained in Part II, which, although not separately executed, constitutes a part of this ACC.

0.3 *Fiscal Year.* Except for the first Fiscal Year of each Project, there shall be one Fiscal Year for all Projects hereunder. Such established Fiscal Year shall be the 12-month period ending _____ of each calendar year. The first Fiscal Year for each Project shall be as provided in the Part I applicable to such Project.

0.4 *Schedule of Projects.* Attached to this Master Section 8 ACC, as Attachment A, is a list identifying each ACC Part I and ACC Part I amendment by Project number, date, and ACC List number and date.

PHA _____
By _____
_____
(Official title)
Date _____
United States of America, Secretary of Housing and Urban Development
By _____
_____
(Official title)
Date _____

U.S. Department of Housing and Urban Development, Section 8 Housing Assistance Payments Program, Existing Housing

PART I OF THE ANNUAL CONTRIBUTIONS CONTRACT

Number of this ACC Part I: _____
Master Section 8 ACC Number: _____
Effective Date: _____
[Date of execution by the Government of this ACC Part I]

1.1 *The Program.*

(a) *Projects Within Program.* The Existing Housing Program under this ACC Part I includes the following projects:

Project number:	*ACC list number and date of approval*

(b) *Number of Units (By Size) in Program.* The aggregate number of units by size of unit included in these projects is as follows:

Size of unit:	*Number of units*

(c) *Maximum ACC Amount.* The maximum ACC amount for all Program Expenditures in respect to the aggregate number of units in these projects (the Program) is $ _____ per year; Provided, however, that this amount shall be reduced commensurately with any reduction in the number of units or changes in unit size under any provision of this ACC (see Section 1.4(a)). The PHA shall not enter into any Contract or take any other action which will result in a claim for an Annual Contribution in respect to the Program in excess of the amount stated in this paragraph (c).

(d) *PHA Obligation.* The PHA, to the maximum extent feasible, shall enter into Housing Assistance Payments Contracts ("Contracts") in accordance with the numbers and sizes of units and subject to the maximum ACC amount specified above.

(e) *Meaning of "Project" as Used in Master ACC and Part II.* For purposes of this Part I the term "Project" wherever used in the Master Section 8 ACC and in Part II shall mean all the projects in the "Existing Housing Program."

1.2 *Authorization of Actions by PHA.* In order to carry out the Program, the PHA is authorized to (a) enter into Housing Assistance Payments Contracts, (b) make housing assistance payments on behalf of Families, and (c) take all other necessary actions all in accordance with the forms, conditions and requirements prescribed or approved by the Government; Provided, however, that neither the PHA nor the Government shall assume any obligation beyond that provided in Contracts in the form approved by the Government.

1.3 *Term of ACC, Lease and Contract.*

(a) *Term of ACC.* The term of this ACC shall be five years.

(b) *Term of Lease and Contract.* The term of each Lease shall be for not less than one year nor more than three years, but the Lease may contain a provision permitting termination upon 30 days advance written notice by either party. The term of each Contract shall be for the term of the Lease, provided that if a Family continues in occupancy after the expiration of the term on the same terms and conditions as the original Lease (or changes thereto which have been approved by the PHA and incorporated in the Contract where appropriate), the Contract shall continue in effect for the duration of such tenancy subject to the limitation in the next sentence. Any renewal of the Contract and Lease term, and any continuation of tenancy beyond the term, shall in no case extend beyond the term of this ACC.

1.4 *Annual Contribution.*

(a) Notwithstanding any other provisions of this ACC (other than paragraph (c) of this Section) or any provisions of any other contract between the Government and the PHA, the Government shall not be obligated to make any Annual Contribution or any other payment with respect to any Fiscal Year in excess of the amount stated in Section 1.1(c).

(b) Subject to the maximum dollar limitation in paragraph (a) of this Section, the Government shall pay for each Fiscal Year an Annual Contribution to the PHA in respect to the Program in an amount equal to the sum of the following (subject to reduction by the amount of any Program Receipts other than Annual Contributions, which Receipts shall be available for Program Expenditures):

(1) The amount of housing assistance payments payable during the Fiscal Year (see Section 1.5) by the PHA pursuant to the Contract, as authorized in Section 1.2.

(2) The allowance, in the amount approved by the Government, for preliminary costs of administration.

(3) The allowance, in the amount approved by the Government, for regular costs of administration, including costs of Government-required audits of Owners and the PHA.

(c)(1) An ACC reserve account will be established and maintained by the Government, as a specifically identified and segregated account, in an amount as determined by the Government consistent with its responsibilities under section 8(c)(6) of the Act. To the extent funds are available in said account, the Annual Contribution for any Fiscal Year may exceed the maximum amount stated in paragraph (a) of this Section by such amount, if any, as may be required for increases reflected in the estimates of required Annual Contribution applicable to such Fiscal Year as approved by the Government in accordance with Section 2.11 below.

(2) The Government will take such additional steps authorized by section 8(c)(6) of the Act as may be necessary to assure availability of funds to cover increases in housing assistance payments on a timely basis as a result of increases in Contract Rents or decreases in Family Incomes.

(d) The Government will make periodic payments on account of each Annual Contribution upon requisition therefor by the PHA in the form prescribed by the Government. Each requisition shall include certifications by the PHA that housing assistance payments have been or will be made only:

(1) In accordance with the provisions of the Contracts; and

(2) With respect to units which the PHA has inspected or caused to be inspected, pursuant to Section 2.4 of Part II of this ACC, within one year prior to the making of such housing assistance payments.

(e) Following the end of each Fiscal Year, the PHA shall promptly pay to the Government, unless other disposition is approved by the Government, the amount, if any, by which the total amount of the periodic payments during the Fiscal Year exceeds the total amount of the Annual Contribution payable for such Fiscal Year in accordance with this Section.

1.5 *Fiscal Year.* The Fiscal Year for the Program shall be the Fiscal Year established by Section 0.3 of this ACC; Provided, however, that the first Fiscal Year for the Project shall be the period beginning with the effective date of this ACC Part I and ending on the last day of said established Fiscal Year which is not less than 12 months after such effective date. If the first Fiscal Year exceeds 12 months, the maximum Annual Contribution in Section 1.1(c) may be adjusted by the addition of the pro rata amount applicable to the period of operation in excess of 12 months.

1.6 *Periodic Adjustment of Contract Rents.* Each Contract may provide for periodic adjustments in the Contract Rents chargable by the Owner and commensurate increases in amounts of housing assistance payments in accordance with applicable Government regulations.

1.7 *Equal Opportunity Housing Plan.* The PHA shall comply with all provisions of its HUD-approved equal opportunity housing plan.

1.8 *Expeditious Carrying Out of Program.* The PHA shall proceed expeditiously with the Program. If the PHA fails to proceed expeditiously, the Government, by notice to the PHA, may reduce its obligation hereunder with respect to the Program to the number and size of dwelling units under Contracts with Owners as of the date of receipt of such notice by the PHA, with a corresponding reduction in the maximum amount of the Annual Contribution specified in Section 1.1(c).

1.9 *Prior ACCs Superseded.* This Part I supersedes prior Section 8 Existing Housing ACC Parts I, if any.

PHA _____
By _____
_____
(Official title)
Date _____
United States of America, Secretary of Housing and Urban Development
By _____
_____
(Official title)
Date _____

Section 8 Housing Assistance Payments Program, Terms and Conditions Constituting Part II of An Annual Contributions Contract Between Public Housing Agency and the United States of America

NEW CONSTRUCTION, SUBSTANTIAL REHABILITATION, EXISTING HOUSING, MASTER SECTION 8 ACC NUMBER: _____

2.1 *Definitions.*

(a) "Families" means lower-income Families (including "Very Low-Income Families") and includes Families consisting of a single person in the case of Elderly Families and Displaced Families and includes the remaining member of a tenant family.

(b) "Elderly Families" means Families whose heads (or their spouses), or whose sole members, are persons who are at least 62 years of age or are under a disability as defined in section 223 of the Social Security Act or in section 102(5) of the Developmental Disabilities Services and Facilities Construction Amendments of 1970, or are handicapped. The term Elderly Families includes two or more elderly, disabled, or handicapped individuals living together, or one or more such individuals living together with another person who is determined under regulations of the Secretary of Housing and Urban Development ("Secretary") to be a person essential to their care or well being.

(c) "Displaced Families" means Families displaced by governmental action, or Families whose dwellings have been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

(d) "Lower-Income Families" means Families whose Incomes do not exceed 80 percent of the median Income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish Income limits higher or lower than 80 percent of the median for the area on the basis of his findings that such variations are necessary because of prevailing levels of construction costs, unusually high or low family Incomes, or other factors.

(e) "Very Low-Income Families" means Families whose Incomes do not exceed 50 percent of the median Income for the area, as determined by the Secretary with adjustments for smaller and larger families.

(f) "Income" means income from all sources of each member of the household, as determined in accordance with criteria prescribed by the Secretary.

(g) "Owner" means the person or entity, including a cooperative, with which the Agreement and Contract are entered into.

(h) "Rent" or "rental" mean, with respect to members of a cooperative, the charges under the occupancy agreements between such members and the cooperative.

(i) "Project Receipts" with respect to each Project means the Annual Contributions payable hereunder and all other receipts under this ACC, if any, accruing to the PHA from, out of, or in connection with such Project.

(j) "Project Expenditures" with respect to each Project means all costs allowable under Section 1.4(b), Part I of this ACC, with respect to such Project.

(k) "Substantial Default" means the occurrence of any of the events listed in Section 2.16.

2.2 *Lower-Income Housing Use; Compliance with Act and Regulations.* The PHA shall use the Annual Contribution solely for the purpose of providing Decent, Safe, and Sanitary dwellings for Families in compliance with all applicable provisions of the Act and all regulations issued pursuant thereto.

2.3 *Eligibility and Amount of Housing Assistance Payments.*

(a) The PHA shall comply with the Income limits established by the Government, and with the requirements of the Government pursuant to section 8(c)(7) of the Act that at least 30 percent of the Families assisted in all its Projects under its Master Section 8 ACC shall be Very Low-Income Families.

(b) The PHA shall comply or assure compliance with the schedules and criteria established by the Government with respect to the amounts of housing assistance payments made on behalf of Families.

(c) The PHA shall make or cause to be made periodic reexaminations of the Income, composition, and extent of exceptional medical or other unusual expenses of Families for whom housing assistance payments are being made, for the purpose of confirming or adjusting, in accordance with the applicable schedules established by the Government, the amount of rent payable by the Family and the amount of housing assistance payment.

(d) The PHA shall determine, as part of its annual inspection and at such other times as it deems appropriate, whether an adjustment is required in the Allowance for Utilities and Other Services applicable to the dwelling unit on grounds of changes of general applicability. If the PHA determines that an adjustment should be made, the PHA shall prescribe the amount of the adjustment and notify the Owner accordingly, and the PHA shall cause the Owner to make a corresponding adjustment in the amount of rent to be paid by the affected Family and the amount of housing assistance payment.

(e) Prior to the approval of eligibility of a Family by the PHA or the Owner, as the case may be, and thereafter on the date established for each reexamination of the status of such Family, the PHA or the Owner, as the case may be, shall review or cause to be reviewed a written application, signed by a responsible member of such Family, which application shall set forth all data and information necessary for a determination of the amount, if any, of housing assistance payment which can be made with respect to the Family.

2.4 *Inspections.*

(a) The PHA shall require, as a condition for the making of housing assistance payments, that the Owner maintain the assisted dwelling units and related facilities in Decent, Safe, and Sanitary condition.

(b) The PHA shall inspect or cause to be inspected dwelling units and related facilities prior to commencement of occupancy by Families, and thereafter at least annually, adequate to assure that Decent, Safe, and Sanitary housing accommodations are being provided and that the agreed-to services are being furnished.

2.5 *Nondiscrimination in Housing.*

(a) The PHA shall comply with all requirements imposed by Title VI of the Civil Rights Act of 1964, Public Law 88-352, 78 Stat. 241; the regulations of the Department of Housing and Urban Development issued thereunder, 24 CFR, Subtitle A, Part 1, Section 1.1, et seq.; the requirements of said Department pursuant to said regulations; and Executive Order 11063 to the end that, in accordance with that Act and the regulations and requirements of said Department thereunder, and said Executive Order, no person in the United States shall, on the ground of race, color, creed, religion, or national origin, be excluded from participation in, or be denied the benefits of, the Housing Assistance Payments Program or be otherwise subjected to discrimination. The PHA shall, by contractual requirement, covenant, or other binding commitment, assure the same compliance on the part of any subgrantee, contractor, subcontractor, transferee, successor in interest, or other participant in the program or activity, such commitment to include the following clause:

"This provision is included pursuant to the regulations of the Department of Housing and Urban Development, 24 CFR, Subtitle A, Part 1, Section 1.1, et seq.; issued under Title VI of the said Civil Rights Act of 1964, and the requirements of said Department pursuant to said regulations; and the obligation of the [contractor or other] to comply therewith inures to the benefit of the United States, the said Department, and the PHA, any of which shall be entitled to invoke any remedies available by law to redress any breach thereof or to compel compliance therewith by the [contractor or other.]"

(b) The PHA shall incorporate or cause to be incorporated into all Housing Assistance Payments Contracts a provision requiring compliance with all requirements imposed by Title VIII of the Civil Rights Act of 1968, and any rules and regulations issued pursuant thereto.

(c) The PHA shall not, on account of creed or sex, discriminate in the sale, leasing, rental, or other disposition of housing related facilities (including land) included in any Project or in the use or occupancy thereof, nor deny to any Family the opportunity to apply for such housing, nor deny to any eligible applicant the opportunity to lease or rent any dwelling in any such housing suitable to its needs. No person shall automatically be excluded from participation in or be denied the benefits of the Housing Assistance Payments Program because of membership in a class such as unmarried mothers, recipients of public assistance, etc.

2.6 *Equal Employment Opportunity.*

(a) The PHA shall not discriminate against any employee or applicant for employment because of race, color, creed, religion, sex, or national origin. The PHA shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to race, color, creed, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

(b)(1) The PHA shall incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR, Chapter 60, which is to be performed pursuant to this contract, the following Equal Opportunity clause:

"Equal Employment Opportunity

During the performance of this contract, the contractor agrees as follows:

(A) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion,

creed, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, creed, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the PHA setting forth the provisions of this Equal Opportunity clause.

(B) The contractor will in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, creed, sex, or national origin.

(C) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the PHA advising the said labor union or workers' representative of the contractor's commitments under this Section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(D) The contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(E) The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Government and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(F) In the event of the contractor's noncompliance with the Equal Opportunity clause of this contract or with any of the said rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part, and the contractor may be declared ineligible for further contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor or as otherwise provided by law.

(G) The contractor will include the portion of the sentence immediately preceding Paragraph (A) and the provisions of Paragraphs (A) through (G) in every subcontractor purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontractor or purchase order as the Government may direct as a means of enforcing such provisions including sanctions for noncompliance; Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Government, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

(2) The PHA agrees that it will assist and cooperate actively with the Government and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the Equal Opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the Government and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the Government in the discharge of the Government's primary responsibility for securing compliance.

(3) The PHA further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order No. 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and Federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the Equal Opportunity clause as may be imposed upon contractors and subcontractors by the Government or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order.

2.7 *Training, Employment, and Contracting Opportunities for Businesses and Lower Income Persons.*

(a) The project assisted under this ACC is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given lower income residents of the Project area and contracts for work in connection with the Project be awarded to business concerns which are located in or owned in substantial part by persons residing in the area of the Project.

(b) Notwithstanding any other provision of this ACC, the PHA shall carry out the provisions of said section 3 and the regulations issued pursuant thereto by the Secretary set forth in 24 CFR, Part 135 (published in 38 FEDERAL REGISTER 29220, October 23, 1973), and all applicable rules and orders of the Secretary issued thereunder prior to the execution of this ACC. The requirements of said regulations include but are not limited to development and implementation of an affirmative action plan for utilizing business concerns located within or owned in substantial part by persons residing in the area of the Project; the making of a good faith effort, as defined by the regulations, to provide training, employment, and business opportunities required by section 3; and incorporation of the "section 3 clause" specified by Section 135.20(b) of the regulations in all contracts for work in connection with the Project. The PHA certifies and agrees that it is under no contractual or other disability which would prevent it from complying with these requirements.

(c) Compliance with the provisions of section 3, the regulations set forth in 24 CFR, Part 135, and all applicable rules and orders of the Secretary issued thereunder prior to approval by the Government of the application for this ACC shall be a condition of the Federal financial assistance provided to the Project, binding upon the PHA, its successors and assigns. Failure to fulfill these requirements shall subject the PHA, its contractors and subcontractors, its successors, and assigns to the sanction specified by this ACC and to such sanctions as are specified by 24 CFR, Section 135.135.

(d) The PHA shall incorporate or cause to be incorporated into any contract pursuant to this contract such clause or clauses as are required by the Government for compliance with its regulations issued pursuant to the Housing and Urban Development Act, as amended. The PHA shall cooperate with the Government in the conducting of compliance reviews pursuant to said Acts and Regulations.

2.8 *Cooperation In Equal Opportunity Compliance Reviews.* The PHA shall cooperate with the Government in the conducting of compliance reviews and complaint investigations pursuant to applicable civil rights statutes, Executive Orders, and rules and regulations pursuant thereto.

2.9 *Clean Air Act and Federal Water Pollution Control Act.* The PHA shall incorporate or cause to be incorporated, into any contract for construction or substantial rehabilitation, such clause or clauses as are required by the Government for compliance with the regulations issued by the Environmental Protection Agency pursuant to the Clean Air Act, as amended, the Federal Water Pollution Control Act, as amended, and Executive Order 11738. The PHA shall cooperate with the Government in the conducting of compliance reviews pursuant to said Acts and Regulations.

2.10 *Labor Standards.* The PHA shall incorporate or cause to be incorporated into any contract for construction or substantial rehabilitation of nine or more dwelling units, such clause or clauses as are required by the Government for compliance with its regulations issued pursuant to the Copeland Act, the Davis-Bacon Act, and the Contract Work Hours and Safety Standards Act. The PHA shall cooperate with the Government in the conducting of compliance reviews pursuant to said Acts and Regulations.

2.11 *Estimates of Required Annual Contribution.* The PHA shall from time to time submit to the Government estimates of required annual contribution at such times and in such form as the Government may require. All estimates and any revisions thereof submitted under this Section shall be subject to Government approval.

2.12 *Insurance and Fidelity Bond Coverage.* For purposes of protection against hazards arising out of or in connection with the administrative activities of the PHA in carrying out the Project, the PHA shall carry adequate (a) comprehensive general liability insurance, (b) workmen's compensation coverage (statutory or voluntary), (c) automobile liability insurance against property damage and bodily injury (owned and non-owned), and (d) fidelity bond coverage of its officers, agents, or employees handling cash or authorized to sign checks or certify vouchers.

2.13 *Books of Account and Records; Reports.*

(a) The PHA shall maintain complete and accurate books of account and records, as may be prescribed from time to time by the Government, in connection with the Projects, including records which permit a speedy and effective audit, and will among other things fully disclose the amount and the disposition by the PHA of the Annual Contributions and other Project Receipts, if any.

(b) The books of account and records of the PHA shall be maintained for each Project as separate and distinct from all other Projects and undertakings of the PHA, except as authorized or approved by the Government.

(c) The PHA shall furnish the Government such financial, operating, and statistical reports, records, statements, and documents at such times, in such form, and accompanied by such supporting data, all as may reasonably be required from time to time by the Government.

(d) The Government and the Comptroller General of the United States, or his duly authorized representatives, shall have full and free access to the Projects and to all the books, documents, papers, and records of the PHA that are pretinent to its operations with respect to financial assistance under the Act, including the right to audit, and to make excerpts and transcripts from such books and records.

(e) The PHA shall incorporate or cause to be incorporated in all Contracts the following clauses:

"PHA and Government access to premises and owner's records

"(1) The Owner shall furnish such information and reports pertinent to the Contract as reasonably may be required from time to time by the PHA and the Government.

"(2) The Owner shall permit the PHA or the Government or any of their duly authorized representatives to have access to the premises and, for the purpose of audit and examination, to have access to any books, documents, papers and records of the Owner that are pertinent to compliance with this Contract, including the verification of information pertinent to the housing assistance payments."

(f) The PHA shall be responsible for engaging and paying the auditor for the making of audits as required by the Government, but the PHA shall be compensated under this ACC for the cost of such audits.

2.14 *Depositary Agreement.*

(a)(1) The PHA shall maintain one or more agreements, which are herein collectively called the "General Depositary Agreement," with a bank(s) selected as a depositary by the PHA.

(2) The PHA may maintain one or more agreements, which are herein collectively called the "Savings Depositary Agreement," with a saving and loan institution(s) or credit union(s) selected as a depositary by the PHA for the investment of excess funds.

(3) All such General Depositary Agreements and Savings Depositary Agreements are herein collectively called the "Depositary Agreement." All such banks, savings and loan institutions, and credit unions are herein collectively called the "Depositary."

(4) The Depositary Agreement shall be in the form prescribed by the Government for the particular type of Depositary. The Depositary shall be, and continue to be, a member of the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Share Insurance Fund, as the case may be.

(5) Immediately upon the execution of any Depositary Agreement, the PHA shall furnish to the Government such executed or conformed copies thereof as the Government may require.

(6) No such Depositary Agreement shall be terminated except after 30 days notice to the Government.

(b) The PHA shall deposit promptly with such Depositary, under the terms of the Depositary Agreement, all monies received pursuant to this ACC.

(c) The PHA may withdraw monies pursuant to the Depositary Agreement only for (1) payments pursuant to the Housing Assistance Payments Contract, and (2) other purposes specifically approved by the Government. No withdrawals shall be made except in accordance with a voucher or vouchers then on file in the office of the PHA stating in proper detail the purpose for which such withdrawal is made.

(d) If the Government makes a determination, after notice to the PHA giving it a reasonable opportunity to take corrective action, that the PHA is in Substantial Default or if the Government determines that the PHA has made any fraudulent or willful misrepresentation of any material fact in any of the documents or data submitted to the Government pursuant to this ACC or in any document or data submitted to the Government as a basis for this ACC or as an inducement to the Government to enter into this ACC, the Government shall have the right to (1) give notice of such determination to any Depositary which holds any monies pursuant to the Depositary Agreement and (2) require such Depositary, on the basis of such notice, to refuse to permit any withdrawals of such monies; Provided, however, that upon the curing of such Default the Government shall promptly rescind such notice and requirement.

2.15 *Pooling of Funds under Special Conditions and Revolving Fund.*[1]

(a) The PHA may deposit under the terms of the General Depositary Agreement monies received or held by the PHA in connection with any other ACC or any administration contract or lease between the PHA and the Government.

(b) The PHA may also deposit under the terms of the General Depositary Agreement amounts necessary for current expenditures of any other project or enterprise of the PHA, including any project or enterprise in which the Government has no financial interest; Provided, however, that such deposits shall be lump-sum transfers from the depositaries of such other projects or enterprises, and shall in no event be deposits of the direct revenues or receipts of such other projects or enterprises.

(c) If the PHA operates other projects or enterprises in which the Government has no financial interest, it may, from time to time, withdraw such amounts as the Government may approve from monies on deposit under the General Depository Agreement for deposit in and disbursement from a revolving fund provided for the payment of items chargeable in part to the Projects and in part to other projects or enterprises of the PHA; Provided, however, that all deposits in such revolving fund shall be lump-sum transfers from the depositaries of the related projects or enterprises and shall in no event be deposits of the direct revenues or receipts.

(d) The PHA may establish petty cash or change funds in reasonable amounts, from monies on deposit under the General Depositary Agreement.

(e) In no event shall the PHA withdraw from any of the funds or accounts authorized under this Section 2.15 amounts for the Projects or for any other project or enterprise in excess of the amount then on deposit in respect thereto.

2.16 *Defaults by PHA and/or Owner.* (a) *Rights of Owner if PHA Defaults under Agreement or Contract.* (The provisions of this paragraph (a) shall not apply to any Existing Housing Project.)

(1) In the event of failure of the PHA to comply with the Agreement with the Owner, or if such Agreement is held to be void, voidable or ultra vires, or if the power or right of the PHA to enter into such Agreement is drawn into question in any legal proceeding, or if the PHA asserts or claims that such Agreement is not binding upon the PHA for any such reason, the Government may, after notice to the PHA giving it a reasonable opportunity to take corrective action, determine that the occurrence of any such event constitutes a Substantial Default hereunder. Where the Government so determines, it may assume the PHA's rights and obligations under such Agreement and carry out the obligations of the PHA under the Agreement, including the obligation to enter into the Contract.

(2) In the event of failure of the PHA to comply with the Contract with the Owner, or if such Contract is held to be void, voidable or ultra vires, or if the power or right of the PHA to enter into such Contract is drawn into question in any legal proceeding, or if the PHA asserts or claims that such Contract is not binding upon the PHA for any such reason, the Government may, after notice to the PHA giving it a reasonable opportunity to take corrective action, determine that the occurrence of any such event constitutes a Substantial Default hereunder. Where the Government so determines, it shall have the right to assume the PHA's rights and obligations under such Contract, perform the obligations and enforce the rights of the PHA, and exercise such other powers as the Government may have to cure the Default; however, whether or not the Government elects to proceed in this manner, the Government shall, if it determines that the Owner is not in default, continue for the duration of such Contract to pay Annual Contributions for the purpose of making housing assistance payments with respect to dwelling units under such Contract.

(3) All rights and obligations of the PHA assumed by the Government pursuant to this Section 2.16(a) will be returned as constituted at the time of such return (i) when the Government is satisfied that all defaults have been cured and that the Project will thereafter be administered in accordance with all applicable requirements, or (ii) when the Housing Assistance Payments Contract is at an end, whichever occurs sooner.

(4) The provisions of this Section 2.16(a) are made with, and for the benefit of, the Owner, the PHA (where it is the lender and then only in its capacity as lender), or the Owner's other assignees, if any, who will have been specifically approved by the Government prior to such assignment. If such parties are not in default, they may, in order to enforce the performance of these provisions, (i) demand that the Government, after notice to the PHA giving it a reasonable opportunity to take corrective action, make a determination whether a Substantial Default exists under paragraph (a)(1) or (a)(2) of this Section, (ii) if the Government determines that a Substantial Default exists, demand that the Government take action as authorized in paragraph (a)(1) or (a)(2), and (iii) proceed against the Government by suit at law or in equity.

(5) The provisions of paragraphs (a)(1), (3) and (4) of this Section shall be included in the Agreement and the provisions of paragraphs (a)(2), (3) and (4) of this Section shall be included in the Contract.

(b) *Rights of Government if PHA Defaults Under ACC, Agreement, or Contract.*

(1) If the PHA defaults in the observance or performance of the provisions of Section 2.4; fails to comply with its obligations under any duly issued Certificate of Family Participation in accordance with its terms; fails to comply with the requirements of Sections 2.5, 2.6, 2.7, or 2.8; defaults in the performance or observance of any other term, covenant, or condition of this ACC or of any term, covenant, or condition of any Contract or Agreement; fails, in the event of any default by the Owner, to enforce its rights under the Agreement or Contract by way of action to achieve compliance to the satisfaction of the Government or to terminate the Agreement or Contract in whole or in part, as directed by the Government; or fails to comply with the applicable provisions of the Act and the regulations issued pursuant thereto; the Government may, after notice to the PHA giving it a reasonable opportunity to take corrective action, determine that the occurrence of any such event constitutes a Substantial Default hereunder as to the Project. Upon the occurrence of a Substantial Default with respect to any Project, the PHA shall, if the Government so requires, assign to the Government all of its rights and interests under the Agreement or Contract, including any funds, and the Government shall continue to pay Annual Contributions with respect to dwelling units covered by Housing Assistance Payments Contracts in accordance with the terms of this ACC and of such Contracts until reassigned to the PHA.

[1] Use of this Section 2.15 is optional.

(2) All rights and obligations of the PHA assumed by the Government pursuant to this Section 2.16(b) will be returned as constituted at the time of such return (i) when the Government is satisfied that all defaults have been cured and that the Project will thereafter be administered in accordance with all applicable requirements, or (ii) when the Housing Assistance Payments Contract is at an end, whichever occurs sooner.

(c) *Rights of PHA and Government if Owner Defaults under Contract. (New Construction and Substantial Rehabilitation Projects.)* For New Construction and Substantial Rehabilitation projects, the Contract shall contain the following provisions:

"a. A default by the Owner under this Contract shall result if:

"(1) The Owner has violated or failed to comply with any provision of, or obligation under, this Contract or of any Lease; or

"(2) The Owner has asserted or demonstrated an intention not to perform some or all of his obligations under this Contract or under any Lease.

"b. Upon a determination by the PHA that a default has occurred the PHA shall notify the Owner, with a copy to the Government, of (1) the nature of the default, (2) the actions required to be taken and the remedies to be applied on account of the default (including actions by the Owner to cure the default, and, where appropriate, abatement of housing assistance payments in whole or in part and recovery of overpayments), and (3) the time within which the Owner shall respond with a showing that he has taken all the actions required of him. If the Owner fails to respond or take action to the satisfaction of the PHA and the Government, the PHA shall have the right to terminate this Contract in whole or in part or to take other corrective action to achieve compliance, in its discretion or as directed by the Government.

"c. (The provisions of this paragraph c shall apply only if the PHA is the lender.) Notwithstanding any other provisions of this Contract, in the event the Government determines that the Owner is in default of his obligations under the Contract, the Government shall have the right, after notice to the Owner and the PHA giving them a reasonable opportunity to take corrective action, to abate or terminate housing assistance payments and recover overpayments in accordance with the terms of the Contract. In the event the Government takes any action under this Section, the Owner and the PHA hereby expressly agree to recognize the rights of the Government to the same extent as if the action were taken by the PHA. The Government shall not have the right to terminate the Contract except by proceeding in accordance with Section 2.16(b) of the ACC and paragraph b of this Section."

(d) *Rights of PHA if Owner Defaults under Contract (Existing Housing Projects).* For Existing Housing projects, the Contract shall contain the following provisions:

"a. A default by the Owner under this Contract shall result if:

"(1) The Owner has violated or failed to comply with any provision of, or obligation under, this Contract or of any Lease; or

"(2) The Owner has asserted or demonstrated an intention not to perform some or all of his obligations under this Contract or under any Lease.

"b. Upon a determination by the PHA that a default has occurred, the PHA shall notify the Owner, with a copy to the Government, of (1) the nature of the default, (2) the actions required to be taken and the remedies to be applied on account of the default (including actions by the Owner to cure the default, and, where appropriate, abatement of housing assistance payments in whole or in part and recovery of overpayments), and (3) the time within which the Owner shall respond with a showing that he has taken all the actions required of him. If the Owner fails to respond or take action to the satisfaction of the PHA and the Government, the PHA shall have the right to terminate this Contract in whole or in part or to take other corrective action to achieve compliance, in its discretion or as directed by the Government."

2.17 *Remedies Not Exclusive and Non-Waiver of Remedies.* The availability of any remedy provided for in this ACC or in the Contract shall not preclude the exercise of any other remedy under this ACC or the Contract or under any provisions of law, nor shall any action taken in the exercise of any remedy be deemed a waiver of any other rights or remedies. Failure to exercise any right or remedy shall not constitute a waiver of the right to exercise that or any other right or remedy at any time.

2.18 *Interest of Members, Officers, or Employees of PHA, Members of Local Governing Body, or Other Public Officials.*

(a) Neither the PHA nor any of its contractors or their subcontractors shall enter into any contract, subcontract, or arrangement, in connection with any Project, in which any member, officer, or employee of the PHA, or any member of the governing body of the locality in which the Project is situated, or any member of the governing body of the locality in which the PHA was activated, or any other public official of such locality or localities who exercises any responsibilities or functions with respect to the Project, during his tenure or for one year thereafter, has any interest, direct or indirect. If any such present or former member, officer, or employee of the PHA, or any such governing body member or such other public official of such locality or localities involuntarily acquires or had acquired prior to the beginning of his tenure any such interest, and if such interest is immediately disclosed to the PHA and such disclosure is entered upon the minutes of the PHA, the PHA, with the prior approval of the Government, may waive the prohibition contained in this subsection; Provided, however, that any such present member, officer, or employee of the PHA shall not participate in any action by the PHA relating to such contract, subcontract, or arrangement.

(b) The PHA shall insert in all contracts entered into in connection with any Project or any property included or planned to be included in any Project, and shall require its contractors to insert in each of its subcontracts, the following provisions:

"No member, officer, or employee of the PHA, no member of the governing body of the locality (city and county) in which the project is situated, no member of the governing body of the locality in which the PHA was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the project, during his tenure or for one year thereafter, shall have any interest, direct or indirect, in this contract or any proceeds or benefits arising therefrom."

(c) The provisions of the foregoing subsections (a) and (b) of this Section 2.18 shall not be applicable to the Depositary Agreement, or utility service the rates for which are fixed or controlled by a governmental agency.

2.19 *Interest of Member of or Delegate to Congress.* No member of or delegate to the Congress of the United States of America or resident commissioner shall be admitted to any share or part of this ACC or to any benefits which may arise therefrom.

APPENDIX II

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM; EXISTING HOUSING

Part I of the Housing Assistance Payments Contract

Master Section 8 ACC Number: _____

_____

Existing Housing ACC Part I Number and Date: _____.

This Housing Assistance Payments Contract ("Contract") is entered into between the Owner, _____, and the PHA, _____, which is a public housing agency as defined in the United States Housing Act of 1937 ("Act"). The PHA is entering into this Contract pursuant to an Annual Contributions Contract ("ACC") with the United States of America ("Government") (see Section 2.3 of this Contract).

The purpose of this Contract is to enable the Lower-Income Family identified in Section 1.1 to lease a Decent, Safe, and Sanitary dwelling unit pursuant to the Section 8 Housing Assistance Payments Program.

The Owner and the PHA agree as follows:

1.1 *Contract unit, family, and lease.*

(a) *Contract Unit and Family.* The following described dwelling unit ("Contract Unit") is leased by the Owner under a lease approved by the PHA ("Lease") to the following Lower-Income Family ("Family"):

(Address of unit, including apt No. if any)

Contract Unit: _____

(Name of person(s) signing lease)

Family: _____

(b) *Lease.* The Lease shall at all times contain the Required Lease Provisions set forth in Appendix VI of the Existing Housing Regulations, 24 CFR, Part 882, but shall not contain the Prohibited Lease Provisions set forth in Appendix VII of the Regulations. A copy of the Required Lease Provisions and of the Prohibited Lease Provisions shall be made available by the PHA to the Owner at the Owner's request in advance of execution of this Contract.

1.2 *Contract rent, family portion of rent, assistance payments.*

(a) *Amount of Contract Rent.* The total rent payable to the Owner for the Contract Unit ("Contract Rent") is $_____ per month.

(b) *Family Portion of Rent.* The amount payable by the Family toward the Contract Rent is $_____ per month.

(c) *PHA Assistance Payment.* The PHA shall pay on behalf of the Family a housing assistance payment of $_____ per month. This amount is equal to the difference between the Contract Rent and the Family portion of the Contract Rent. Neither the PHA nor the Government has assumed any obligation whatsoever for the Family portion of the Contract Rent, or for the satisfaction of any claim by the Owner against the Family, except in accordance with Section 1.5 of this Contract. The financial obligation of the PHA is limited to making housing assistance payments on behalf of the Family in accordance with this Contract.

(d) *Adjustments.* The Family portion of the Contract Rent and the amount of the housing assistance payment are subject to change by reason of changes in (1) Family income or composition, (2) the extent of exceptional medical or other unusual expenses, or (3) the Allowance for Utilities and Other Services, all as determined by the PHA, effective as of the date stated in a notification by the PHA of such change to the Family and the Owner.

(e) *Termination of Payments Due to Family Ineligibility.*

(1) The Family's eligibility for housing assistance payments continues until the amount payable by the Family equals the total Contract Rent plus any applicable Allowance. However, the termination of eligibility at such point shall not affect the Family's other rights under its Lease nor shall such termination preclude resumption of payments as a result of subsequent changes in income or rent or other relevant circumstances during the term of this Contract. However, (i) if this Contract terminates at a time when the Family is ineligible for housing assistance payments, the Contract shall not be renewed and (ii) if one year has elapsed since the date of the last housing assistance payment on behalf of the Family, this Contract shall be terminated even though the termination date under Section 1.3 has not yet been reached.

(2) The PHA may determine, after having given the Family reasonable notice (with a copy to the Owner) and opportunity to respond, that the Family is ineligible for further housing assistance payments because of failure to comply with the Family's obligations under the Certificate of Family Participation. The PHA shall notify the Family and the Owner of such determination. This notification shall state that housing assistance payments on behalf of the Family shall terminate as of the date of the notification and that this Contract shall also terminate as of that date. However, if the Owner proceeds to evict the Family as quickly as possible, this Contract shall continue in effect solely for the purpose of enabling the Owner to receive further housing assistance payments for the period of the tenant's occupancy pending eviction until commencement of occupancy by another tenant, not to exceed a period of 60 days, in accordance with and subject to the conditions and limitations of Sections 1.4 (a), (b), and (c) not inconsistent with such purpose.

1.3 *Term of contract.*

The term of this Contract shall be ____ years [the term of the Lease] beginning on _____, 19____; Provided, however, that if the Family continues in occupancy, after the expiration of the term, on the same terms and conditions as the original Lease, the Contract shall continue in effect for the duration of such tenancy, but the total duration of the Contract shall in no case extend beyond the term of the ACC.

1.4 *Payment for vacated units.*

Housing assistance payments shall be made by the PHA to the Owner, under the terms and conditions of this Contract, only for the period during which the Contract Unit is leased or occupied by the Family during the term of the Contract (see Section 1.3), except as follows:

(a) If the Family vacates its unit in violation of the provisions of the Lease or tenancy agreement, the Owner shall receive housing assistance payments in the amount of 80 percent of the Contract Rent for a vacancy period not exceeding 60 days or the expiration or other termination of the Lease or tenancy agreement, whichever comes first; Provided, however, that if the Owner collects any of the Family's share of the rent for this period in an amount which, when added to the 80 percent payments, results in more than the Contract Rent, such excess shall be payable to the Government or as the Government may direct; and provided further that if the vacancy is the result of action by the Owner, the Owner shall not receive any payment under this Section 1.4 if the action was in violation of the Lease or the Contract or any applicable law. (See Section 2.6.)

(b) The Owner shall not be entitled to any payment under this Section 1.4 unless he (1) immediately upon learning of the vacancy, has notified the PHA of the vacancy or prospective vacancy, (2) has taken and continues to take all feasible actions to fill the vacancy including, but not limited to, contacting applicants on his waiting list, if any, requesting the PHA and other appropriate sources to refer eligible applicants, and advertising the availability of the unit, and (3) has not rejected any eligible applicant except for good cause acceptable to the PHA.

(c) The Owner shall not be entitled to housing assistance payments with respect to vacant units under this Section 1.4 to the extent he is entitled to payments from other sources (for example, payments for losses of rental income incurred for holding units vacant for relocatees pursuant to Title I of the Housing and Community Development Act of 1974 or payments under Section 1.5).

1.5 *Security deposits.* [This section is applicable only if the Owner has required the Family to pay a security deposit.]

(a) The Family has paid the Owner a security deposit in an amount equal to the amount payable by the Family toward one month's Gross Rent. If the Family vacates the unit, the Owner, subject to State and local law, may utilize the deposit as reimbursement for any unpaid rent or other amount owed under the Lease. If the amount of the security deposit is insufficient for such reimbursement, the Owner may claim reimbursement from the PHA, not to exceed an amount equal to the remainder of one month's Contract Rent. Any reimbursement under this Section shall be applied first toward any unpaid rent. If the Family vacates the unit owing no rent or other amount under the Lease, or if such amount is less than the amount of the security deposit, the Owner shall refund the full amount or the unused balance, as the case may be, to the Family.

(b) In those jurisdictions where interest is payable by the Owner on security deposits, the refunded amount shall include the amount of interest payable. The Owner shall comply with all State and local laws regarding interest payments on security deposits.

1.6 *Other conditions for housing assistance payments.* The rights of the Owner to receive housing assistance payments under this Contract shall be subject to his compliance with all the provisions of this Contract, including Part II which contains provisions on matters including, but not limited to, the requirements for obtaining payments, the provision of required services, and maintenance of the Contract Unit in Decent, Safe, and Sanitary condition.

1.7 *Entire agreement.* This Contract, including Part II hereof, contains the entire agreement between the parties hereto, and neither party is bound by any representations or agreements of any kind except as contained herein. No changes in this Contract shall be made except in writing signed by both the Owner and the PHA.

1.8 *Owner's warranty of legal capacity.* The Owner warrants that he has the legal right to execute this Contract and to lease the dwelling unit covered by this Contract.

PHA _____

By _____

_____

(Official title)

Date _____

OWNER _____

By _____

_____

(Official title)

Date _____

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT; SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM; EXISTING HOUSING

Part II of the Housing Assistance Payments Contract

Master Section 8 ACC Number: _____

Existing Housing ACC Part I Number and Date: _____

2.1 *Nondiscrimination in housing.*

(a) Neither the Owner nor the PHA shall, in the selection or approval of Families, in the provision of services, or in any other manner, discriminate against any person on the ground of race, color, creed, religion, sex, or national origin. No person shall be automatically excluded from participation in, or be denied the benefits of, the Housing Assistance Payments Program because of membership in a class such as unmarried mothers, recipients of public assistance, etc.

(b) The Owner shall comply with all requirements imposed by Title VIII of the Civil Rights Act of 1968, and any rules and regulations pursuant thereto.

(c) The Owner shall comply with all requirements imposed by Title VI of the Civil Rights Act of 1964, Public Law 88-352, 78 Stat. 241; the regulations of the Department of Housing and Urban Development issued thereunder, 24 CFR, Subtitle A, Part I, Section 1.1, et seq.: the requirements of said Department pursuant to said regulations; and Executive Order 11063 to the end that, in accordance with that Act, the regulations and requirements of said Department thereunder, and said Executive Order, no person in the United States shall, on the ground of race, color, creed, religion, or national origin, be excluded from participation in, or be denied the benefits of, the Housing Assistance Payments Program, or be otherwise subjected to discrimination. This provision is included pursuant to the regulations of the Department of Housing and Urban Development, 24 CFR, Subtitle A, Part I, Section 1.1, et seq., issued under Title VI of the said Civil Rights Act of 1964, and the requirements of said Department pursuant to said regulations; and the obligation of the Owner to comply therewith inures to the benefit of the Government, the said Department, and the PHA, any of which shall be entitled to invoke any remedies available by law to redress any breach thereof or to compel compliance therewith by the Owner.

2.2 *Cooperation in equal opportunity compliance reviews.* The PHA and the Owner shall cooperate with the Government in the conducting of compliance reviews and complaint investigations pursuant to all applicable civil rights statutes, Executive Orders, and rules and regulations pursuant thereto.

2.3 *Annual contributions contract.*

(a) The PHA has entered into an Annual Contributions Contract, identified in the introductory paragraph of this Contract, under which the Government will provide financial assistance to the PHA pursuant to section 8 of the Act, for the purpose of making housing assistance payments with respect to the PHA's Existing Housing Program. A copy of this ACC shall be provided by the PHA to the Owner upon request.

(b) The PHA hereby pledges such annual contributions as are payable under the ACC for housing assistance payments to the making of such payments pursuant to this and other Housing Assistance Payments Contracts entered into as a part of the PHA's Existing Housing Program.

2.4 *Monthly payment to owner.*

(a) The Owner shall be paid monthly the amount due under this Contract. The Owner agrees that the endorsement on the

check (1) shall be conclusive evidence that the Owner has received full payment, and (2) shall constitute certification by the Owner that (i) the Contract unit for which the payment is made is in Decent, Safe, and Sanitary condition and is leased to an Eligible Family, (ii) the amount of the payment is the correct amount due him under this Contract, and (iii) the payment meets all other requirements under this Contract.

(b) The Owner agrees further:

(1) Should the PHA or the Government determine that the Owner is not entitled to the payment, or any part thereof, the PHA or the Government, in addition to other remedies, may deduct the amount of the overpayment from any other amounts due the Owner.

(2) That he will notify the PHA promptly of any change of circumstances which would affect the amount of the monthly payment and that he will return any payment which does not conform to the changed circumstances. Failure by the Owner to comply with the requirements of this paragraph (b)(2) may be considered by the PHA or the Government as grounds for termination of this Contract.

2.5 *Maintenance, operation and inspection.*

(a) *Maintenance and Operation.* The Owner agrees (1) to maintain and operate the Contract Unit and related facilities so as to provide Decent, Safe, and Sanitary housing, and (2) to provide all the services, maintenance and utilities set forth in the Lease. If the PHA determines that the Owner is not meeting one or more of these obligations, the PHA shall have the right, in addition to its other rights and remedies under this Contract, to abate housing assistance payments in whole or in part.

(b) *Inspection.*

(1) Prior to occupancy of the unit by the Family, the Owner and the Family shall inspect the unit and shall furnish a report and certification of the condition of the unit, on the form prescribed by the PHA. By executing this Contract, the Owner certifies that to the best of his knowledge and belief and in accordance with the criteria provided in the PHA-prescribed form, the unit is in Decent, Safe, and Sanitary condition on the date of execution.

(2) The PHA shall inspect or cause to be inspected the Contract Unit and related facilities at least annually and at such other times (including prior to initial occupancy of the unit) as may be necessary to assure that the Owner is meeting his obligation to maintain the unit in Decent, Safe, and Sanitary condition and to provide the agreed upon utilities and other services. The PHA shall take into account complaints by occupants and any other information coming to its attention in scheduling inspections, and shall notify the Owner and the Family of its determinations.

(c) *Units Not Decent, Safe, and Sanitary.* If the PHA notifies the Owner that he has failed to maintain the dwelling unit in Decent, Safe, and Sanitary condition and the Owner fails to take corrective action within the time prescribed in the notice, the PHA may exercise any of its rights or remedies under the Contract, including abatement of housing assistance payments (even if the Family continues in occupancy) and termination of the Contract. If the Family wishes to be rehoused in another dwelling unit with section 8 assistance and the PHA determines to terminate the Contract, the PHA shall issue to the Family another Certificate of Family Participation.

(d) *Notification of Abatement.* Any abatement of housing assistance payments shall be effective as provided in written notification to the Owner. The PHA shall promptly notify the Family of any such abatement.

(e) *Overcrowded Unit.* If the PHA determines that a Contract Unit is not Decent, Safe, and Sanitary by reason of increase in Family size, the Family and the PHA shall try to find an acceptable unit as soon as possible. If an acceptable unit is found that is available for occupancy by the Family, and the Lease with the first Owner can be terminated in accordance with its terms, the Contract with the first Owner shall be terminated and housing assistance payments shall be made available to the Family for occupancy in the acceptable unit. Housing assistance payments will not be terminated unless the Family rejects without good reason the offer of a unit which the PHA judges to be acceptable.

2.6 *Eviction.* The Owner shall not evict the Family unless the Owner complies with the requirements of local law, if any, and of this Section. The Owner shall give the Family a written notice of the proposed eviction, stating the grounds and advising the Family that it has 10 days (or such greater number, if any, that may be required by local law) within which to respond to the Owner. The Owner must obtain the PHA's authorization for an eviction; accordingly, a copy of the notice shall be furnished simultaneously to the PHA, and the notice shall also state that the Family may, within the same time period, present its objections to the PHA in writing or in person. The PHA shall forthwith examine the grounds for eviction and shall authorize the eviction unless it finds the grounds to be insufficient under the Lease. The PHA shall notify the Owner and the Family of its determination within 20 days of the date of notice to the Family, whether or not the Family has presented objections to the PHA. If the Owner has not received a response from the PHA within 20 days, he shall telephone the PHA and shall be informed by the PHA whether a notice of determination has been mailed. If the PHA informs the Owner that no notice has been mailed within the 20 day period, the PHA shall be deemed to have authorized the eviction.

2.7 *Rent adjustments.* (a) Contract Rents shall be adjusted as provided in paragraphs (a) (1) and (2) of this Section upon request to the PHA by the Owner, provided that the unit is in Decent, Safe, and Sanitary condition and that the Owner is otherwise in compliance with the terms of the Lease. Subject to the foregoing, adjustments of Contract Rents shall be as follows:

(1) An adjustment as of any anniversary date of the Lease not to exceed the percentage of change in the applicable published Existing Housing Fair Market Rent (with appropriate reduction in the adjustment where utilities are paid directly by the Family), provided that the Owner has the legal right to terminate the tenancy as of such anniversary date.

(2) A special adjustment, subject to Government approval, to reflect increases in the actual and necessary expenses of owning and maintaining the unit which have resulted from substantial general increases in real property taxes, utility rates, or similar costs (i.e., assessments, and utilities not covered by regulated rates), but only if and to the extent that the Owner clearly demonstrates that such general increases have caused increases in the Owner's operating costs which are not adequately compensated for by the annual adjustments provided for in paragraph (a) (1). The Owner shall submit financial statements which clearly support the increase. Such adjustment shall be effective as of the date when the Owner has the legal right to terminate the tenancy, which need not be the anniversary date of this Contract.

(b) Notwithstanding any other provisions of this Contract, adjustments as provided in paragraph (a) shall not result in material differences between the rents charged for assisted and comparable unassisted units, as determined by the PHA (and approved by the Government in case of adjustments under paragraph (a)(2)), nor shall any adjusted rent be in excess of the amount that could be approved by the PHA as an initial Contract Rent as of the date of the rent adjustment.

2.8 *Rent redetermination after adjustment in allowance for utilities and other services.* In the event that the Owner is notified of a PHA determination making an adjustment in the Allowance for Utilities and Other Services applicable to the Contract Unit, the Owner shall promptly make a corresponding adjustment in the amount of rent to be paid by the Family and the amount of housing assistance payment.

2.9 *PHA and Government assess to premises and owner's records.*

(a) The Owner shall furnish such information and reports pertinent to the Contract as reasonably may be required from time to time by the PHA or the Government.

(b) The Owner shall permit the PHA or the Government or any of their duly authorized representatives to have access to the premises and, for the purpose of audit and examination, to have access to any books, documents, papers and records of the Owner that are pertinent to compliance with this Contract, including the verification of information pertinent to the housing assistance payments.

2.10 *Rights of PHA if owner defaults.*

(a) A Default by the Owner under this Contract shall result if:

(1) The Owner has violated or failed to comply with any provision of, or obligation under, this Contract or of any Lease; or

(2) The Owner has asserted or demonstrated an intention not to perform some or all of his obligations under this Contract or under any Lease.

(b) Upon a determination by the PHA that a default has occurred, the PHA shall notify the Owner, with a copy to the Government, of (1) the nature of the default, (2) the actions required to be taken and the remedies to be applied on account of the default (including actions by the Owner to cure the default, and, where appropriate, abatement of housing assistance payments in whole or in part and recovery of overpayments), and (3) the time within which the Owner shall respond with a showing that he has taken all the actions required of him. If the Owner fails to respond or take action to the satisfaction of the PHA and the Government, the PHA shall have the right to terminate this Contract in whole or in part or to take other corrective action to achieve compliance, in its discretion or as directed by the Government.

2.11 *Remedies not exclusive and non-waiver of remedies.* The availability of any remedy under this Contract or the ACC shall not preclude the exercise of any other remedy under this Contract or under any provisions of law, nor shall any action taken in the exercise of any remedy be deemed a waiver of any other rights or remedies. Failure to exercise any right or remedy shall not constitute a waiver of the right to exercise that or any other right or remedy at any time.

2.12 Disputes.

(a) Except as otherwise provided herein, any dispute concerning a question of fact arising under this Contract which is not disposed of by agreement of the PHA and

Owner may be submitted by either party to the Department of Housing and Urban Development field office director who shall make a decision and shall mail or otherwise furnish a written copy thereof to the Owner and the PHA.

(b) The decision of the field office director shall be final and conclusive unless, within 30 days from the date of receipt of such copy, either party mails or otherwise furnishes to the field office director a written appeal addressed to the Secretary of Housing and Urban Development. The decision of the Secretary or duly authorized representative for the determination of such appeals shall be final and conclusive unless determined by a court of competent jurisdiction to have been fradulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In connection with any appeal proceeding under this Section, the appellant shall be afforded an opportunity to be heard and to offer evidence in support of his appeal. Pending final decision of a dispute hereunder, both parties shall proceed diligently with the performance of the Contract and in accordance with the decision of the field office director.

(c) This Section does not preclude consideration of questions of law in connection with decisions rendered under paragraphs (a) and (b) of this Section; Provided, however, that nothing herein shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

2.13 *Interest of members, officers, or employees of PHA, members of local governing body, or other public officials.* No member, officer, or employee of the PHA, no member of the governing body of the locality (city and county) in which the Project is situated, no member of the governing body of the locality in which the PHA was activated, and no other official of such locality or localities who exercises any functions or responsibilities with respect to the Project, during his tenure or for one year thereafter, shall have any interest, direct or indirect, in this Contract or in any proceeds or benefits arising therefrom.

2.14 *Interest of member of or delegate to Congress.* No member of or delegate to the Congress of the United States of America or resident commissioner shall be admitted to any share or part of this Contract or to any benefits which may arise therefrom.

2.15 *Assignment of the contract or interest therein.*

(a) The Owner agrees that he has not made and will not make any sale, assignment, or transfer in any other form, of this Contract, or any of his interest therein, except with the prior consent of the PHA.

(b) The Owner agrees to notify the PHA promptly of any proposed action covered by paragraph (a) of this Section. The Owner further agrees to request written consent of the PHA in regard thereto.

(c) (1) A transfer by the Owner, in whole or in part, or a transfer by a party having a substantial interest in said Owner, or transfers by more than one party of interests aggregating a substantial interest in said Owner, or any other similarly significant change in the ownership of interests in the Owner, or in the relative distribution thereof, or with respect to the parties in control of the Owner or the degree thereof, by any other method or means (e.g., increased capitalization, merger with another corporation or other entity, corporate or other amendments, issuance of new or additional ownership interests or classification of ownership interests or otherwise) shall be deemed an assignment or transfer for purposes of this Section 2.15. An assignment by the Owner to a limited partnership, in which no limited partner has a 25 percent or more interest and of which the Owner is the sole general partner, shall not be considered an assignment or transfer.

(2) The term "substantial interest" means the interest of any general partner, any limited partner having a 25 percent or more interest in the organization, any corporate officer or director, and any stockholder having a 10 percent or more interest in the organization.

(3) The Owner, and the party signing this Contract on behalf of said Owner, represent that they have the authority of all of the parties having ownership interests in the Owner to agree to this provision on their behalf and to bind them with respect thereto.

APPENDIX III

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—EXISTING HOUSING

Certificate of family participation

1. *Certification.* The undersigned Public Housing Agency ("Agency") hereby certifies that the Family headed by _____ is authorized to participate in the Section 8 Housing Assistance Payments Program of this Agency. Under this program, the Agency makes housing assistance payments on behalf of participating Families toward their rents to Owners of Decent, Safe, and Sanitary dwelling units selected by the Families.

2. *Dwelling Unit.* If the Family finds a dwelling unit meeting its space requirements and otherwise suitable to its needs, which is in Decent, Safe, and Sanitary condition, the Family should submit to the Agency the Request for Lease Approval, together with the required inspection reports and a proposed lease. Prior to approval of the proposed lease, the Agency will inspect the dwelling unit or cause it to be inspected.

3. *Lease Rent.* The monthly rental provided in the Lease must be determined by the Agency to be reasonable; and generally this rent, plus the Allowance approved by the Agency for any utilities and services payable directly by the Family, may not exceed the Fair Market Rent for a ____ bedroom dwelling unit, which is $____ for elevator buildings and $____ for non-elevator buildings.

4. *Family Portion of Rent.*

(a) *Gross Family Contribution.* Under the rules and regulations of the Housing Assistance Payments Program, the Family will be obligated to pay $____ toward the monthly lease rental (Gross Family Contribution); however, this amount will be reduced (1) by any Allowance for utilities and services to be paid directly by the Family, and (2) by any Rent Credit as described in paragraph (b) below. Any such reduction will be reflected in the amount payable by the Family as specified in the Lease.

(b) *Rent Reduction Incentive.* (1) As an incentive to the Family to find the most economical housing suitable to its needs, and subject to the other provisions of this paragraph (b), if the Family selects a dwelling unit for which the proposed monthly lease rental plus any applicable Allowance is below the applicable Fair Market Rent, the Family will be given a Rent Credit by a reduction in its Gross Family Contribution. The amount of this credit will be that percentage of the Gross Family Contribution which the Rent Saving is of the Fair Market Rent. The Rent Saving is the amount by which the Fair Market Rent exceeds the monthly lease rental (plus any applicable Allowance) approved by the Agency.

(2) No Rent Credit under this paragraph (b) will be allowed if the dwelling unit is one which receives the benefit of Federal, State, or local subsidy, unless a specific exception has been approved by HUD.

(3) If the dwelling unit selected by the Family is of a size or type for which HUD had previously approved a maximum rent higher than the Fair Market Rent, this higher maximum rent will be used instead of the Fair Market Rent for purposes of determining the amount of the Rent Credit under the provisions of paragraph (b)(1).

(c) *Changes in Family Income and Other Factors.* The amount of the Family's required Gross Family Contribution is subject to change by reason of changes in Family income, composition, and extent of exceptional medical or other unusual expenses and changes in the Allowance for Utilities and Other Services and the Contract Rent.

5. *Agency Portion of Rent.* Pursuant to a Housing Assistance Payments Contract with an Owner, the Agency will pay to the Owner on behalf of the Family an amount equal to the difference between the Family portion of the rent to the Owner and the monthly lease rental.

6. *Agency Approval of Lease.*

(a) After receipt of a Request for Lease Approval, the Agency will notify the Owner and the Family whether or not the proposed lease is approvable. This notification will be given within ____ working days from the date of availability for inspection as stated in the Request for Lease Approval.

(b) The Agency, upon issuing this Certificate of Family Participation, anticipates that if a lease meeting the requirements of this program is submitted for approval, the Agency will have funds available for a Housing Assistance Payments Contract with the Owner; however, the Agency is under no obligation to the Family, to any Owner or to any other person to approve any submitted lease, nor does the Agency incur any liability by reason of issuing this Certificate.

7. *Conditions.* The Family agrees to perform all its obligations under the Housing Assistance Payments Program, including the obligations to (a) provide such Family income information and records as may be required in the administration of the program, (b) permit inspection of its dwelling unit at reasonable times after reasonable advance notice, and (c) give at least 30 days notice to the Agency of the Family's intention to vacate the unit.

8. *Equal Housing Opportunity.* If the Family has reason to believe that, in its search for suitable housing, it has been discriminated against on the basis of race, color, creed, religion, sex, or national origin, it may file a complaint with the HUD Regional Office. Fair Housing Complaint Forms (Form HUD-903) are available from this Agency.

9. *Expiration Date.* A Request for Lease Approval may be submitted to this Agency no later than ____ (60 days from the date of this Certificate). If a Request is not submitted by such date, this Certificate shall expire unless extended by the Agency in writing.

_____
(Name of Public Housing Agency)

By _____
(Signature and title)

_____
(Date)

_____
(Telephone)

_____
(Name of family representative)

_____
(Signature of family representative)

_____
(Date)

_____
(Telephone)

APPENDIX IV

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—EXISTING HOUSING

Request for lease approval

1. *Request.* The undersigned Owner and Family hereby request the _____ to (Name of Public Housing Agency) approve the attached lease for the dwelling unit located at _____ (Street address and apartment number, if any) for a term of _____ months, beginning _____, 19__. The unit, consisting of ____ bedrooms, is to be leased at $____ per month. This rent includes maintenance and other services as provided in the lease and the following utilities and appliances:

Type of house (check applicable box):

☐ Detached
☐ Row House
☐ Duplex or Twin
☐ Garden Apartment
☐ High-Rise Apartment
☐ Mobile Home

Utilities and Appliances (insert *O* if furnished by owner or *T* if furnished by Tenant)

Item	Coal	Oil	Natural gas	Electric	L.P. gas	Other
Heat						XX
Cooking fuel						XX
Air-conditioning	XX	XX				XX
Lighting/refrigeration	XX	XX	XX		XX	XX
Water	XX	XX	XX	XX	XX	
Sewer	XX	XX	XX	XX	XX	
Trash collection	XX	XX	XX	XX	XX	
Range	XX	XX	XX	XX	XX	
Refrigerator	XX	XX	XX	XX	XX	
Hot water						XX

2. *Certifications.*

The owner, by executing this Request, certifies that:

(a) The most recent rent charged for the above dwelling unit was $_____ per month. The reasons for the difference, if any, between this amount and the proposed rent are:

(b) This unit is made available, managed, and operated regardless of race, color, creed, religion, sex, or national origin.

(c) He has inspected the dwelling unit, as evidenced by the attached inspection report, and his certification as to the condition of the unit is true to the best of his knowledge and belief.

The family, by executing this Request, certifies that it has inspected the dwelling unit, as evidenced by the attached inspection report, and that its certification as to the condition of the unit is true to the best of its knowledge and belief.

3. *Dates of Availability for Inspection and Occupancy.*

a. The dwelling unit will be available for inspection by the Agency on _____, 19____.

b. The dwelling unit will be available for occupany by the Family on _____, 19____.

4. *Agency Determination.* The Owner and the Family understand that the Agency will notify them as to whether or not the proposed lease is approvable, within the time period specified in paragraph 6 of the Certificate of Family Participation.

_____
(Name of owner or other entity authorized to lease)

By _____
(Signature)

_____
(Date)

_____
(Business address)

_____

_____
(Telephone)

_____
(Name of family representative)

_____
(Signature of family representative)

_____
(Date)

_____
(Present address of family)

_____

_____
(Telephone)

APPENDIX V

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—EXISTING HOUSING

Agency determination with respect to request for lease approval

(To be Sent to the Owner and Family)

(Check applicable box)

☐ 1. *Approval.* The Agency hereby approves the proposed lease between _____ (Family) and _____ (Owner) for the dwelling unit located at (Street Address and Apartment Number, if any)

The Agency hereby certifies that the Contract Rent is reasonable.

(a) Enclosed is the proposed lease, which has been completed by the Agency with respect to the portion of the monthly lease rental which the Family shall be obligated to pay to the Owner. The Lease shall be executed by the Family and the Owner and a copy returned to the Agency.

(b) Also enclosed are two copies of a Housing Assistance Payments Contract completed by the Agency except for execution. The Owner shall sign both copies of the Contract and return them to the Agency. The Agency will execute the Contract by the first day of occupancy specified in the Lease and will immediately return an executed copy to the Owner.

☐ 2. *Disapproval.* The proposed lease and/or the dwelling unit are/is disapproved for the following reasons:

☐ 3. *Resubmission.* If the conditions in Item 2 above are remedied, and a Request for Lease Approval is resubmitted by the Owner and the Family to the Agency by _____ (date), the lease will be approved by the Agency if it determines that the conditions have been remedied to its satisfaction. (The Certificate of Family Participation issued to the Family shall not expire before said date.)

_____
(Name of public housing agency)

_____ By: _____
(Date) (Signature and title)

_____
(Telephone)

APPENDIX VI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM, EXISTING HOUSING

Required lease provisions

The Lease between the Owner (Lessor) and the Family (Lessee) shall contain the following provisions:

ADDENDUM TO LEASE

The following additional Lease provisions are incorporated in full in the Lease between _____ (Lessor) and _____ (Lessee) for the following dwelling unit: _____. In case of any conflict between these and any other provisions of the Lease, these provisions shall prevail.

a. The total rent shall be $ _____ per month.

b. Of the total rent, $ _____ shall be payable by the Public Housing Agency (PHA) as housing assistance payments on behalf of the Lessee and $_____ shall be payable by the Lessee. These amounts shall be subject to change by reason of changes in the Lessee's family income, family composition, or extent of exceptional medical or other unusual expenses, in accordance with HUD-established schedules and criteria; or by reason of adjustment by the PHA of any applicable Allowance for Utilities and Other Services. Any such change shall be effective as of the date stated in a notification to the Lessee.

c. The Lessor shall provide the following utilities: [Specify].

d. The Lessor shall provide maintenance and services as follows:

(1) The Lessor shall maintain the dwelling unit and all equipment provided therewith, as well as common areas, facilities and equipment provided for the use and benefit of the Lessee, in compliance with the Housing Quality Standards on the basis of which this Lease was approved by the Public Housing Agency, and the Lessor shall respond in a reasonable time to calls by the Lessee for services consistent with said obligation. Where applicable (as in case of multi-unit buildings), such maintenance with respect to common areas, facilities and equipment shall include cleaning; maintenance of lighting and equipment; maintenance of grounds, lawns and shrubs; and removal of snow and ice. Where security equipment and services are to be provided by Lessor they are as follows: [Specify, or state "None"].

(2) Extermination services shall be provided by Lessor as conditions may require. If such service is to be provided on a scheduled basis, the schedule is as follows: [Specify, or state "No schedule"].

(3) Repainting shall be provided by Lessor as conditions may require. If such service is to be provided on a scheduled basis, the schedule is as follows: [Specify, or state "No schedule"].

e. The Lessor shall not evict the Lessee unless the Lessor complies with the requirements of local law, if any, and of this provision. The Lessor shall give the Lessee a written notice of the proposed eviction, stating the grounds and advising the Lessee that he has 10 days (or such greater number, if any, that may be required by local law) within which to respond to the Lessor. Because the Lessor must obtain the PHA's authorization for an eviction, a copy of the notice shall be furnished simultaneously to the PHA, and the notice shall also state that the Lessee may, within the same time period, present his objections to the PHA in writing or in person. The PHA shall forthwith examine the grounds for eviction and shall authorize the eviction unless it finds the grounds to be insufficient under the lease. The PHA shall notify the Lessor and the Lessee of its

determination within 20 days of the date of the notice to the Lessee, whether or not the Lessee has presented objections to the PHA. If the Lessor has not received a response from the PHA within 20 days, he shall telephone the PHA and shall be informed by the PHA whether a notice of determination has been mailed. If the PHA informs the Lessor that no notice has been mailed within the 20 day period, the PHA shall be deemed to have authorized the eviction.

f. The Lessor shall not discriminate against the Lessee in the provision of services, or in any other manner, on the grounds of race, color, creed, religion, sex, or national origin.

(g)(1) This Lease shall not become effective unless the PHA has executed a Housing Assistance Payments Contract with the Lessor by the first day of occupancy specified in the Lease.

(2) This Lease shall terminate upon the date of any termination of the Housing Assistance Payments Contract, including any termination due to termination of eligibility of the Lessee. In the event that the PHA determines, after having given the Lessee reasonable notice (with a copy to the Lessor) and opportunity to respond, that the Lessee is ineligible for further housing assistance payments because of failure to comply with the Lessee's obligations under the Certificate of Family Participation, the PHA shall notify the Lessor and the Lessee of such determination. Such determination shall be grounds for termination of this Lease by the Lessor.

Lessor _____
By _____
Date _____
Lessee _____
Date _____

APPENDIX VII

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM, EXISTING HOUSING

Prohibited lease provisions

Lease clauses which fall within the classifications listed below shall not be included in any Lease in this program.

1. *Confession of Judgment.* Prior consent by tenant to any lawsuit the landlord may bring against him in connection with the Lease and to a judgment in favor of the landlord.

2. *Distraint for Rent or Other Charges.* Authorization to the landlord to take property of the tenant and hold it as a pledge until the tenant performs any obligation which the landlord has determined the tenant has failed to perform.

3. *Exculpatory Clause.* Agreement by tenant not to hold the landlord or landlord's agents liable for any acts or omissions whether intentional or negligent on the part of the landlord or the landlord's authorized representative or agents.

4. *Waiver of Legal Notice by Tenant Prior to Actions for Eviction or Money Judgments.* Agreement by tenant that the landlord may institute suit without any notice to the tenant that the suit has been filed.

5. *Waiver of Legal Proceedings.* Authorization to the landlord to evict the tenant or hold or sell the tenant's possessions whenever the landlord determines that a breach or default has occurred, without notice to the tenant or any determination by a court of the rights and liabilities of the parties.

6. *Waiver of Jury Trial.* Authorization to the landlord's lawyer to appear in court for the tenant and to waive the tenant's right to a trial by jury.

7. *Waiver of Right to Appeal Judicial Error in Legal Proceedings.* Authorization to the landlord's lawyer to waive the tenant's right to appeal on the ground of judicial error in any suit or the tenant's right to file a suit in equity to prevent the execution of a judgment.

8. *Tenant Chargeable with Cost of Legal Actions Regardless of Outcome.* Agreement by the tenant to pay attorney's fees or other legal costs whenever the landlord decides to take action against the tenant even though the court finds in favor of the tenant. (Omission of this clause does not mean that the tenant as a party to a lawsuit may not be obligated to pay attorney's fees or other costs if he loses the suit.)

NOTE.—It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with OMB Circular A–107.

Effective Date: These regulations are effective May 13, 1976.

CARLA A. HILLS,
Secretary of Housing and Urban Development.

[FR Doc.76–13676 Filed 5–12–76;8:45 am]

federal register

THURSDAY, MAY 13, 1976



PART V:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

■

NEW ANIMAL DRUGS

Furazone (NF-180)

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 510, 556 and 558]

[Docket No. 76N-0173; NADA No. 9-073 etc.]

FURAZOLIDONE (NF-180)

Withdrawal of Proposal and Advanced Notice of Proposed Rule Making

Elsewhere in this issue of the FEDERAL REGISTER, the Director of the Bureau of Veterinary Medicine of the Food and Drug Administration (FDA) is issuing a notice of opportunity for hearing on a proposal to withdraw approval of approved new animal drug applications (NADA's) Nos. 9-073, 9-393, 11-016, 11-405, 11-698, 11-810 (formerly FDC-D-281), and NADA Nos. 12-061, 13-805, and 32-319 for the use of furazolidone (NF-180) in food-producing animals on the grounds that the drug has been shown by appropriate tests to induce cancer when ingested by animals and there is no adequate, reliable and practicable method of analysis available for assuring that no residue of the drug will be found in any edible portion of such animals, as required by section 512(d)(1)(H) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(d)(1)(H)).

Consistent with this action, the Director is hereby withdrawing the proposal on furazolidone published in the FEDERAL REGISTER of August 4, 1971 (36 FR 14335), and is proposing to revoke §§ 510.515 (a)(4) and (5), (b)(15) and (17)(ii), (c)(8), (9) and (10); 556.290; 558.15(g)(1) and (2); and 558.262. Comments by June 14, 1976.

The Director has reviewed the potential environmental impact of the proposal and has concluded that the proposed action would not significantly affect the quality of the human environment. An environmental impact analysis report and environmental impact assessment are on file in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852.

The Director has carefully considered the inflation impact of this proposed action. A major inflation impact has been found, as defined in Executive Order 11821, OMB Circular A-107, and the Guidelines issued by the Department of Health, Education, and Welfare. Copies of the inflation impact statement are on file with the Hearing Clerk, Food and Drug Administration. The major conclusions found in the inflation impact statement are:

(1) There are no satisfactory alternatives to the agency's proposed action which are consistent with the legal constraints imposed by the Federal Food, Drug, and Cosmetic Act, as amended.

(2) Poultry production, i.e., broilers, turkeys, and eggs (as affected through diseased or poorer quality replacement birds), is estimated to decrease anywhere from 2 to 20 percent, and swine production is estimated to decrease from 0 to 5 percent following a furazolidone ban. The lower estimate are more likely for the first year following the ban, but in subsequent years the higher estimates are expected to apply because the resistance of poultry and swine to antibiotics and sulfa drugs will probably become a more acute problem with respect to the prevention and treatment of poultry and swine diseases.

(3) The ranges of decrease in poultry and swine production and their resultant impact on retail prices will lead to an annual increase in cost to consumers of between just less than $1.50 per capita to just more than $12 per capita for consumption of poultry and swine products if producers do not adjust by feeding more poultry and swine in order to offset losses from morbidity, mortality, and condemnation. The per-capita cost annual increases are equivalent to an aggregate ranging from $291 million to $2.635 billion.

(4) Again depending on the resistance of poultry and swine to antibiotics and sulfa drugs, if poultry and swine producers expanded operations to overcome 100 percent of the production losses from morbidity, mortality, and condemnation, then the feed plus nonfeed costs for this expansion would range from $164 million to $1.8 billion annually. Assuming these entire costs are passed on to consumers, this amounts to between about $.80 per capita and almost $9 per capita annually.

(5) A ban on furazolidone may cause a decrease in the supply of poultry amounting to 20 percent and swine amounting to 5 percent within the next 2 years if resistance to drugs other than furazolidone is substantial for poultry and swine, and producers do not feed more swine and poultry in order to offset losses from morbidity, mortality, and condemnation.

(6) A ban on furazolidone may cause major inflation impacts, as defined by the OMB/HEW criteria, in the area of competition for the poultry and swine industries.

(7) A ban on furazolidone would not cause major inflation impacts as defined by the OMB/HEW criteria, in the area of employment.

(8) A ban on furazolidone would not cause major inflation impacts, as defined by the OMB/HEW criteria, in the areas of national productivity or use of energy.

(9) The benefits from implementing the proposed action will be the elimination of any risk of any cancer associated with the consumption, via the edible tissues or products from food-producing animals, of residues attributable to furazolidone.

Therefore, pursuant to the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-361 (21 U.S.C. 360b)) and under authority delegated to the Commissioner (21 CFR 2.120), and subdelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 2.120(m)), the Director proposes to revoke the following regulations in whole or in part insofar as they apply to furazolidone (NF-180): §§ 510.515 (a)(4) and (5), (b)(15) and (17)(ii), (c)(8), (9) and (10); 556.290; 558.15(g)(1) and (2); and 558.262.

Interested persons may, on or before June 14, 1976, submit to the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding this proposal. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: May 10, 1976.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.76-13968 Filed 5-10-76;2:04 pm]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Docket No. 76N-0172; NADA No. 9-073 etc.]

HESS AND CLARK ET AL.

Furazolidone (NF-180); Notice of Opportunity for Hearing on Proposal To Withdraw Approval of Certain New Animal Drug Applications

The Director of the Bureau of Veterinary Medicine of the Food and Drug Administration (FDA) is issuing a notice of opportunity for hearing on a proposal to withdraw approval of approved new animal drug applications (NADA's) Nos. 9-073, 9-393, 11-016, 11-405, 11-698, 11-810, (formerly FDC-D-281) and NADA Nos. 12-061, 13-805, and 32-319 for the use of furazolidone (NF-180) in food-producing animals on the grounds that the drug has been shown by appropriate tests to induce cancer when ingested by animals and there is no adequate, reliable and practicable method of analysis available for assuring that no residue of the drug will be found in any edible portion of such animals, as required by section 512(d)(1)(H) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b (d)(1)(H). Holders of approved NADA's have until June 14, 1976 to submit requests for hearing in accordance with § 514.200 (21 CFR 514.200). Elsewhere in this issue of the FEDERAL REGISTER, the Director is issuing an advanced notice of proposed rule making to revoke the appropriate provisions of sections affected by the proposed withdrawal.

Furazolidone (NF-180) is a member of a class of chemicals called "nitrofurans" which are used at low levels in animal feed as antibacterial and antiprotozoan agents to increase resistance to disease, thereby assisting growth. Nitrofurans also have prescribed therapeutic uses. In addition to furazolidone (NF-180) which is the subject of this notice, there are three other nitrofurans used in food-producing animals which will be subject to subsequent agency action: nitrofurazone (NF-7), nihydrazone (NF-64), and furaltadone (NF-260). A fifth nitrofuran, furamazone (NF-84), is not at this time the subject of contemplated agency action.

Nitrofurazone (NF-7), approved in 1948, was the first nitrofuran approved by FDA for use in food-producing animals. It is currently approved for use in mastitis products for dairy cattle (dry cow treatment only), suppositories for vaginal infections in large animals, and feed medication in swine for the treatment of bacterial enteritis, in chickens and turkeys for prevention of coccidiosis, and in chickens for prevention of pullorum.

The initial NADA for furazolidone (NF-180) was approved in 1953. The drug is currently approved for use in poultry for the prevention and treatment of fowl typhoid, paratyphoid, and pullorum in chickens and turkeys; blackhead (histomoniasis) in chickens and turkeys; infectious hepatitis in chickens; hexamitiasis in turkeys; the prevention and control of air-sac infection (associated with *Escherichia coli*), nonspecific enteritis (blue comb, mud fever), ulcerative enteritis (quail disease), synovitis (arthritis due to filterable virus) in chickens and turkeys; the prevention and treatment of paracolon infection (*Paracolobactrum*) in chickens and turkeys; coccidiosis (*E. acervulina, E. necatrix, E. tenella*) in chickens; and for growth and feed efficiency in chickens and turkeys. It is used in swine for the prevention and treatment of bacterial enteritis (necrotic enteritis, necro, black scours), or vibrionic (bloody) dysentery; and for growth promotion and feed efficiency.

Furaltadone (NF-260) was approved in 1962 for treatment of mastitis in dairy cattle through injections into the mammary gland.

Nihydrazone (NF-64) was approved in 1963 for use in medicated chicken feeds for prevention of a number of diseases similar to those listed above for furazolidone (NF-180).

In February and May 1964, two scientists at the University of Wisconsin began studies on the toxicity to rats of several nitrofurans including nitrofurazone (NF-7). By the end of February 1965, both studies showed that a substantial number of mammary tumors had developed in the rats fed nitrofurazone (NF-7). Of 44 rats exposed to nitrofurazone (NF-7), 35 developed multiple mammary tumors. Although the results did not indicate induction of cancer, they did raise the question of the carcinogenic potential of nitrofurans. In April 1965, the University of Wisconsin scientists met with representatives of Norwich Pharmacal Co., Division of Morton-Norwich Products, Inc., the sole American manufacturer of the four nitrofurans used in food-producing animals, to discuss their findings regarding nitrofurazone (NF-7). At the suggestion of Norwich, the scientists notified FDA of the preliminary results of the study.

In June 1965, FDA, the National Cancer Institute of the Department of Health, Education, and Welfare, Norwich, and the University of Wisconsin scientists met to discuss the findings of the University scientists. Following the discussions, Norwich began two studies of the effect of long-term feeding of nitrofurans including furazolidone (NF-180), furaltadone (NF-260), nitrofurazone (NF-7), and nihydrazone (NF-64) to rats. Reports on these two studies were prepared in October 1966, and January 1967, and submitted to the Bureau of Veterinary Medicine as part of a June 2, 1967 "Drug Experience Report." Copies of these studies have been placed on file with the Hearing Clerk, Food and Drug Administration.

In the first of the Norwich studies, 245 female Sprague-Dawley (Holtzman strain) rats were divided into 7 test groups of 35 rats each. A control group was fed a drug-free diet for 53 weeks. Each of the other groups was fed a diet containing one of the nitrofurans for 45 weeks and a drug-free diet for 8 additional weeks before the animals were sacrificed. The study showed that rats fed the nitrofurans had a significantly higher incidence of mammary tumors compared to control rats. The relative mammary-tumor-inducing potency of the nitrofurans in this study in decreasing order was furaltadone (NF-260) >furazolidone (NF-180)>nitrofurazone (NF-7)>nihydrazone (NF-64).

The second Norwich study used 280 Carworth Farms (CFE strain) rats which were divided into 7 test groups with 20 males and 20 females in each test group. A control group was fed a drug-free diet for 52 weeks. Each of the other groups was fed a diet containing one of the nitrofurans for 45 weeks and a drug-free diet for 7 additional weeks. This study also showed a higher incidence of mammary tumors in the female rats in each of the groups fed the nitrofurans when compared to female rats in the control group and indicated the same relative tumor-inducing potency seen in the female Sprague-Dawley rats. No significant effects on tumor development were noted in the male rats.

In February 1967, Hess & Clark, currently a Division of Rhodia, Inc., which markets the four nitrofurans used in food-producing animals, submitted a "Drug Experience Report" to the Bureau of Veterinary Medicine containing a report of a 2-year chronic toxicity study of furazolidone (NF-180) in rats. In this study, 60 rats were divided into 3 groups, each consisting of 10 male and 10 female rats. One group was fed a furazolidone-free control diet; the diets for the other groups contained two levels of furazolidone (NF-180). Results of the study showed that there were three times as many tumors in rats fed furazolidone (NF-180) at a level of .01% in the diet when compared to rats in the control group.

In June 1969, FDA submitted the question of the carcinogenicity of nitrofurans to the Interdepartmental Technical Panel on Carcinogens (the Panel) for review. The Panel incuded representatives from FDA, the National Cancer Institute, and the U.S. Department of Agriculture. After reviewing the studies submitted by the University of Wisconsin scientists, Norwich, and Hess & Clark, the Panel reported to the Commissioner of Food and Drugs on August 14, 1969, that it had concluded that the four nitrofurans used in food-producing animals induce mammary tumors, but that evidence was inadequate to make a definitive decision on the potential of these nitrofurans to induce cancer. The Panel recommended that chronic toxicity studies of at least 18 months duration in male and female rats and mice be performed, that studies be performed on the storage and localization of the drug and its metabolites as a function of time in rats and mice, and that regulations be issued requiring that the nitrofurans be withdrawn from animal feed for 21 days before slaughter to prevent transmission of metabolites to humans.

On August 26, 1969, the Bureau of Veterinary Medicine asked Norwich by letter for additional data on metabolites of furazolidone (NF-180) in food-producing animals. Norwich informed the Bureau by letter in October 1969, that it was working on a method of analysis

for two postulated furazolidone metabolites, NF–362 and NF–682, and promised to submit the data as soon as the methods were completed.

Because the Panel had been unable to determine whether nitrofurans are carcinogenic, an Ad Hoc Committee (the committee) was established by the FDA in December 1969. The committee was composed of one member of the Eppley Institute for Research in Cancer, University of Nebraska, and two members from the National Cancer Institute, one of whom had been a member of the Panel. Since the question posed to the committee was whether nitrofurans are carinogenic, the committee did not review the residue data in food-producing animals available at that time. No formal committee report was issued evaluating the existing tumorigenic data on nitrofurans, but each member submitted a separate report. The two committee members from the National Cancer Institute advised FDA by letter in January 1970 that nitrofurans should not be ingested by people for any extended period of time until additional chronic toxicity testing had been completed. They approved of the continued use of the drugs in animals with the 5-day withdrawal period providing data were available to show that residues were negligible. On June 5, 1970, the committee member from the Eppley Institute notified FDA that he had concluded that all four nitrofurans were carcinogenic.

During 1970, FDA reviewed the toxicity and residue studies submitted by the University of Wisconsin scientists, Norwich, and Hess & Clark, together with the recommendations of the Panel and the committee.

In January 1971, Norwich and Hess & Clark submitted supplemental NADA's for their nitrofuran products requesting that the labels be amended to provide withdrawal periods for swine, turkeys, and chickens, and longer withdrawal periods for dairy cattle. The companies proposed that the regulations be amended to require that (1) swine, turkeys, and chickens be withdrawn from furazolidone (NF–180) and nitrofurazone (NF–7) 5 days before slaughter, (2) chickens be withdrawn from nihydrazone (NF–64) 4 days before slaughter, and (3) dairy cattle be withdrawn from furaltadone (NF–260) 48 hours before their milk is used for food purposes. The supplemental NADA's also proposed that several uses of nitrofurans be eliminated. Use of furazolidone (NF–180) in the feed of laying hens and rabbits was deleted from furazolidone (NF–180) labels, and a warning not to feed furazolidone (NF–180) to replacement chickens, i.e., those chickens being raised to become laying hens, over 14 weeks of age was added to the labels.

The Bureau of Veterinary Medicine told Norwich and Hess & Clark that under current agency policy it could not approve the supplemental NADA's until the question of the safety of nitrofurans was resolved, but it agreed to the use of the revised labels in the interim. Hess & Clark and Norwich informed FDA by letters dated January 7 and 8, 1971, respectively, that they were revising the labels of their nitrofuran products in accordance with the proposed supplemental NADA's. Norwich also made a commitment to develop a method for detecting nitrofuran residues that would be sensitive to 2 parts per billion (ppb) in edible tissue and 0.2 ppb in milk.

The Food and Drug Administration issued notices of opportunity for hearing, published in the FEDERAL REGISTER of March 31, 1971 (36 FR 5926 and 5927) proposing to withdraw approval of NADA's for nihydrazone (NF–64) and nitrofurazone (NF–7). Each of the notices stated:

> Information available to the Commissioner establishes that the drugs, when administered to laboratory animals, have been shown to produce tumors. The drugs are, therefore, not considered to be safe for use in the absence of appropriately sensitive methods of analysis to establish their absence in food derived from treated animals.

Joint requests for hearing on both nitrofurazone (NF–7) and nihydrazone (NF–64) were filed by Norwich and Hess & Clark. In addition, Pharm-House, Inc., submitted a method for the determination of trace amounts of nitrofurazone (NF–7) in milk which it indicated could detect nitrofurazone (NF–7) levels down to 2 ppb. Because milk may be the total daily diet of infants, FDA does not consider 2 ppb adequately sensitive for the detection of nitrofurazone (NF–7) in milk. Therefore, this method has not been evaluated.

The Food and Drug Administration issued notices of opportunity for hearing, published in the FEDERAL REGISTER of August 4, 1971 (36 FR 14343) proposing to withdraw approval of NADA's for furazolidone (NF–180) and furaltadone (NF–260). The reason for the proposals was the same as that stated in the March 31, 1971 notices for nitrofurazone (NF–7) and nihydrazone (NF–64), quoted above.

In response to these notices, the Director of Health Services for Perdue, Inc. submitted a letter in which he stated, "Furazolidone is one of the most, if not the most, important single drug available to the poultry industry; for which there is no suitable substitute for certain diseases." The Director's concern is discussed in the FDA inflation impact statement summarized in the proposal published elsewhere in this issue of the FEDERAL REGISTER.

Norwich and Hess & Clark responded to the August 4, 1971, notices by again filing requests for hearing. Norwich assured that it had adequate methods of analysis to determine residues and adequate data to show that no residue would result under the currently labeled conditions of use.

In addition, Norwich set forth a hypothesis that nitrofurans were not primary tumorigens but stimulated spontaneous tumor growth by disrupting the normal hormone balance.

Norwich has continued to submit data pertaining to the use of furazolidone (NF–180) in food-producing animals. The Food and Drug Administration has determined that the new data demonstrate that furazolidone (NF–180) is carcinogenic in test animals and that the firm has failed to submit an adequate method of analysis to assure the absence of residues in food for humans. The Director is withdrawing the August 4, 1971 notice of opportunity for hearing on the proposed withdrawal of approval of certain uses of furazolidone (NF–180) on grounds that it was tumorigenic and therefore unsafe, and is issuing this new notice proposing withdrawal of approval under section 512(d)(1)(H) of the Federal Food, Drug, and Cosmetic Act, on grounds that it is carcinogenic and no adequate, reliable, and practicable method of analysis is available for monitoring food to assure that there are no residues attributable to the use of furazolidone (NF–180).

Section 512(d)(1)(H) of the act requires that FDA shall refuse to approve a drug if the Secretary finds that "such drug induces cancer when ingested by man or animal or, after tests which are appropriate for the evaluation of the safety of such drug, induces cancer in man or animal * * *." However, section 512(d)(1)(H) of the act permits approval of the use of a carcinogen as a drug in animals if the Secretary (by delegation under § 2.120 (21 CFR 2.120) to the Commissioner of Food and Drugs) finds that:

> * * * under the conditions of use specified in proposed labeling and reasonably certain to be followed in practice (i) such drug will not adversely affect the animals for which it is intended, and (ii) no residue of such drug will be found (by methods of examination prescribed or approved by the Secretary by regulations * * *), in any edible portion of such animals after slaughter or in any food yielded by or derived from the living animals * * *.

On the basis of all the data now available to him, including the data available to FDA when the applications were approved, and the data subsequently received on the basis of which the 1971 notice was issued, and the new data submitted since 1971 by Norwich, the Director has concluded that the continued use of furazolidone (NF–180) in food-producing animals is contrary to section 512(d)(1)(H) of the act in that:

(1) Furazolidone (NF–180) is carcinogenic. The drug has been shown to induce cancer when ingested by animals.

(2) Adequate, reliable, and practicable methods of analysis are not available for monitoring food nor can conditions of use be specified in the labeling to assure that there are no residues attributable to the use of furazolidone (NF–180).

The data on which these conclusions are based are presented in the succeeding sections of this notice.

I. FURAZOLIDONE IS CARCINOGENIC

Data submitted by Norwich since 1971 include the following four chronic toxicity studies designed to assess the tumorigenic effects of furazolidone (NF–180) in laboratory animals. These studies include two high-dose lifetime feeding

studies in the Sprague-Dawley and Fischer rats using comparable protocols, a lower dose 2-year feeding study in the Sprague-Dawley rat, and a study using the Swiss MBR–ICR mouse.

(1) The High-Dose Sprague-Dawley Rat Study. "Tumorigenic Evaluation of NF–180 in Sprague-Dawley and Fischer Rats, Part I, Sprague-Dawley Evaluation," November 9, 1973, Project No. 475.09D, NADA 9–393, Vol. 10. From cover letter to FDA dated November 12, 1973.

(2) The Fischer Rat Study. "Tumorigenesis Evaluation of NF–180 in Sprague-Dawley and Fischer Rats, Part II, Fischer 344 Evaluation," January 31, 1974, Project No. 475.09D, NADA 9–393, Vol. 16. From cover letter to FDA dated February 8, 1974.

(3) The Low-Level Sprague-Dawley Rat Study. "Chronic Toxicopathologic Safety Study (Two-years of NF–180 in Rats)," Final Report, November 9, 1973, Project No. 475.09C, NADA 9–393, Vol. 12. From cover letter to FDA dated November 12, 1973.

(4) The Mouse Study. "Tumorigenesis Evaluation of NF–180 in Mice," (23 months) Final Report, Norwich Pharmacal Co., January 31, 1974, Project No. 375.09E, NADA 9–393, Vol. 18. From cover letter to FDA dated February 8, 1974.

Tumors develop spontaneously in animals, including humans, as they age. To determine if the development of tumors is related to a drug exposure, rats are divided into different groups, all but one of which receive different dose levels of the drug. Statistical analyses are performed on the data to see whether there is an increased incidence in the number of animals that develop tumors in any one of the treated groups compared to untreated animals (controls), and to see if there is an increase in the number of tumors in each of the treated animals (tumor multiplicity) as compared to controls.

As further evidence that any statistically significant difference in tumors in any treatment group as compared to controls is drug-related, the dose-response relationship is examined and mathematically described. In this examination the results from all dose groups are statistically used to see if increased amounts of drug exposure result in a corresponding increase in tumor development. If it does, this is considered a significant dose-response. When the dose-response relationship is significant and, in addition, there are no significant departures from linearity, this is conclusive evidence that there is drug-related tumorigenicity.

The statistical analyses on tumors are performed to determine if there are differences related to the following: sex, malignancies, incidence based on all tumors (malignant, benign, or malignant and benign combined), and tumor multiplicity either in malignancies alone or all tumors combined.

Since drugs may induce the concurrent development of both benign and malignant tumors, analysis of change in benign tumors alone with dose may provide additional supporting evidence that a neoplastic response at low doses is related to carcinogenic properties of the compound that are only evident in the bioassay at higher doses.

A tumorigen may result in the development of a sepcific type of tumor or tumors at a specific body site, or the tumorigenic response may be one of a general increase in tumors, not type- or site-specific (random tumor induction). Therefore, the statistical analysis may also include a comparison of subgroups of data to determine if, for example, there is a site-specific effect without an effect on random tumor induction.

Mortality is also examined to determine if the drug has an effect on lifespan shortening. Since the development of cancer involves a period of latency, and dose is important not only in whether or not cancer occurs but also in the length of the latency period, an effect on mortality must be taken into consideration in the overall interpretation of results. Of course, shortening of lifespan alone, whether or not it is related to the development of tumors, is a significant effect not to be overlooked in the toxicological evaluation.

A discussion of the four chronic toxicity studies follows. In each study, all tumor results were based on histopathology findings unless otherwise specified. In the discussion, the terms "induce" and "significant" are used only if the conclusion is based on statistical evidence at a confidence level of 95% or better. Although the term "tumor" has broad meaning including any swollen mass, in this notice the term "tumor" is used only as a synonym for "neplasm" and designates any new or abnormal growth. When the term "tumor" is used without a modifier to designate whether the neoplasm is benign or malignant, the term means all tumors combined, i.e., malignant, benign, or both benign and malignant in the same animal. In most cases, animals with malignant tumors also have benign tumors.

(1) *The High-Dose Sprague-Dawley Rat Study.* Four hundred Sprague-Dawley rats of the Charles River strain approximately 2 months of age were divided into 4 groups of 50 male and 50 female rats each. A control group was fed a furazolidone-free diet. The diet of the three other groups contained furazolidone in the feed at levels of 0.025% (250 parts per million (ppm)), 0.05% (500 ppm), and 0.1% (1,000 ppm) for approximately 18 months (553 days). All groups of rats were then maintained on the furazolidone-free diet until mortality in each group reached 90%, at which time the remaining 10% were sacrificed. This was approximately 13 months after the drug was withdrawn from the diets of the animals.

In this study, and also in the other two rat studies, there was a marked sex difference in the development of tumors and types of tumors. The primary tumor effect observed in the Sprague-Dawley female rat was in the mammary glands. Furazolidone induced malignant mammary tumors in the female rats. There was also a concurrent induction of benign mammary tumors. There were increases in both the numbers of female rats with mammary tumors and the number of mammary tumors per animal (tumor multiplicity). In the male rats no significant effects were observed in the mammary gland, but there was an induction of random nonmammary tumors with no one type singularly significant. No significant drug-related effects based on the analysis of malignancies alone were seen in the male rats. Furazolidone had a significant effect on mortality, reducing the lifespan of both the male and female rats.

The relevant facts related to these findings are as follows:

The number of female rats with malignant mammary tumors increased as the dose levels increased, and the dose-response relationship was linear and significant ($p<.01$). At the highest dose level (0.1%), the proportion of female rats with malignant tumors was significantly increased ($p<.05$) when compared with the control rats on the furazolidone-free diet.

Furazolidone also concurrently induced benign mammary tumors in female rats. When the proportion of treated rats with only benign tumors was compared with controls, the increase was significant at the 0.025% dose level ($p<0.2$) and the 0.05% dose level ($p<.01$). However, no significant increase occurred in the high-dose group where the increase in the proportion of rats with malignancies was signficant. The proportion of female rats with only benign mammary tumors showed a significant regression with log dose, but there were departures from linearity due to the tumor response at the high dose.

At all dose levels, the proportion of female rats with mammary tumors was significantly increased ($p<.05$) when compared with controls. The analysis on multiplicity of mammary tumors in female rats indicated a significant increase in the proportion of rats with multiple mammary tumors for the low and mid-dose levels ($p<.05$) compared to controls, when pair-wise chi-square tests were conducted for animals developing two or more, three or more, and four or more tumors.

Although furazolidone did not induce tumors in the mammary glands of male rats, it did cause a random induction of tumors in other parts of the body. The proportion of male rats which developed nonmammary tumors at the 0.1% dose level was significantly increased ($p<.05$) compared to controls. The nonmammary tumor development showed a significant linear dose response ($p<.05$). The nonmammary tumors included squamous cell carcinoma, dermal fibroma, pituitary neoplasms and lymphoreticular neoplasms, including such cancers as leukemia and lymphosarcomas, with no one type or site singularly significant.

Furazolidone had a drug-related effect on mortality. An assessment of mortality when furazolidon treatment was discontinued after 18 months revealed a significant increase ($p<.05$) at the 0.05%

and 0.1% dose in males and at the 0.1% dose in females. At 26 months there was a significant effect on early mortality in males at the 0.1% dose ($p<.05$) and in females at the 0.05% dose ($p<.01$) and at the 0.1% dose ($p<.02$).

The Director concludes on the basis of these results that furazolidone is a demonstrated carcinogen in the Sprague-Dawley rat, based on the significant increase in the proportion of female rats at the 0.1% dose level with malignant mammary tumors as compared to controls, and the significant linear dose response in malignant mammary tumor development. He further concludes that the tumorigenic effects of furazolidone are not limited to the mammary gland but include effects on the combined increase in benign and malignant nonmammary tumors in male rats. He also concludes that furazolidone resulted in early mortality in both male and female rats.

(2) *The Fischer Rat Study.* Four hundred rats of the Fischer 344 strain, approximately 2 months of age, were divided into 4 groups of 50 male and 50 female rats each. A control group was fed a furazolidone-free diet. The diet of the three other groups contained furazolidone in the feed at levels of 0.025% (250 ppm), 0.05% (500 ppm), and 0.1% (1,000 ppm) for 20 months. All groups of rats were then maintained on the furazolidone-free diet until mortality in each group reached 90%, at which time the remaining 10% were sacrificed. This was approximately 11 months after the drug was withdrawn from the diets of all the animals.

In this study, as in the other two rat studies, there were sex differences in the development of tumors and types of tumors. The primary effect seen in the Fischer female rats was the development of tumors in the mammary gland. Furazolidone induced malignant mammary tumors in the female rats at the highest dose and had a significant effect on both the number of female rats which developed mammary tumors and in the multiplicity of mammary tumors in the female rats as compared to controls. Furazolidone also induced other specific nonmammary tumors in both males and females including tumors in the thyroid and sweat glands. Although no mammary tumor effect occurred in the male rats, there was an effect at the highest dose on the occurrences of mesothelioma in the scrotal sack and in the appearance of basal cell epitheliomas. Mesothelioma are cancerous cells of the body cavity linings, e.g., pleura, peritoneum, and pericardium. In the male these cancerous cells tend to gravitate to the scrotal cavity where their detection is generally most readily observed. Basal cell epitheliomas are skin tumors and low grade cancers which usually do not metastasize. There was also a drug-related effect on mortality in both sexes.

The relevant facts related to these findings are as follows:

The proportion of female rats with malignant mammary tumors at the 0.1% dose level was significantly increased ($p<.05$) over controls. Malignant mammary tumors were diagnosed only in female rats given the highest dose of furazolidone.

At all dose levels, the proportion of female rats with mammary tumors was significantly increased ($p<.01$) over controls. There was a significant relationship between the amount of dose and the proportion of rats with mammary tumors. However, there was significant departure from linearity in that there was a leveling off of the effect at the high-dose level, possibly due to increased mortality. The proportion of female rats with multiple mammary tumors was significant ($p<.01$) for all treatment groups compared to controls.

There was no significant difference in the proportion of furazolidone-treated male rats with mammary tumors when compared with controls.

There were other specific tumors in males and females that were significantly increased ($p<0.05$) by furazolidone exposure. Thyroid adenomas were significantly increased in both males and females at the 0.05% and 0.1% dose levels. Sebaceous adenomas were significantly increased in males at the 0.05% dose level and in both males and females at the 0.1% dose level. Testicular mesotheliomas and basal cell epitheliomas were significantly increased in males at the 0.1% dose level.

Furazolidone had an effect on mortality which was significant ($p<.05$) in the females at the 0.1% dose level and in the males at the 0.05% and 0.1% dose levels. The dose-response relationship on early mortality was significant and linear for both males and females.

The Director concludes on the basis of these results that furazolidone is a demonstrated carcinogen in the Fischer rat based on the significant increase in the proportion of female rats at the 0.1% dose level with malignant mammary tumors and the significant increase in testicular mesotheliomas in the male rates at the 0.1% dose level as compared to controls. He also concludes that furazolidone resulted in early mortality in both male and female rats.

(3) *The Low-Level Sprague-Dawley Rat Study.* Three hundred twenty Sprague-Dawley rats of the Charles River strain approximately 2 months old were divided into 4 groups of 40 male and 40 female rats each. A control group was fed a furazolidone-free diet. The treated rats were given furazolidone in the feed at dose levels of 1, 5, 15 milligrams/kilograms of body weight/day. The concentration of furazolidone in the diet was increased as the animals continued to grow. From the 266th day on, the dose levels in the diet were 0.0025% (25 ppm), 0.0125% (125 ppm), and 0.0375% (375 ppm). Drug treatment was continuous throughout the experiment, which was terminated after 2 years (731 days).

Furazolidone treatment affected the total development of tumors in the female Sprague-Dawley rats, which included increases in both the numbers of female rats with tumors and in the multiplicity of tumors in the rats as compared with controls. Although at the end of the experiment there were no significant effects in either males or females in the number of rats with tumors based on any one tumor site to type alone, the data on tumor palpation (examination by touch and feel) indicated that furazolidone increased the onset time of mammary tumor development in the female rat. No drug effect on tumor development at the dose levels in this study occurred in the male rats. In addition to the induction of tumors, furazolidone had a significant effect on mortality in the female rats.

The relevant facts related to these findings are as follows:

There was a significant ($p<.05$) linear dose-response relationship for the number of female rats with tumors, with a significant increase ($p<.05$) in the proportion of female rats at the 0.0375% dose level with tumors in comparison with females in the control group. The majority of tumors observed were in the mammary gland. In addition to the mamary tumors, pituitary adenomas and lymphoreticular neoplasms, including leukemia, lymphosarcoma and reticulum cell sarcoma, were diagnosed.

An analysis of the incidence of multiple mammary tumors in female rats showed a significant increase ($p<.05$) for both the 0.0125% and 0.0375% dose groups compared to controls with a significant linear dose-response relationship ($p<.05$).

Based on the sponsor's data of tumor palpation prior to termination of the experiment, furazolidone caused early onset time of mammary tumor development in the female rats. At 16 months there was a significant increase ($p < .05$) in the number of female rates with mammary tumors at the 0.0375% dose level compared with controls. There was also a significant linear dose response for mamary tumor development in females over the first 16 months of the study.

There were no significant differences based on the analysis of malignant tumors alone in either male or female rats in this study.

Mortality for the first 20 months was significantly ($p<.05$) increased in females at the 0.0375% dose level when compared to the controls. For the 24-month period, mortality was significantly ($p<.05$) increased in female rats at the 0.0125% and 0.0375% dose levels compared to controls. The dose-response effect on mortality in the female rats was significant ($p<.05$) with no significant departures from linearity. No significant differences in mortality were seen in the male rats.

Norwich claims this study demonstrate that the 0.0025% level of exposure was a "no-effect" dose for the female rats and that 0.0375% was a "no-effect" dose for the male rats.

The Director concludes from the results of this study that furazolidone has a significant linear dose-related effect in female rats with respect to the proportion of rats with tumors of all types combined, the incidence of multiple mammary tumors, and early mortality. For this reason, the Director rejects Norwich's claim that the 0.0025% level of exposure

was a "no-effect" dose for the female rats. He concludes that a more conservative approach to the estimation of a "no-effect" level of exposure is required.

(4) *The Mouse Study.* Four hundred Swiss MBR/ICR mice approximately 2 months of age were divided into 4 groups of 50 male and 50 female mice each. A control group was fed a furazolidone-free diet. The diet of the three other groups contained furazolidone in the diet at levels of 0.0075% (75 ppm), 0.015% (150 ppm), and 0.03% (300 ppm) respectively for 18 months. All groups of mice were then maintained on a furazolidone-free diet for an additional 10 months before the study was terminated.

In contrast to the rat studies, no sex differences were seen in the effect of furazolidone on tumor development in male and female mice. Furazolidone induced malignant tumors in both male and female mice. Malignant lung tumors (bronchial adenocarcinomas) were the primary effect. Furazolidone also resulted in early mortality in both sexes.

The findings on which these conclusions are based are as follows:

The proportion of male mice at the 0.015% and 0.03% dose and the proportion of female mice at the 0.03% dose with bronchial adenocarcinomas was significantly increased compared to controls. In both sexes the incidence of mice with bronchial adenocarcinomas showed a significant linear dose response ($p<.01$) with no departures from linearity.

The dose-response relationships for the incidence of mice with malignancies of all types and also for the incidence based on all tumors were significant ($p<.05$) for both sexes with no significant departures from linearity. There was a significant increase ($p<.05$) in both the development of malignancies and in the development of benign and malignant tumors combined in the male mice at the 0.03% and 0.015% dose levels and in the female mice at the 0.03% dose when compared to controls.

The proportion of male and female mice with more than one tumor each was analyzed. The males at the 0.03% dose level had significantly more ($p<.05$) multiple tumors than the controls and there was a significant linear dose-response relationship for tumor multiplicities found in the males. There were no significant differences in tumor multiplicity for the females.

Furazolidone had an effect on early mortality in the mice. The males at the 0.03% dose level and the females at the 0.015% and 0.03% dose levels differed significantly ($p<.05$) in survival time from the controls. Both sexes showed a significant dose response in early mortality with no significant departure from linearity ($p<.05$).

The Director concludes from this study that furazolidone is a carcinogen in the mouse as demonstrated by the significant increase in the incidence of mice with bronchial adenocarcinomas and with all malignant tumors combined for males at the 0.015% and 0.03% dose and for females at the 0.03% dose compared with controls, and by the significant linear dose-response relationships for malignancies. He further concludes that furazolidone resulted in early mortality in both the male and female mice.

NORWICH'S HORMONAL HYPOTHESIS

Prior to completion of lifetime studies discussed above, the only direct experimental evidence that furazolidone (NF–180), nitrofurazone (NF–7), nihydrazone (NF–64) and furaltadone (NF–260) are potential carcinogens rested upon the finding of the induction of mammary tumors in female rats. These tumors were the same types as those which are known to occur spontaneously in the aging rat. Male rats had not been affected and there was no increase of non-mammary tumors in females. However, these studies had not involved lifetime exposure to the drugs. In addition to the evidence concerning these four nitrofurans, there was evidence that other nitrofurans, e.g., 2-(2-formylhydrazine)-4-(5-nitro-2-furyl)-thiazole, were tumorigens and that their effects were not limited to the mammary gland of female rats.

In 1969, Norwich began studies on the "Effects of Nitrofurans on Steroidogenesis and Mammary Hyperplasia." Progress reports were periodically submitted to FDA. In response to the 1971 FEDERAL REGISTER notices, Norwich made reference to these studies and claimed that the nitrofurans disrupted the normal hormone function in rats at the very high doses given in the tumorigenic studies, and this disruption abnormally stressed the mammary gland and resulted in the induction at an early age of the types of tumors normally found in very old rats. Norwich further claimed that its methods of analysis for residues of the drug were adequately sensitive to assure the absence of residues well below the level that would cause the hormonal disruption.

Norwich was requested by FDA to compile all available data relating to its hormonal hypothesis and to present it for evaluation by toxicologists from the Bureau of Foods and endocrinologists from the Bureau of Drugs and the National Institutes of Health. On December 10, 1973, Norwich made an oral presentation and submitted all of the relevant material for review. The substance of the hypothesis is as follows:

Norwich claimed that nitrofurans interfere with the normal catabolism of the hormone, progesterone, by the adrenal cortex to the hormone, corticosterone, and that the female Sprague-Dawley rat is particularly sensitive to the drugs' effect. Corticosterone acts on the hypothalamus to inhibit the release of another hormone, ACTH. ACTH is the tropic hormone which stimulates the adrenal gland to produce more progesterone. When the nitrofurans interfere with the catabolism of progesterone to corticosterone, there is less corticosterone to inhibit the hypothalamus and the hypothalamus reacts by secreting more ACTH, which in turn prompts further secretion of progesterone from the adrenal. Its conversion is blocked and because the negative feedback loop is interrupted, there is a resulting increase in circulating plasma progesterone. The progesterone circulates through the body to the mammary gland where it serves its physiologic function of stimulating mammary growth and anatomical differentiation. Norwich suggests that when a rat is placed under the continuous progesterone stimulation by the mechanism described, the mammary gland will respond as if in the first trimester of pregnancy. The result will be repeated surges of rapid cellular division and mammary differentiation with production of more mammary cells in a given time period than would occur in an ordinary rat not under the stress. Therefore, Norwich speculates that the probability is increased that more spontaneous tumors will be produced and will occur earlier in life.

Norwich further contends that in humans, unlike rats, the hormone cortisol is the primary mediator of ACTH release, and the conversion of progesterone to cortisol does not require the intermediate synthesis of corticosterone. Thus, it claims that if the hormonal theory (of Norwich) is correct, the process interfered with by high levels of furazolidone (NF–180) in rats does not even occur in humans.

Norwich suggests that prolactin may also be involved in the tumorigenic response. The pituitary gland may be stimulated because of the projected low plasma corticosterone levels, resulting in an increased pituitary release of prolactin. Therefore, Norwich speculates that both progesterone and prolactin together may induce hyperplasia in the mammary gland favoring the growth of mammary tumors.

In support of this theory, Norwich presented data which it claimed showed that the acute treatment of female Sprague-Dawley rats with furazolidone (NF–180) resulted in an abrupt rise in circulating plasma progesterone. Other data were presented which showed that furazolidone (NF–180) caused an increase in ova in the ovaries of rats and resulted in sexual maturity at an earlier age than would normally occur. Other data showed the induction of an estrus cycle in estrogen-primed rats who had had their ovaries removed. Norwich presented data on the study of adrenal homogenates under in vitro conditions and the effect of furazolidone (NF–180); it compared in vitro the ability of normal adrenals taken from untreated Sprague-Dawley and Fischer rats to utilize progesterone in the synthesis of corticosterone. These two rat strains were used for the comparison because they usually exhibit different spontaneous mammary tumor rates. The normal spontaneous mammary tumor incidence in the Fischer female rat is usually lower than that in the Sprague-Dawley female rat.

Norwich claimed these in vitro studies showed that furazolidone (NF–180) inhibited the synthesis of corticosterone from progesterone. Data were presented to show that differences in furazolidone-

treated Fischer rats and Sprague-Dawley rats in the utilization of progesterone paralleled difference in tumor growth.

Norwich claims its studies showed that furazolidone inhibited the synthesis of corticosterone and enhanced the conversion of progesterone to a pool of unidentified steroids. Norwich claims that deoxycorticosterone was the steroid produced by the adrenals from the furazolidone-treated rats. It also claimed there was an increase of an androstene-type steroid in the profile of urinary steroids. Biochemical studies were also submitted in an attempt to show that the nitrofurans block the 11-hydroxylation step in corticosterone synthesis.

Results with nitrofurazone (NF–7) in adrenals in vitro were claimed by Norwich to duplicate those with furazolidone (NF–180).

Food and Drug Administration scientists have rejected the data presented by Norwich to support the hormonal hypothesis for the following reasons:

No direct evidence was presented to show that furazolidone inhibited the synthesis of corticosterone from progesterone. If the hypothesis were correct, then adrenal venous progesterone or adrenal content of progesterone should be increased and corticosterone diminished. These were not examined. The in vitro studies as conducted are not considered adequate to demonstrate inhibition of the biosynthesis of corticosterone.

The in vitro studies only show that there is an apparent inhibition of the synthesis of a compound with a thin-layer chromatography mobility similar to corticosterone. No data were presented to show that the compound was corticosterone. The report states that the identification is totally dependent on R_f (retardation factor) values which are not sufficiently accurate for definitive identification of hydroxylated 4-pregnene metabolites or their various acetylated derivatives.

Furthermore, if corticosterone synthesis were inhibited the adrenal cortex would be expected to increase in weight. However, no adrenal weight change of treated versus control rats was evident.

The Norwich claim that the 11-hydroxylation is inhibited is supported by scanty and inadequate data, and the data on the profiles of the urinary steroids (17-ketosteroids) are essentially meaningless. They include gas chromatography of unpurified urinary extracts which are uninterpretable. Variations in the profile under such experimental conditions may be due to a multitude of factors: impurities, breakdown products formed during hydrolysis whether of steroidal origin or not, etc. No data on characterization of deoxycorticosterone are presented. The report states that the material was identified by purification through various chromatographic procedures. Chromatography is not considered adequate for structural identification of "unknowns."

Norwich's data on progesterone levels in plasma are not acceptable. The fluorescence method used is antiquated and not sufficiently specific. The competitive protein binding method used is considered unreliable, and the experimental data on the radioimmunoassay procedure are inadequate.

Although generally the radioimmunoassay procedure is acceptable, the standard curve presented in the report casts doubt that the progesterone measurements in this case are meaningful.

Although prolactin has been implicated in the development of mammary tumors, no direct evidence has been presented by Norwich to demonstrate that furazolidone affects prolactin levels. Stimulation of ACTH secretion may occur without concomitant stimulation of prolactin secretion. Prolactin was not measured, and no evidence was offered by Norwich other than an incorrect supposition to support the concept of increased prolactin secretion.

The role of progesterone in increased mammary cell proliferation involving a rise in mitotic activity is portrayed by Norwich as an oversimplification of very complex mammary physiology, and Norwich incorrectly states that an increase in progesterone stimulates pseudopregnancy in the rat.

From the data presented, the Director concludes that it is not possible to tell how furazolidone (NF–180) affects or accelerates the appearance of mammary tumors. To determine if the hypothesis were operative, ovaryectomized or adrenalectomized rats maintained on estrogen and corticosterone should have been tested to see if furazolidone (NF–180) under these conditions failed to induce mammary tumors.

Even if a hormonal effect had been adequately demonstrated and established as the sole operant in the development of mammary tumors in the female rats studied, the mechanism would have to be sufficiently defined. Then, if the mechanism in rodents was not applicable to humans, it would be necessary to determine that the nitrofurans would not cause a different hormonal effect in humans by using an appropriate animal species to establish a "no-hormonal-effect" level.

More important, the Director concludes that the new evidence of carcinogenicity in the lifetime studies of furazolidone-treated rats and mice is contrary to acceptance of any hormonal hypothesis as solely operant. In these latter studies which are discussed in this section of this notice, the induction of tumors is not limited to effects on the mammary gland of female rats. A variety of tumors are seen in both male and female rats in both strains and include, for example, lymphatic tumors, pituitary and thyroid tumors, skin tumors, and mesothelioma in the scrotal cavity of Fischer male rats. In the mouse study lung cancers were the most prevalent, with no sex related differences in the incidence of tumors. There was no significant drug effect on the incidence of nonmalignant or malignant tumors in endocrine tissues of these mice.

The Director therefore concludes that the hormonal hypothesis is not relevant to the finding that furazolidone is a carcinogen.

However, the following facts are significant in regard to the tumor-inducing properties of furazolidone as demonstrated in the four chronic studies:

1. Furazolidone-induced malignancies in both rats and mice.

2. Furazolidone also induced nonmalignant tumors.

3. In most cases the induced malignant and nonmalignant tumors were found at the same sites.

4. There is some evidence that the induction of benign tumors is also related to the induction or progression to malignancies as a function of dose.

5. There are marked sex differences in the tumor responses in the rats. There are also some commonalities in the tumor sites of the male and female rats.

6. Mammary tumors were the predominant effect in the female rats.

7. Nonmammary tumors were induced in the Sprague-Dawley male rats with no one type being singularly significant. However, in the Fischer rats, several specific nonmammary tumors were induced in both male and female rats.

8. The major target site in the mouse was the lung. There was no evidence of a significant difference between male and female mice in tumor response and tumorigenic effects in endocrine tissues.

9. The induction of tumors involved not only increased incidence of animals with tumors but increased numbers of tumors per animal.

10. There is no reason not to accept the appropriateness of the rats and mice as a bioassay from which to predict the cancer potential in humans. No relevant data in humans are available.

From these facts, the Director concludes that furazolidone induces cancer in both rats and mice, and therefore its use as a drug in food-producing animals is subject to the requirements of section 512 (d) (1) (H) of the Federal Food, Drug, and Cosmetic Act. The sum total of evidence indicates that furazolidone induces both site-specific tumor effects as well as an overall effect on random tumor induction; there is clear evidence of malignancy and a concurrent induction of benign tumors, the proportions of which increase in favor of malignancies with an increase in dose and probably also involve a relationship of latency and dose; and that there is an adverse effect on mortality which may bear a relationship to the tumors. The accumulation of these facts requires that the evaluation of the total neoplastic activity of the carcinogenic agent, furazolidone, include consideration of all tumor induction as potentially significant to human health. Since the susceptibility in humans is not defined, furazolidone must be assumed as a potential human carcinogen and safeguards taken to assure no human exposure. Therefore, a conservative approach to the estimation of a theoretical "no-effect" level of exposure in humans for purposes of defining the minimum required assay sensitivity for residues is required.

II. ADEQUATE, RELIABLE AND PRACTICABLE METHODS OF ANALYSIS ARE NOT AVAILABLE FOR MONITORING FOOD NOR CAN CONDITIONS OF USE BE SPECIFIED IN THE LABELING TO ASSURE THAT THERE ARE NO RESIDUES ATTRIBUTABLE TO THE USE OF FURAZOLIDONE

The Director has concluded that furazolidone has been shown to induce cancer when ingested by animals. Therefore its continued approval for use in animals depends upon the sponsor's showing that the use of the drug will not adversely affect the animals for which it is intended and that no residue of the drug will be found in any edible portion of the animals after slaughter or in any food yielded by or derived from the living animals. To make this showing, a multiple step process is necessary.

First, the amount of total residue in the edible tissues and the depletion of residues with time must be determined.

Second, sufficient information must be developed about the identity of the residues and their proportionate amount to the total residue to determine if any metabolites need to be tested in carcinogenic bioassays in addition to the parent drug.

Third, from the carcinogenic bioassay data, a theoretical statistical estimate must be determined for the maximum concentration of total residues of possible carcinogenic concern that can be present in the total daily diet of humans that can be considered insignificant and to pose essentially no risk of cancer to humans.

Fourth, sufficient information about the residues must be developed to: (a) Determine the tissue (called the target tissue) from which residues deplete most slowly and must be monitored by the regulatory assay, and (b) determine the compound that is to be measured in the regulatory assay so that its measurement can assure there will be no residues of potential carcinogenic concern. (This compound is called the marker.)

Fifth, a practicable method of analysis must be developed for residues that can measure the marker in the target tissue at a concentration level which at least assures that the total residues of potential carcinogenic concern in the total daily diet of humans does not exceed the level established in step three above.

Sixth, it must be demonstrated that practical conditions of use can be prescribed on the label of the product to assure "no residue".

Each of the steps involves principles which are essential for a determination of food safety and compliance with the requirements of the act to assure "no residue" in human food from animals treated with a carcinogenic drug. Each step builds upon the preceding step. Therefore, failure to accomplish any one of the six steps in whole or in part for any drug that is a carcinogen ordinarily will preclude a sponsor's fulfilling its obligation under the act.

The sponsors of furazolidone have failed to meet the requirements of the first step. On this basis alone, they cannot meet the statutory requirement of showing "no residue." Nor can they proceed with the fulfillment of all of the remaining steps. The deficiencies in each of the steps are discussed in detail in the following subsections:

(1) *The Amount of Total Residue in the Edible Tissues and the Depletion of Residues with Time Has Not Been Determined.* When a drug is administered to an animal, the drug may be altered by the animal into a variety of compounds called metabolites. The process of alteration may be such that little residue of the parent drug remains in the animal tissue, but there may be considerable metabolite residue. Therefore, the total residue with which FDA is concerned includes both the parent drug and the metabolites.

The composition and amount of each of the residues depend upon the metabolism in a particular species. Because there are species differences in metabolism, it is necessary to determine metabolism and residues in each of the species for which the drug is used. Thus § 514.1 (b) (7) (i) (21 CFR 514.1(b) (7) (i)) includes metabolism and residue depletion studies among those kinds of studies which are used to determine residues.

Exposure to furazolidone in the diet induced cancer in rats and mice. It is not known if the parent drug was the carcinogenic agent or if the carcinogenic response was due to one or more active metabolites. Such lack of knowledge is not unique to furazolidone; it is typical of most cancer-inducing agents that the mechanism of the induction of cancer or the identification of the carcinogenic agent is not known. Therefore, when considering the safety of food from furazolidone-treated animals, all drug-related residues to which humans may be exposed must be assumed to be potential carcinogens unless convincing evidence is presented to the contrary. Such evidence consists of not only the identification of the residues that are claimed to be safe, but also adequate toxicological studies showing that the levels of each of the residues claimed to be safe are in fact safe. All residues not identified or not shown to be safe must be considered potentially carcinogenic and must be required to be below a level of detection that would pose no risk of cancer in humans.

The use of chemical assays to determine initially the total residues requires knowledge about what residues occur (parent drug and metabolites) and requires the availability of adequate methods of analysis to measure each one of the residues at the level of interest. Therefore, this chemical approach is usually not feasible. Instead, a radiolabeled drug is used to provide a practical and adequate approach to the initial measurement of total residues in the edible tissues. In this approach, the drug is synthesized with a radioisotope so that when the drug is administered to the animal according to label directions, all resulting residues of interest can be measured in the edible products. This is accomplished by counting the radioactivity in the tissues and converting these measurements to an estimation of the amount of residue expressed as parent drug equivalents. The conversion is made based on the known specific activity of the radiolabeled drug used in the study.

Although a number of reports have been submitted on the quantity of furazolidone in the edible tissues of drug-treated animals which will be discussed in step (6), no data have been submitted by the sponsors on total drug residues in edible tissues from furazolidone-treated animals.

On July 23, 1971, Norwich submitted a report, "NF–180 Residues in Chicken Tissues," Project No. 576.03, dated July 23, 1969, which mentions two metabolites that may occur as residues of furazolidone (NF–180) in edible tissues. The report gives no information on the identity or quantity of the residues or any indication of the evidence on which the presumption is based. The Director assumes the compounds are those designated by Norwich as NF–362 and NF–682 in a letter to FDA on October 1, 1969, where it was stated that methods were being developed for their analysis.

Data on the metabolism of other nitrofurans has been submitted by Norwich which, however, cannot be accepted as a substitute for metabolism data on furazolidone in the animals of intended use because the metabolism of each compound may differ in each of the animal species.

Because no relevant data have been submitted on metabolism and residue depletion of furazolidone, the Director concludes that the amount of total residue in in the edible tissues and the depletion of residues with time has not been determined.

(2) *Sufficient Information Has Not Been Developed About the Identity of the Residues and Their Proportionate Amount to the Total Residue to Determine if any Metabolites Need to be Tested in Carcinogenic Bioassays in Addition to the Parent Drug.* The composition of a drug's residue may vary from the extremes of less than 1% parent drug and more than 99% metabolites to less than 1% metabolites and more than 99% parent drug, although the latter case would be rare. The Food and Drug Administration must estimate the carcinogenic potency of the total residue because this is what man will be exposed to in food. Ideally this estimation would be based on the identification of each of the metabolites in the residue, their synthesis, and subsequent testing of the parent drug and all of the metabolites for carcinogenicity. However, this approach is usually impractical.

Various approaches are available to limit the number of residue compounds for which carcinogenic bioassays are required to provide a sufficiently conservative estimate of the carcinogenic potency of the total residue. However, Norwich has not presented any quantitative or qualitative information about the total residues of furazolidone in edible tissues.

Therefore, the Director concludes that there is insufficient information for FDA to determine if the carcinogenic testing

of furazolidone is adequate to estimate the carcinogenic potency of the total residue and to determine if a "safe" dose, described in step (3), based on the carcinogenic testing of furazolidone is adequate to protect the public health.

(3) *A Theoretical Statistical Estimate for the Maximum Concentration of Total Residues of Possible Carcinogenic Concern That Can Be Present in the Total Daily Diet of Humans That Can Be Considered Insignificant and to Pose Essentially No Risk of Cancer to Humans Has Not Been Determined.* The exception to the Delaney Anti-Cancer Clause was enacted to permit the use of a carcinogenic drug for food-producing animals, if, among other requirements, the use does not result in residues in foods as determined by a method of analysis prescribed or approved by the Secretary. The enactment of this provision followed lengthy testimony and debate on the use of diethylstilbestrol (DES) for increased feed efficiency in cattle.

During the debates, testimony was presented on the mouse uterine assay used for the detection of DES residues in animal tissues. It was argued that by this highly sensitive technique, which could measure DES as low as 2 ppb, no residues of DES would be found in cattle treated with the drug when an adequate drug withdrawal period prior to slaughter was observed. In 1962, the capability to detect 2 ppb of any residue was an unusual achievement for assay methodology and was then regarded as a reasonable definition of "no residue".

Because the act leaves the choice of an assay method to assure "no residue" for any specific carcinogenic animal drug to the judgment of the Secretary, an operational definition of "no residue" had to be adopted. Because there was no way to be sure that the best available analytical method would always be sufficiently sensitive and practicable to provide adequate protection against cancer, FDA customarily required a lower limit of reliable measurement of at least 2 ppb for carcinogens. This level was based primarily upon the judgment of scientists that the absence of residues at 2 ppb or above usually would assure that any remaining residue was biologically insignificant.

Since 1962, technological advances in research methods, e.g., the advent of immuno-assay techniques, advances in ultrasensitive mass spectrometry, and the use of radiotracer techniques in metabolism studies, now open the possibility that residues at concentrations considerably below 2 ppb may be found.

Because of these developments, FDA has been examining procedures which might be used to establish the required lower limit of reliable measurement for residue assay methods. Currently, FDA will accept the use of conservative statistical extrapolation procedures that relate the carcinogenic potency of the drug to the determination of the minimum requirement for residue assay sensitivity. However, if a more sensitive practicable method for the determination of residues is available, FDA will adopt that more sensitive method.

A proposed regulation on this matter was published in the FEDERAL REGISTER of July 19, 1973 (38 FR 19226). Numerous comments were received and have been considered. Based on the review, FDA has tentatively concluded that a modified version of the approach described in the proposal offers a sound approach to this extremely complex issue. Efforts are underway to establish by regulation the use of the new procedure for determining the minimum required sensitivity for the tissue residue assay for carcinogenic drugs.

On November 11, 1975, Norwich made a submission to FDA that included a report prepared by Mr. Nathan Mantel estimating the "safe" dose for furazolidone. The "safe" dose (S_e is a theoretical statistical estimate which represents the maximum concentration of the residues in the total daily diet of humans which could be considered insignificant and pose no risk of cancer and is thus "safe" within the meaning of the act. The S_e was derived from use of the data from the four chronic studies on furazolidone, discussed in section I of this notice, and the application of the Mantel-Bryan extrapolation model. (N. Mantel and W. R. Bryan, "Safety Testing of Carcinogenic Agents," Journal of the National Cancer Institute, 27:455–470 (1961). N. Mantel, N. Bohidar, C. Brown, J. Ciminera and J. Tukey, "An Improved Mantel-Bryan Procedure for Safety Testing of Carcinogens," Cancer Research, 35:865–872 (1975).) The model was used to estimate S_e based on a probability of the occurrence of cancer of 1 in 1 million with a slope of 1 probit unit per log increase in dose at the 99% confidence level. Norwich concludes that 21 ppb is the estimated S_e for furazolidone. The calculated "safe" concentrations of furazolidone in food were determined by Norwich to be 63 ppb in muscle, 21 ppb in milk, and 63 ppb in eggs using the food consumption adjustments proposed in a paper presented at the Gordon Research Conference on Drug Metabolism, June 23–27, 1975, by two FDA scientists, M. K. Perez and N. E. Weber, entitled "Requirements for Metabolic Studies—Impact on Food Safety Regulation." Norwich claims that the regulatory methods it has proposed for control of residues are of adequate sensitivity to assure the absence of residues above 2 ppb and are certainly adequate to assure the absence of residues at levels as high as 21 and 63 ppb. Therefore, it contends, it has demonstrated the safe use of furazolidone. For this reason, it is necessary for the Director to consider whether or not the sensitivity required for the assay as proposed by the sponsors is adequate to assure safe use of the drug.

As shown in step (2), adequate information has not been provided to determine if an S_e can be established based on the carcinogenicity testing of furazolidone. However, even if such information had been provided and it was adequate to show that the S_e for total residues could be based solely on the furazolidone testing data, the sponsors, as will be shown in this and subsequent sections, have not satisfied the requirements of the act to demonstate the safe use of furazolidone.

Norwich has provided data on furazolidone from which an S_e might be determined, and FDA accepts the basic principles of the Mantel-Bryan model to estimate S_e for a carcinogenic animal drug. However, the way Norwich has selected and used the data in the extrapolative procedure to derive the value of 21 ppb as the S_e for furazolidone is not acceptable. There are two major objections to the Norwich approach. First, Norwich has not used data which are based on all tumors present and diagnosed from histopathological examination at sacrifice. Second, Norwich has based the estimation of S_e on the analysis of only tumors which were malignant.

FIRST MAJOR AREA OF OBJECTION

Norwich used data which are not based on all tumors present and diagnosed by histopathological examination at sacrifice. It offers the following reason for not doing so. Mr. Mantel objects to the furazolidone chronic study experimental designs, pointing out that for best use of his extrapolative technique, a "near life time" study would have been better.

The Fischer rat study and the higher dose Sprague-Dawley rat study followed protocols where the animals were fed medicated diets for 20 and 18 months respectively, followed by maintenance on a drug-free diet for an additional 10 and 11 months respectively. The experiments were terminated when survival reached approximately 10% The age of the rats at the termination of these studies was in excess of 30 months. Similarly, in the mouse study, the animals received the drug in feed for 13 months and were maintained on a drug-free diet for an additional 10 months. The study was terminated after 23 months when the mice were approximately 25 months old. In contrast the lower level Sprague-Dawley rat study was a 24-month study with continuous drug treatment in the diet. All groups were terminated at 24 months when the rats were approximately 26 months old.

Given the data at hand, Mr. Mantel adjusts the data to fit an experimental design he would have considered better, i.e., an earlier termination. His reasons for the adjustment of the data are to achieve a lower incidence of tumors in the controls; to exclude late-in-life tumors that in his judgment are not significant; and to provide more comparability of the data between the rat studies so that the tumor findings can be combined to provide more values for the estimation of the S_e.

To achieve the above, Mr. Mantel chooses two cutoff times and determines the tumor incidence by the following criteria and assumptions:

1. Tumor findings in all animals that died prior to his "cutoff" time are used based on the histopathology findings.

2. Tumors found in animals that died after the "cutoff" time are counted only if a mass was detected in the live animal prior to the "cutoff" time. If a mass was found in the live animal, histopathology after the "cutoff" time is used as the basis for determining if the mass was a tumor.

3. All animals that were alive at the "cutoff" time and did not have a determinative mass at that time, but were found to have tumors or malignancies at later sacrifice, were not counted.

Mr. Mantel projects the data for "cutoff" at 24 and 22 months for rats and 18 to 16 months for mice. The 24-month rats and the 18-month mice cutoffs represent the time animals were on the experiment, having begun on the experiment at approximately 2 months of age. The second set of figures, 22 months for rats and 16 months for mice, were also used because these times represented what Mr. Mantel considers the lifespan age of the animals (24-month old rats and 18-month old mice). The Kolbye-Perez paper referred to in step (4) is erroneously interpreted and cited as support for this definition of lifespan.

The differences between use of 24 or 22 months for rats and 18 or 16 months for mice are not sufficiently large to make a significant difference in the estimation of an S_0. However, there is a significant difference in the estimated S_0 when either of the "cutoff" times are used rather than the use of all tumor data at sacrifice.

To elaborate on the effect of Mr. Mantel's adjustment of the data, the following example is given. In the mouse experiment, 26 of 48 male mice at the lowest dose had malignancies at termination of the study, i.e., 23 months on experiment. At an 18-month "cutoff" time, only 3 males at the low dose had malignancies based on his criteria. Using Mr. Mantel's approach, it has to be assumed that the 23 male mice deemed tumor-free at 18 months developed all of the malignancies during the last 5 months of life. It also has to be assumed that the tumors or malignancies which developed in the animals late in life are not significant even though the studies showed that the drug-treated groups in some cases had more tumors than the control groups late in life. In other words, the development of tumors or malignancies in the aged, drug-related or not, are not important. This assumption is not acceptable to FDA.

The objections of FDA to Mr. Mantel's approach of using a "cutoff" time for tumor determination are two-fold: (a) The use of palpation as the sole determinant of the presence of tumors in live animals, and (b) the arbitrary determination that tumors observed beyond a certain age are of no consequence.

On the first point it may be argued that palpation followed by histopathological confirmation through biopsy or at sacrifice can be effectively used to study the development of certain types of tumors, e.g., mammary tumors. If systematic examination is conducted by specially trained personnel, it may be possible from the information to plot the development of benign tumors with time and to determine the progression of benign tumors to malignancies. It is not known if an adequate systematic procedure of palpation was followed in the furazolidone studies and it cannot be assumed that if a mammary tumor was present it would be palpable. Palpation may be an aid in deriving additional information which may be helpful in evaluating the data, but it alone cannot be used in the manner proposed by Norwich with the exclusion of some tumor data at sacrifice.

In addition, furazolidone induced tumors at sites other than the mammary gland. Because furazolidone exhibits a random tumor effect in addition to site-specific effects, not limited to the mammary gland, palpation even under the most carefully controlled conditions cannot be presumed adequate to determine the tumor status in live animals in this case. Tumors and malignancies of the type induced by furazolidone can be present in a live animal and not be palpable or otherwise observed until autopsy and histopathology.

During discussions with Norwich concerning studies FDA had requested in support of human drug uses, the Bureau of Veterinary Medicine recommended that Norwich seek guidance on the design of the studies from Dr. Weisberger, who was at that time with the National Cancer Institute. It is assumed that the protocols followed Dr. Weisberger's recommendations, and that Norwich adopted the recommended protocols as an appropriate way to demonstrate the safety of furazolidone. Norwich states in its report that the animals were terminated when 10% survival was reached, except for the low-level Sprague-Dawley rat study where all groups were terminated after 24 months on test.

Scientific opinion on the design of carcinogenic bioassays is continually changing, based on new knowledge and experience. The design of protocols is primarily influenced by the particular questions being asked. Presumably, some of the questions that the furazolidone studies addressed included determining whether or not furazolidone was a carcinogen; whether the only tumor effect would be in the mammary gland of female rats through hormonal disruption that is unique to the rat and not applicable to humans; and whether at lower levels of exposure there would be no tumorigenic risk. These were reasonable questions from Norwich's viewpoint considering the available evidence at that time and the opinion of the Norwich scientists that this course of action would support the safe use of furazolidone. When the furazolidone studies were initiated, there was no reason to give any thought to the possible use of the data in an extrapolation model, such as the Mantel-Bryan model, to estimate S_0.

It is also evident that, although a high spontaneous tumor rate in Sprague-Dawley rats may have been anticipated, it was not expected that the high spontaneous tumor rate found in the Fischer rats would occur. The anticipated differences in the spontaneous tumor rate for the two rat strains, which were not borne out by the data, served as one of the basic reasons why both strains were chosen.

Protocols now recommended by FDA for chronic toxicity-carcinogenicity testing are different from the protocols used for the carcinogenicity testing of furazolidone. These current protocols include the recommendation that drug treatment be continuous throughout the experiment and that sacrifice times for the various groups be determined by criteria different from those used in the furazolidone studies. The agency does not disagree with Mr. Mantel's opinion that the design of the experiments and the resulting data are not ideal for use of the extrapolation model to estimate S_0 dose. However, this has no bearing on the fact that the data from the four chronic toxicity studies of furazolidone are the best that are available on the carcinogenic potency of the drug. Thus, FDA is obligated to make decisions based on the data at hand, using the best techniques available for this purpose, although both the data and the extrapolative techniques have limitations.

To address the second point, FDA cannot accept an arbitrarily determined lifespan for test animals and the assumption that tumors beyond a certain age are insignificant. For rats, it is true that the increase in tumors with age tends to plateau at about 24 months of age. However, total tumors in a rate population may continue to increase slowly. Unless a regression mechanism is operative in the late-in-life period, any tumors seen in rats at ages beyond 24 months would include those produced up to 24 months of age plus any tumors produced after this period.

In the furazolidone studies there were significant increases in the numbers of treated rats and mice with tumors (benign and malignant combined) when tumors were counted as a cumulative index at the time of sacrifice in comparison with controls, in spite of the high spontaneous rates seen in the control groups.

The significance of these data bear on the human safety determination. Cancer is generally a disease of the aged. As man's life expectancy increases due primarily to modern medicine and improved nutrition and environment, the probability that cancer will cause death also increases. The expression of cancer usually evolves after a period of latency. The dose level, frequency, and duration of exposure to a compound are related not only to whether cancer is induced but also to the latency period before the expression of cancer. Other important factors may operate to accelerate the expression of cancer.

It is therefore important, when using test animals to determine if a compound may pose a carcinogenic risk to man, to consider the effects during the various stages of life including the late-in-life periods.

It is important to consider that the strong carcinogens and proximate carcinogens are generally more easily identified through testing in carcinogenic bioassays than are the weak carcinogens and the procarcinogens (a compound that becomes altered through metabolism to form an active carcinogen), cocarcinogens, tumor promotors and tumor accelerators. It is likely that the number of weak carcinogens and nonproximate

carcinogens exceeds the number of strong carcinogens and proximate carcinogens and would represent the greater number of compounds for which FDA would require carcinogenic testing if their possible presence in food was under consideration. The duration of the study may affect whether a cancer-inducing effect is detected. Whether a compound is a proximate carcinogen or a procarcinogen of whether the compound is a cocarcinogen or acts to induce or accelerate the occurrence of tumors which occur in the aging process is immaterial. If the end result of exposure to the compound results in a shortening of life, the significance to man is great.

It is therefore important, in testing for carcinogenesis, to determine as many effects as possible throughout the lifespan. The furazolidone data indicate a significant drug-related effect on mortality. The data also show a significant drug effect on the onset time of tumor development, tumor multiplicity, and as stated previously, an effect on the cumulative number of tumors throughout life, in spite of the high spontaneous rate in controls.

Mr. Mantel states that his extrapolation model provides a best estimate of S_0 dose when the incidence of spontaneous tumors is low. This is one of his major reasons for using a "cutoff" period and using only malignant tumors. He states that his procedure is much more rigorous and conservative when the incidence of spontaneous tumors is high, and he further states it is more difficult to determine experimentally a drug-induced effect when these conditions prevail. For the reasons previously stated, FDA does not accept that these factors warrant adjustment of data to achieve artifically a low control incidence. In spite of the difficulties in detecting a drug-induced effect when the tumors are of the same type as those which occur naturally, such effects were seen for furazolidone, based on histopathology at sacrifice, and cannot be dismissed.

The fact that the extrapolation model provides a more conservative estimate of S_0 when the spontaneous tumor rate is high is not an inconsistency in the model per se. It is due to increased variability in estimating induced tumor rates over the high spontaneous rate in controls. When a nature of the compound's carcinogenic potential is such that measurement of that potential is more difficult in a bioassay with small sample size, it is not unreasonable that the model treat this situation in a conservative fashion.

SECOND MAJOR AREA OF OBJECTION

Norwich based the estimate of "safe" dose on the analysis of malignant tumors only. The firm explained that it did so because malignancy is the major sign of carcinogenesis; a nonmalignant tumor occurring late in life has little opportunity to transform to malignancy, except perhaps very late in life; and a reduced spontaneous rate is achieved when only malignancies are used.

Norwich has also stated that nonmalignant tumors in long duration studies have such a high rate of spontaneous appearances as to make unfeasible the establishment of "safe" levels by the Mantel-Bryan approach. Norwich states that in the rate experiments, unrealistically low "safe" levels are derived primarily because, with the high spontaneous tumor occurrence, the Mantel-Bryan procedure is unable to distinguish the difference between the induced rate and the spontaneous rate.

Although there is no disagreement that malignancy is the major sign of carcinogenesis, FDA objects to the Norwich approach because in evaluating tumor data, several situations may arise:

1. The compound induces malignant tumors;

2. The compound induces both malignant and benign tumors;

3. The compound induces only benign tumors:

(a) which experts might agree pose no risk of cancer and for which criteria other than a Mantel-Bryan extrapolation are more appropriate to estimate S_0, or

(b) which experts judge are equivocal for interpretations about cancer potential and should be treated as carcinogens until any uncertainties are resolved.

Special consideration is given to compounds that fall into situation 3(a) above. However, for those compounds in the remaining situations, a conservative approach must be taken in the estimation of S_0 to assure adequate protection of humans from exposure to carcinogens and suspect carcinogens. The gray zones of interpretation of tumor findings are recognized along with the limitations in the state-of-the-art for carcinogenic bioassay. Therefore, both malignant and benign tumors combined ordinarily should be used for the extrapolation of S_0. Certain tumors would be excluded only when there was a risk that these tumors, if included, might dilute the estimate of the total neoplastic activity.

When a compound is known to induce malignant tumors, the concurrent induction of benign tumors has a greater weight of importance in assessing neoplastic activity than might be given in the absence of evidence of malignant tumors. The fact that organ specificity has been demonstrated does not allow one to place any less significance upon the cumulative induction of tumors at all sites.

As presented in the 10 summary points at the conclusion of section I of this notice, there was evidence of the induction of malignancies in both species; of different target sites in rats and mice; and of site-specific and random-tumor induction in both species. When these findings are combined with the fact that there is an absence of information on human sensitivity to furazolidone, it must be assumed that all tumors (malignant and benign) have significance in assessing the neoplastic activity of furazolidone to assure adequate protection of public health.

Limitations in the state-of-the-art to evaluate cancer potential must also be weighed in judging the degree of conservatism which must be applied. Animal experimentation has its limitations as a means of estimating the neoplastic potential for humans. Major considerations include the limitations in the test animal group size, and susceptibility of the test animals compared to the unknown susceptibilities of a heterogeneous human population. Also, humans are exposed to an array of stress phenomena, including exposure to many agents which may be cocarcinogens.

There are also uncertainties and limitations in the examination of some tumors to determine if they have malignant potential. For example, in the early stages of a mammary tumor growth, the mass may be chiefly adenomatous. As growth continues, the supporting white fibrous connective tissue may also begin to proliferate, resulting in a fibroadenoma. Later, the adenomatous part of the neoplastic mass may entirely disappear, leaving a fibroma. Finally, a part of the adenoma or fibroadenoma may develop malignant tendencies and that portion may then become an adenocarcinoma. All four tumor types, i.e., adenoma, fibroadenoma, fibroma, and adenocarcinoma may be present in the same tumor mass. A small focus of adenocarcinoma in the early stage of a malignant tumor may be overlooked in the tumor growth unless adequate multiple sections of the tumor are made.

Also, unless great care is exercised in the evaluation of the spread of an adenocarcinoma of the mammary gland, the metastasis along the lymphatic route passing through, under or near other mammary glands may be considered to be separate primary adenocarcinomas rather than a single primary growth with multiple metastases.

It may be debated whether fibroadenomas of the mammary gland in humans progress to adenocarcinomas. It is difficult at best to interpret inferential information from human experience because adequate controlled studies in humans are generally not feasible. Regardless of what is known about mammary tumors in humans, it cannot be assumed that furazolidone-induced mammary tumors in rats are comparable. Furazolidone may cause different kinds of tumors (type and site) in man than in rats, and it may influence not only the induction of benign tumors in man but also the progression of benign tumors to malignancies.

Furazolidone is not limited to effects on the mammary glands. For the various other types of tumors, such as the lung tumors in the mice, it is precarious to assume, for example, that bronchial adenomas are not precancerous.

Demonstration that furazolidone induces malignant as well as benign tumors dictates the need to follow a conservative approach and to consider all tumors in the evaluation of the neoplastic potency for furazolidone and the estimate of S_0.

ANOTHER OBJECTION TO THE NORWICH APPROACH

Norwich combined the male and female rat tumor data and the data from all of the rat studies in the estimation of

S_0 in the rats. When the Norwich approach and assumptions described and rejected in the preceding discussion are used, there is no statistically significant difference between the sexes based on the incidence of rats with malignancies at the "cutoff" period. Mr. Mantel admits in the Norwich submission that the protocols of the three rat studies are not of compatible design for pooling the data; however, he then makes the adjustments described above in order to be able to pool the data.

The combining of the male and female rat data is not acceptable to FDA because the tumor types are sex-related. In each of the experiments the predominant effect seen in the female groups was a mammary tumor effect, although other tumor types also were observed. However, in each of the male groups, no significant mammary tumor effect was observed, and significant effects were observed for other tumor types.

Also, FDA does not accept the pooling of the data in the three rat studies because of the differences in the protocols used and because FDA does not accept the adjustment of the data as proposed by Norwich to provide more comparability among the studies. However, FDA does accept the combination of male and female mice data because there are no significant differences in the tumor responses of the sexes.

According to the Norwich approach, the mouse data (male and female combined) provided the most conservative estimation of S_0, i.e., 21 ppb. The Director concludes that this estimated "safe" dose of 21 ppb for furazolidone is not acceptable because of the way in which Norwich selected and used the data. The Director observes that if the data provided by Norwich are correctly used in the extrapolation procedure proposed by Norwich, the S_0 estimate for furazolidone would be 0.5 ppb based on the female rats in the low-dose Sprague-Dawley study and the female rats in the Fischer study, each separately considered.

However, the Director concludes from the preceding step that adequate information has not been presented to show that the estimate of S_0 for furazolidone can be used as an adequately conservative estimate of S_0 for total residue.

Even if it is assumed that the S_0 of 0.5 ppb is adequate, the sponsors of furazolidone have failed to provide adequate methods of analysis to assure no residues. For example, the daily human consumption of muscle tissue might be one-third of the total daily diet excluding fluids based on that segment of the population which consumes meat as a high proportion of the diet.

Therefore, to assure adequate protection of the public health, it would be necessary for the sponsors at least to show that total residues in muscle tissue did not exceed 1.5 ppb in order to assure that the human exposure in the total daily diet does not exceed 0.5 ppb. As demonstrated in step (1), Norwich has not provided this showing. In addition, the succeeding steps show that the available methods of analysis are not adequate. Nor can conditions of safe use be established.

(4) *Sufficient Information Has Not Been Developed about the Residues to Determine the Tissue from which Residues Deplete the Slowest and Must be Monitored by the Regulatory Assay (Called the Target Tissue) and the Compound that is to be Measured in the Regulatory Assay so that its Measurement Can Assure There Will Be No Residues of Potential Carcinogenic Concern. (This Compound is Called the Marker.)* In the Norwich submission of November 11, 1975, reference is made to the Perez-Weber paper, cited above, and another paper by FDA scientists A. C. Kolbye and M. K. Perez entitled "Human Safety Considerations from the Use of Anabolic Agents in Food-Producing Animals" (Coulston/Korte Environmental Quality and Safety, Supplement V. in press—George Thieme Verlag Stuttgart). Copies of these papers have been placed on file with the Hearing Clerk, Food and Drug Administration. These papers describe the basic approach accepted by the agency for use of the extrapolative model in estimating S_0 and then proceeding from S_0 to the estimated "safe" concentration in edible products and finally proceeding to the derivation of the minimum required assay sensitivity.

However, the Norwich submission ignores these basic steps and the information required to derive the minimum required assay sensitivity.

(i) Determination of the Target Tissue: The most practical approach to monitoring and controlling residues in the field is dependent on the selection of that edible tissue from which residues deplete to a "safe concentration" the slowest. Therefore, by monitoring this tissue to assure that residues are below a "safe concentration," it can be assured that all residues in the carcass are below "safe concentrations." In lieu of this determination, all edible tissues must be monitored—placing an additional burden on public funds for monitoring.

The target tissue is readily identified if the requirements of step (1) are met. However, Norwich has failed to meet these requirements and therefore a target tissue cannot be selected.

(ii) Determination of the Compound (Marker) which can be Measured by the Analytical Method to Assure Control of Total Residues: Because the radiolabeled drug approach to the measurement of total residues is not applicable to field use, an alternative approach must be developed to assure control of total residues. This is achieved by selecting an appropriate residue compound, which may be the parent drug or one or more metabolites, in such a way that its measurement serves as a valid indicator that when there is no residue of the marker in the target tissue, there are "no residues" of carcinogenic concern. This step is essential to determine if the method of analysis for regulatory use is adequate. To determine a valid marker, adequate information, such as is derived from conducting an adequate metabolism study, is required which relates the proportionate amount of each of the residues to the total residue and their change in quantitative relationships with time. The marker must be a known proportion of the total residue when the total residue depletes to the "safe concentration" in the target tissue. It also must be structurally identified so that an adequate and specific method of analysis can be developed for its determination.

The regulatory method proposed by Norwich to control residues uses the parent drug, furazolidone, as a marker. Norwich has failed to submit substantiating evidence that the measurement of furazolidone is adequate to control total residues of potential carcinogenic concern.

Norwich has failed to provide data on the amount of total residues and to determine the quantitative relationship of the parent drug to the total residue to see if it can serve as a valid marker as described in the Perez-Weber paper cited previously and referred to by Norwich. If it were assumed that the parent drug could serve as a valid marker, its amount in tissue when total residues reach the "safe concentration" in tissue would have to be known as an essential figure from which to compute the minimum required assay sensitivity. Norwich has failed to provide any of this information.

Even if FDA were to assume that 1.5 ppb is the "safe concentration" in the edible tissue; and it were to assume that furazolidone is 90% of the residue (which is very unlikely); and if FDA were to further assume that a method of analysis were available that would reliably recover 75% of the residue from tissue, which is not the case as shown in step (5), then, even with all of these assumptions, the method of analysis would have to have as a minimum a lower limit of reliable measurement of about 1 ppb to assure control of total residues of potential carcinogenic concern. As also shown in step (5), the available methods of analysis do not even meet this sensitivity, based on very liberal assumptions.

The Director concludes that the essential information required to determine if the measurement of furazolidone can be used to control total residue, within the meaning of the act, has not been provided. Although sufficient information has been provided for the Director to conclude that the current methods of analysis are not adequate, the Director cannot prescribe those conditions that would be adequate because of the lack of essential information.

(5) *A Practicable Method of Analysis Has Not Been Developed for Residues That Can Measure the Marker in the Target Tissue at a Level Which at Least Assures That the Total Residues of Potential Carcinogenic Concern in the Total Daily Diet of Humans Does Not Exceed the Level Established in Step (3).* Section 514.1(b)(7) (21 CFR 514.1(b)(7)) requires the sponsor of a new animal drug application to provide a practicable method of analysis to be used for the control of residues of his product. When the drug in question is a carcinogen, it is also required by this section

that the method be presented in a form suitable for publication in the FEDERAL REGISTER. A "practicable" method is defined by FDA as one which reliably measures the compound throughout all residue levels of interest, and also is sufficiently rapid and reasonable in terms of the expertise and equipment required to be applicable for use in the surveillance and control of residues. "Reliability" is a combination of accuracy, precision and specificity. Accuracy and precision are quantitative terms. "Accuracy" is the measure of deviation from the true value, and "precision" refers to the variability of measurements in replications either by one analyst or within a laboratory or between laboratories. A method may provide reliable measurement if the measurements are not too variable even though it measures less than or more than 100% of the true value. Therefore, accuracy and precision must be considered together.

"Specificity" is a qualitative term. The measurements obtained by the method must reflect only the compound of interest. Because the method will be used on samples from animals for which exposure history is unknown, the techniques used in the method must be adequate to assure not only the integrity of the measurements, but also the identity of the residue to the exclusion of other possible interfering substances. Therefore, when the quantitative measurements are made by techniques which are not inherently specific, e.g., chromatographic techniques, a special confirmatory test is required as part of the official method to assure the identity of the residue.

MEASUREMENT OF THE COMPOUND

Prior to receiving reports that the nitrofurans induced tumors in female rats, FDA had accepted methods for residue analysis supplied by the drug sponsors with a lower limit of detection of furazolidone of 0.1 part per million (ppm) in swine tissue and 1.0 ppm in poultry tissue. These methods were accepted on the basis of validation data presented by the sponsors and were not subject to trial in government laboratories.

After FDA received reports that nitrofurans had induced tumors in female rats, the drug sponsors were advised in 1969 and officially informed in a conference held January 4, 1971, that the residue methods were no longer deemed adequate and that tissue residue methods for furazolidone were needed to measure residues at least as low as 2 ppb. In response to the notices of opportunity for hearing published in the FEDERAL REGISTER in 1971, Norwich and other sponsors submitted newly developed tissue residue methods for furazolidone to FDA for evaluation. The first submission was tested and found deficient. Portions of the method were not written in a clear, unambiguous manner nor in sufficient detail. Therefore, it was not clear initially whether the FDA analyst's inability to use the method satisfactorily was due to inherent deficiencies in the method or inadequate description of the method. Subsequently, both types of deficiencies were found.

Food and Drug Administration chemists continued to work with Norwich to overcome the analytical difficulties until March 1972, at which time Norwich indicated that it could submit revised methods and supporting data for furazolidone. Norwich had concentrated on the tissue method for furazolidone in the belief that if the method could be worked out for that nitrofuran, adoption of the method for residues of other nitrofurans would not present any formidable problem. The revised methods were submitted April 4, 1972. Minor changes were mutually agreed upon based on an FDA review.

On May 16, 1972, steps were undertaken to proceed with laboratory validation of the methods for furazolidone tissue residues. Three government laboratories participated in the method validation. The trial involved studies of the recovery of furazolidone from homogenized samples of muscle and liver tissues from turkeys and swine to which furazolidone had been added by the analyst to achieve a drug concentration of 2 ppb (spiked tissue); and the analysis of muscle and liver tissues from swine and turkeys that had been medicated with furazolidone to produce naturally incurred residues (dosed tissues). Norwich was requested to supply dosed tissues containing residues at or near 2 ppb. According to Norwich, the dosed tissues that it supplied for the validation trial gave readings of 0.8 ppb in swine and turkey muscle tissue and 0.4 ppb in liver of both turkeys and swine based on the results uncorrected for recovery by the method of analysis undergoing trial.

The stipulated conditions of the method to be validated were that an analytical response that was at least 25% of that produced by comparison with a 2 ppb analytical standard of furazolidone would be accepted as representing a residue of furazolidone of 2 ppb or greater. This was to compensate for the inability of the method to provide for near total recovery of the residue. At that time, FDA was giving consideration to the acceptance of methods for carcinogenic drugs which were not quantitative if the reproducibility of the method was adequate and compensation could be made for the low recovery. (Twenty-five percent recovery would not be acceptable under current standards for regulatory methods of analysis.) Based on the results of the trial, FDA rejected the residue method for furazolidone.

a. Spiked tissue: The variability of recoveries from spiked tissues was too great to assure with reasonable confidence that the procedure would provide a practicable method for regulatory enforcement. The recoveries in the laboratories over all tissues ranged from 5% to 75% and did not therefore provide assurance that at least 25% recovery was consistently obtained in all tissues.

A statistical analysis was performed on the data from the spiked tissue samples to determine what percent of samples in a total population containing 2 ppb of residue may not be detected by the assay. "Detected" was defined as giving a reading of 25% or more of the reading obtained from a 2 ppb analytical standard of furazolidone as described above. In one of the government laboratories (U.S. Department of Agriculture), the percent of projected failures was computed to be (a) 43% based on dichotomous treatment of the sample data at the 95% confidence level; (b) 28% with an assumed normal distribution for the sample data and using the mean and standard deviation estimated from the sample data, or (c) 46% with an assumed normal distribution of the sample data and using a lower 95% confidence limit on the sample mean and upper 95% confidence limit on the sample standard deviation.

b. Dosed tissue: None of the three validating laboratories could verify the sponsor's findings on the dosed tissues from medicated swine or turkeys. For example, 17 analyses were conducted on turkey and swine muscle tissue stated by the sponsor to contain 2 ppb furazolidone (actual analytical reading of 0.8 ppb). Of these 17 analyses, only 2 positive findings (not corrected for recovery), i.e., 0.6 ppb and 5.1 ppb, were reported. Positive findings on these two samples could not be obtained in subsequent analyses. One laboratory obtained zero readings in three out of nine runs of the dosed muscle tissue sample where the 5.1 ppb result was found by another laboratory.

Norwich was informed by FDA in conferences of the results of the validation trial, and FDA rejected the tissue residue method for furazolidone. Norwich was informed that not only was its method deficient in terms of accuracy and precision, but that a confirmatory method was required to provide adequate identification of the residue measured by the thin layer chromatographic method. This confirmatory method requirement was considered necessary based on general experience of FDA with the occurrence of false positive results when detection and measurement techniques are used which are not inherently specific, e.g., the chromatographic techniques. The probability of occurrence of false positive results due to unpredictable interferences increases, particularly when residue measurement is necessary at extremely low levels. Furthermore, difficulties encountered in testing the assay method and replication of results indicated a need to assure specificity of the residue method.

While the validation of the 1972 method was in progress, Norwich was exploring the use of new instrumentation (programmed multiple development thin layer chromatography (PMD–TLC)) and the mechanization of spotting thin layer chromatography plates. It was believed that these new techniques, both the new instrumentation and the mechanization of spotting thin layer chromatography plates, would result in improved recovery data. Based on the new developments, Norwich requested an extension of time to complete development of the PMD–TLC method. New data using this method on chicken, turkey, swine and calves tis-

sues were submitted by sponsors in September 1974, and reviewed by FDA.

The recovery data reported by Norwich for the 2 ppb level of measurement using the PMD–TLC method were variable and not substantially improved from that previously submitted, in 1972, which had been found unacceptable in the validation trial. Therefore, the 1974 data on furazolidone were rejected as insufficient to support a new method validation trial. The data Norwich had submitted in 1972 to support conducting the validation trial only included data on swine and chicken tissues. These data showed that recoveries in swine tissues ranged from 24% to 60% and in chicken tissues from 34% to 58%. The data submitted in 1974 using the PMD–TLC method included recovery data for swine, calves, chickens and turkeys. Although these data indicate a generally higher recovery than the 1972 data, there was no meaningful improvement because of the greater variability. Norwich did not submit sample calculations. However, the FDA interpretation of the firm's data indicates, for example, the following range of recoveries for the analysis of chicken liver spiked at 2 ppb with furazolidone on 4 different days: 118%–121%, 71%–99%, 70%–146% and 48%–71%. The lowest recovery reported was with swine fat tissue where the analyses were only done on 1 day and according to the FDA interpretation of the data, ranged from 28%–90% recovery.

Norwich claims that recoveries in non-fatty tissues ranged from 36.2% to 91.5% with a mean of 62% and a relative standard deviation of 18.8%. It claimed the fatty tissues ranged from 32%–76.2% with a mean of 53.2% and a relative standard deviation of 24%. However, the basis for these conclusions is not evident from the individual data submitted. In fact, the individual data appear to contradict the conclusion because in many cases the upper range of recovery exceeded 100%, according to FDA interpretation of the data submitted. Regardless of whose interpretation is correct, the degree of accuracy and precision is not acceptable in either case.

Moreover, Norwich rejected results for about 10% of the non-fatty samples analyzed and 12% of the fatty samples analyzed because of inconsistent results which it claims were attributable to mechanical loss, contamination, high control tissue values, incorrect sample fortification, TLC spots not corresponding to the appropriate R_f values or the presence of an interfering fluorescent band. Although it may be reasonable to exclude certain outlying data from the data reduction analysis, FDA considers the rate of exclusion excessive and, in some cases, invalid and prejudicial. For example, difficulties with high control samples and interferences are indicative of potential inherent flaws in the method.

The Director concludes that practicable methods of analysis for tissue residues of furazolidone are not available. The methods provided for the determination of furazolidone are not reliable in that they are not quantitatively reliable at the levels of interest, i.e., they are not sufficiently accurate or precise, and they are not adequately specific to assure qualitative reliability. Therefore, on this basis alone, they would not be practicable for monitoring and enforcement.

Furthermore, the Director concludes that adequate information has not been provided to assure that measurement of furazolidone, as a marker, is adequate to control all potentially carcinogenic residues that may result from the use of the drug and that the methods are not adequately sensitive.

(6) *Practical Conditions of Use Cannot be Prescribed on the Label of the Product to Assure "No Residue".* Norwich has provided data which demonstrate that furazolidone is present in the edible tissues of treated animals and that a withdrawal period is required as a condition of use to assure "no residue".

A withdrawal period is the time following drug treatment when a treated animal cannot be slaughtered for food. A withdrawal period must be sufficiently long to assure adequate depletion of the residues, but it cannot be so long that it is impractical and would not likely be followed in practice. Section 512(d)(1)(H) of the act requires that for a carcinogenic drug, no residues are permitted in edible products "under the conditions of use * * * reasonably certain to be followed in practice".

It is required by FDA that residue depletion studies be conducted under simulated field use conditions to develop data for establishing the withdrawal period. An adequate analytical method for residues, preferably the same method that will be approved for regulatory use, must be used to measure the residues.

Two types of studies were used by the drug sponsors to provide information on parent drug residues of furazolidone and their depletion with time. These studies were submitted to FDA to support the adequacy of the withdrawal period.

One type of study used furazolidone which was radiolabeled with carbon-14 in the ring. A reverse isotope dilution technique was used to measure that portion of the total radioactive residue which was the parent drug. In these studies, data were not presented on the total amount of radioactive residue.

In the other type of study a chemical assay was used to measure the parent drug residue. In most of these studies, the chemical method used to measure furazolidone was very similar to the method that had been subjected to validation trials in 1972 and shown to be unreliable. All of the studies were conducted prior to initiation of the method validation studies.

Radiolabeled studies of furazolidone were conducted only with chickens and were not conducted for turkeys or swine. None of the studies measured total drug residues which the Director has concluded are necessary. A discussion of each of the studies follows.

CHICKEN STUDIES

Three studies were submitted on residue depletion of the parent drug furazolidone from medicated chickens.

1. "Furazolidone (NF–180) Residues in Chickens and Eggs," March 18 and July 7, 1969. Final Report, Problem No. 461.03–A,B, NADA 9–393, Vol. 4, submitted by cover letter to FDA January 8, 1971.

Layer rations were mixed with ^{14}C ring-labeled furazolidone at levels of 25,100 and 200 grams per ton and fed to three groups of hens for 14 days. The maximum use approved for the drug is 200 grams per ton for 21 days. Birds were sacrificed on the 14th day of medication (zero day withdrawal) and at 3 and 5 days following withdrawal from medication. Samples of liver, kidney, muscle and skin with fat from six birds sacrificed at 0 and 3 days withdrawal time were analyzed.

The sponsor claimed its radiotracer method was capable of measuring furazolidone as low as 2 ppb via a reverse isotope dilution technique. Using this method, the sponsor says that the concentration of furazolidone was 13 ppb in skin with fat samples at zero withdrawal from birds fed 200 grams per ton. Furazolidone was not detectable in all other tissues at zero withdrawal or detectable in any tissues after 3 days withdrawal.

2. "Direct Extraction Procedure For Furazolidone (NF–180) in Chicken, Swine and Turkey Tissues at 2 ppb," September 2, 1971, Project 475.17, Interim Report No. 5, NADA 9–393, Vol. 5.

The report contains the residue results obtained by chemical analysis for furzolidone in edible tissues of chickens, turkeys and swine. Results from the turkey and swine studies are discussed separately under the appropriate subheadings.

In the residue depletion study for chickens, furazolidone was fed at 200 grams per ton for 14 days. The report presents the tissue residue values of furazolidone in liver, muscle, kidney, and skin with fat from birds sacrificed at withdrawal times of 1, 4, and 5 days. At zero withdrawal, furazolidone was reported in skin with fat samples as 4.7 ppb and 7.1 ppb. Furazolidone was reported in one muscle sample as 2 ppb at zero withdrawal; however, the sponsor admitted uncertainty about this finding. Skin with fat samples at 4 days withdrawal are reported as 2 ppb in one sample and a questionable result in another sample. The report indicated that all other samples at the various withdrawal times did not contain detectable levels of furazolidone. The drug sponsor claimed the chemical assay was sensitive to 2 ppb.

3. "Furazolidone Depletion Studies in Chickens," Memorandum from Dr. J. P. Heotis to Mr. G. Gever, May 3, 1971, NADA 9–393, Vol. 5. From cover letter of May 4, 1971 to Lakata (FDA).

The memorandum includes the results of a tissue residue study in chickens administered 200 grams per ton of furazolidone in their diets for an unspecified time period. A chemical assay for furazolidone was used to measure the residues, and the sponsor claimed the method was sensitive to 2 ppb. Furazolidone was reported in muscle as 6.5 ppb and in liver as 2 ppb at zero withdrawal.

No data were given for skin with fat at zero withdrawal. Liver, kidney, muscle and skin with fat samples did not contain detectable furazolidone on days 3, 4, and 5 post-withdrawal.

Data are not included in this notice on residues in eggs because the firm admits that the use of furazolidone in laying hens results in significant residues in eggs. For this reason the firm has voluntarily deleted from the labeling all uses in laying hens and in replacement chickens over 14 weeks of age.

The Director concludes on the basis of the data available on tissue residues of furazolidone in chickens that:

(a) The studies are not adequate to determine total drug-related residues that may occur, because the assays used detected only the parent drug.

(b) The chemical method used for furazolidone is not reliable at the lower concentrations in tissue.

(c) Furazolidone was present in edible tissues following medication when no withdrawal period was observed.

(d) A withdrawal period after which no residues are found in edible tissues cannot be established from the information available.

TURKEY STUDIES

Three studies were submitted on residue depletion of parent drug furazolidone from medicated turkeys.

1. "Direct Extraction Procedure for Furazolidone (NF–180) in Chickens, Swine and Turkey Tissues at 2 ppb," September 2, 1971, Project 475.17, Interim Report No. 5, NADA 9–393, Vol. 5.

The report presents the tissue residue values for turkeys fed the maximum approved dose of furazolidone, i.e., 200 grams per ton for 21 days. Samples of liver, kidney, muscle, and skin with fat from two birds sacrificed at each of the withdrawal times of 0, 4 and 5 days were analyzed by a chemical method for furazolidone which the sponsor claimed was sensitive to 2 ppb. At zero withdrawal, residues in muscle are reported as 6.4 ppb and 7.7 ppb, and in skin with fat as 6.5 ppb and 8.3 ppb. Residues in skin with fat were the most persistent. At 5 days withdrawal, residues in skin with fat were reported as 2 ppb in one sample and a questionable result in another sample.

2. "Furazolidone Depletion Studies in the Turkey," November 9, 1971, Project 475.17, Interim Report No. 6, NADA 9–393, Vol. 5.

These studies provide data on tissue residues in turkeys using a chemical method for furazolidone which the sponsor claimed was sensitive to 2 ppb. In the first study birds were fed furazolidone at 100 grams per ton in their feed for 28 days. Liver, kidney, and muscle samples from birds sacrificed at 5 and 6 days withdrawal were analyzed and no furazolidone was detectable in any of the samples. Skin with fat samples from birds sacrificed at 5, 6, 7, 8 and 9 days after withdrawal were analyzed. At 5 days withdrawal, five samples were reported to contain 3 ppb of furazolidone and one sample contained 2 ppb. At 9 days withdrawal, one sample contained 2 ppb, two samples were questionable, and three samples were reported as not containing any detectable levels of furazolidone.

In a second study, birds were fed furazolidone at 200 grams per ton in their feed for 21 days. Liver, kidney and muscle tissues did not have detectable levels of furazolidone at 5 and 6 days withdrawal. All six samples of skin with fat examined at 5 days withdrawal contained concentrations of furazolidone reported at 2 ppb. At 9 days withdrawal, the longest period examined, one skin with fat sample was reported to contain furazolidone at 2 ppb and 11 samples were questionable.

3. "Furazolidone Depletion Studies in Turkey Skin with Fat," February 10, 1972, Project 475.17, Interim Report No. 7, NADA 9–393, Vol. 16.

The two studies in this report contain data on the depletion of furazolidone from skin with fat tissue only of turkeys fed furazolidone at 200 grams per ton of feed for 21 days, and at 100 grams per ton of feed for 28 days. A chemical method of analysis for furazolidone which the sponsor claimed was sensitive to 2 ppb was used. At the maximum approved feeding level of 200 grams per ton, furazolidone in skin with fat samples was reported to deplete from 7 to 8 ppb at zero withdrawal to 2 ppb at 9 days withdrawal. Furazolidone continued to be found at 2 ppb through 13 days after withdrawal of the birds from medication. When furazolidone was fed at 100 grams per ton of feed for 28 days, measurements of furazolidone in skin with fat samples were made from day 9 through day 15 following cessation of drug treatment. Furazolidone was reported at 2 ppb on day 9 and was not detected from day 12 through 15.

The Director concludes on the basis of these data on tissue residues of furazolidone in turkeys that:

(a) The studies are not adequate to determine the total drug-related residues that may occur, because the chemical assay used detected only residues of the parent drug.

(b) The chemical method used for furazolidone is not reliable at the lower concentrations in tissue, and therefore the residue data on the depletion of furazolidone are not acceptable.

(c) Furazolidone was found in edible tissues following medication and continued to persist in skin and fat even after withdrawal from medication for 5 days.

(d) A withdrawal period after which no residues are found in edible tissues cannot be established from the information available.

SWINE STUDIES

Three studies were submitted on residue depletion of parent drug furazolidone from medicated swine.

1. "Summary of Pertinent Data, Furazolidone, Residue Data," January 8, 1971, Tab C, NADA 9–393, Vol. 4.

Residue studies using a chemical method of analysis for furazolidone which the sponsor claimed was sensitive to 0.1 ppm are reported. In one study, swine were fed 300 grams per ton of furazolidone in their diets for 7 months. (The maximum approved use of furazolidone is 300 grams per ton for 14 days.) All tissues, i.e., muscle, liver, kidney, and fat, were reported as containing no detectable levels of furazolidone at zero withdrawal. In another study swine were fed the drug in feed at 200 grams per ton for 6 months along with antibiotics. Again, no detectable levels of furazolidone were found at zero days withdrawal.

2. "Tissue Residue Studies for Furazolidone in Swine," Memorandum from Dr. J. L. Mertz to Dr. J. P. Heotis, October 4, 1971, NADA 9–393, Vol. 5. From cover letter of October 5, 1971.

The memorandum describes studies in which swine were fed furazolidone at a level of 300 grams per ton in feed for 21 days. Samples of kidney, liver, muscle, and fat from animals sacrificed at 0, 4, 5 and 6 days after withdrawal from medication were examined. A chemical method of analysis for furazolidone was used which the sponsor claimed was sensitive to 2 ppb. The only kidney sample examined at zero withdrawal was reported to contain furazolidone at 2 ppb. Two fat samples contained 2 ppb and one fat sample contained 5 ppb at zero withdrawal time. All other tisseus at zero withdrawal did not contain detectable levels of furazolidone. At all other withdrawal times, all tissues with the exception of fat did not contain detectable levels of furazolidone. One fat sample at 4 days withdrawal was reported to contain furazolidone at 2 ppb. Furazolidone was not found in any fat samples taken from animals at 5 and 6 days withdrawal from medication.

3. "Direct Extraction Procedure for Furazolidone (NF–180) in Chicken, Swine and Turkey Tissue at 2 ppb," September 2, 1971, Project 475.17, Interim Report No. 5, NADA 9–393, Vol. 5.

In this study, swine were fed furazolidone at a level of 150 grams per ton in feed for 35 days. Using a chemical method of analysis for furazolidone which the sponsor claimed was sensitive to 2 ppb, only fat was reported to contain furazolidone at zero withdrawal. All tissues, i.e., liver, muscle, kidney and fat, did not contain detectable levels of furazolidone at 4 as well as 5 days withdrawal.

The Director concludes on the basis of the data available on tissue residues of furazolidone in swine that:

(a) The studies are not adequate to determine the total drug-related residues that may occur, because the chemical assay used detected only residues of the parent drug.

(b) The chemical method used for furazolidone is not reliable at the lower concentrations in tissue.

(c) Furazolidone was found in edible tissues following medication when no withdrawal period was observed.

(d) A withdrawal period when no furazolidone is found in the tissues cannot be established from the information available.

The Director concludes that information has been provided showing that with-

drawal periods are required for the safe use of furazolidone. He concludes that essential information has not been provided to establish withdrawal periods which are adequate to assure no residues and are practical within the meaning of the act. He further concludes from the available data that the currently labeled withdrawal periods for turkeys are not adequate in that residues of furazolidone have been found in skin with adhering fat for days after the currently labeled withdrawal period. He also concludes on the basis of available data that it is unlikely that the currently labeled withdrawal period for swine and chickens would be shown adequate if proper studies were available which took into account total drug residues.

Therefore, the Director of the Bureau of Veterinary Medicine is hereby withdrawing the notice of opportunity for hearing issued August 4, 1971, proposing to withdraw approval of NADA's for the use of furazolidone in food-producing animals. Under section 512(e)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b,(e)(1)), the Director proposes to withdraw approval of certain existing NADA's providing for the use of furazolidone in food-producing animals on the grounds that such use violates section 512(d)(1)(H) of the act.

This notice applies to all outstanding NADA's for the use of furazolidone in food-producing animals. All such applications now known to FDA are listed below by NADA number and by each applicant's name and last known address in FDA records. Copies of this notice are being forwarded by registered or certified mail to each of the known applicants. Notice to other applicants or holders of such NADA's whose identity is not known to FDA is given by this publication.

9-073, 11-405, 11-698, 12-061, Hess and Clark, Division of Rhodia, Inc., 7th and Orange Street, Ashland, OH 44805.
9-393, 13-805, Norwich Pharmacal Co., Division of Morton-Norwich Products, Inc., 13-27 Eaton Avenue, Norwich, NY 13815.
11-016, 11-810, 32-319, Eaton Laboratories, Division of Morton-Norwich Products, Inc., P.O. Box 191, Norwich, NY 13815.

Any holder of an approved application that elects to avail itself of the opportunity for hearing pursuant to section 512(e)(1) of the act and § 514.200 of Title 21 of the Code of Federal Regulations must file with the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville MD 20852, a written appearance requesting such hearing by June 14, 1976, giving the reasons why approval of the application should not be withdrawn, and providing a well-organized and full-factual analysis of the scientific and other investigational data such holder is prepared to prove in support of its opposition to the Director's proposal. A request for hearing may not rest upon mere allegations or denials but must set forth specific facts showing that there is one or more genuine and substantial issues of fact requiring a hearing. Responses to this notice may be seen in the office of the Hearing Clerk during regular business hours, Monday through Friday.

If a hearing is requested and is justified by any holder's response to this notice of opportunity for hearing, the issues will be defined, an Administrative Law Judge will be assigned, and a written notice of the time and place at which the hearing will commence will be issued as soon as practicable.

Any hearing on the withdrawal of approval of the foregoing NADA's will be open to the public. If, however, the Director finds that portions of the applications that serve as a basis for such a hearing contain information concerning a method or process that is entitled to protection as a trade secret, the part of the hearing involving such portions will not be public, unless the respondent so specifies.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (section 512, 82 Stat. 343-361 (21 U.S.C. 360b)) and under authority delegated to the Commissioner (21 CFR 2.120) and subdelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 2.121(m), published in the FEDERAL REGISTER of January 19, 1976 (41 FR 2636)).

A discussion of the economic and environmental impact of this action is set forth in the advanced notice of proposed rule-making on furazolidone published elsewhere in this issue of the FEDERAL REGISTER.

It is hereby certified that the economic and inflation effects of this proposal have been carefully evaluated in accordance with Executive Order 11821.

Dated: May 10, 1976.

C. D. VAN HOUWELING,
Director,
Bureau of Veterinary Medicine.

[FR Doc.76-13969 Filed 5-10-76;2:04 pm]

federal register

THURSDAY, MAY 13, 1976



PART VI:

POSTAL SERVICE

■

PRIVACY ACT OF 1974

Notice of Systems of Records

POSTAL SERVICE
PRIVACY OF INFORMATION
Systems of Records

The purpose of this document is to publish, as required by 5 U.S.C. Sec. 552a(e)(4), notice of the proposed establishment of a new system of records, as defined in the Privacy Act of 1974, Pub. L. No. 930579, and to present an initial statement of the existence and character of that system. This document also gives final notice of the modification of an erroneous description of a system of records given in an earlier notice, and makes editorial corrections and revisions to the final notice of a previously identified system.

Initial Notice of Proposed System of Records

The Postal Service proposes to establish a new system of records, to be designated as follows:

USPS 130.040, Philately—Philatelic Product Sales and Distribution

Public interest in philately has increased to the extent that the sale of philatelic products is becoming a noticeable source of Postal Service revenue. As explained more completely in the statement of existence and character of system USPS 130.040 contained in this document, the new system is intended to manage information and provide support for a new direct marketing program for a variety of philatelic products offered for sale to the public. Information contained in the system will be limited to an individual's name and address, account balance (if one exists), and specific philatelic interests.

Advance notice of the intention of the Postal Service to establish this new system of records has been given to Congress and to the Office of Management and Budget, as required by 5 U.S.C. Sec. 552a(o). In examining the impact of the proposed system, as required by this provision, we have concluded that it will have minimal potential impact on the privacy and other personal or property rights of individuals, since an individual's personal privacy potentially could be affected only to the extent of an illegal or inadvertent disclosure of his name and address, account balance, and interest in philately. Moreover, since the proposed system has no bearing on Federal-State or intragovernmental relationships, it should have no impact on the constitutional principles of federalism and separation of powers.

Final Modified Notice of System of Records

On March 26, 1976, the Postal Service published for comment in the Federal Register (41 FR 12840) a modified notice of a system of records which had been incorrectly described in earlier Postal Service notices. No public comment was received regarding this modified notice. Accordingly, after a review of the proposed text, the Postal Service has determined to make final, effective immediately, its previously published modified notice of the existence and character of the following system:

USPS 170.010, Statistical (Cost) Systems—Automatic Data Processing Workload Reporting System Records.

This document constitutes final notice of the existence and character of this system.

The Postal Service has also determined it is necessary to make certain editorial corrections and revisions to a previously identified system of records. The editorial corrections and revisions, none of which changes the general character or purpose of the affected system, are as follows:

USPS 080.010

Categories of records in the system: CHANGE TO READ, "Reports of investigations conducted in criminal, civil and personnel suitability background matters, and information in various forms received from individuals, other law enforcement agencies and from the public, including information compiled for the purpose of identifying criminal offenders and reports identifiable to individuals. Personal information in this system may include fingerprints, handwriting samples, reports of confidential informants, physical identifying data, voiceprints, polygraph tests, photographs, and individual personnel and payroll information."

Record source categories: CHANGE TO READ, "Personal interviews, written inquiries, and other records concerning persons involved with an investigation, whether subjects, applicants, witnesses, references, or custodians of record information."

This document constitutes final notice of these editorial corrections and revisions.

Public Comment Solicited

Public comment is solicited regarding proposed system USPS 130.040 and its uses. Any person may submit written comments on or before June 14, 1976, to the Records Officer, U.S. Postal Service, Washington, D.C. 20260. Final notice regarding the proposed system will be given after the time for public comment has elapsed.

The statement of existence and character of proposed system USPS 130.040 follows.

ROGER P. CRAIG,
Deputy General Counsel.

Certified to be a true copy of the original.

PAUL J. KEMP,
Alternate Liaison Officer of the U.S. Postal Service.

USPS 130.040

System name: Philately—Philatelic Product Sales and Distribution, 130.040

System location: Customer Services Department, Headquarters

Categories of individuals covered by the system: Customers who have initiated correspondence expressing an interest in philately by: (1) responding to various philatelic product sales promotion programs by submitting order forms, business reply cards, or cut outs from posters and promotional literature; (2) providing Postal clerks with name and address information to receive future philatelic product announcements; (3) opening subscription accounts for souvenir pages with first day cancellations; or (4) requesting products unsolicited in non-structured correspondence, such as letters.

Categories of records in the system: Subscribers or customer name and account number, address, funds on deposit, product type code, and products purchased history.

Authority for maintenance of the system: 39U.S.C. 401, 404

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose: (1) To operate a subscription service for customers who remit money for a particular philatelic product or products; (2) To maintain a file to send philatelic product announcements and sales literature to customers or subscribers; (3) To serve as a source for statistical data for research and market analyses, billing and inventory data, and mailing basis for product shipment.

Use—

1. Disclosure may be made where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether federal, state, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in original typed or handwritten form, or microfilm, and on magnetic tape or disk and computer printouts.

Retrievability: Records are indexed by customer and name and by account number, if assigned.

Safeguards: Paper and microfilmed records are maintained in closed filing cabinets under general scrutiny of personnel of Philatelic Sales Division and the Building Security Guard Force, and when maintained on magnetic tape and disk, the information is protected by ADP physical, software and administrative security of the Headquarters Data Center or by contractors providing similar protection which is subject to audit and inspection of the USPS Inspection Service.

Retention and disposal: (1) Information received is destroyed after it is converted to ADP or microfilm media. (2) Converted records are maintained for two years after the individual has failed to make a purchase or has indicated no other interest. These records are then destroyed after two years by burning, shredding, or obliterating readability.

System manager(s) and address: APMG, Customer Services Department, Headquarters

Notification procedure: Individuals wishing to know whether information about them is maintained in this system of records should address inquiries to the System Manager above. Inquiries should contain full name and address.

Record access procedures: See NOTIFICATION above.

Contesting record procedures: See NOTIFICATION above.

Record source categories: Information is obtained directly from the individual as is described in "Category of Individuals Covered by the System" above.

[FR Doc.76-13793 Filed 5-7-76;3:34 pm]

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(Revised as of April 1, 1976)

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———	Title 26—Internal Rev. (Parts 300–499)	022–003–93219–4	3.60	———
———	Title 27—Alcohol, Tobacco Products and Firearms	022–003–93222–4	7.70	———

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[A Cumulative checklist of CFR issuances for 1976 appears in the first issue of the Federal Register each month under Title 1]

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