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WEDNESDAY, FEBRUARY 18, 1976



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Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
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DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
	CSC			CSC
	LABOR			LABOR

Comments on this trial program are invited and will be received through May 7, 1976. 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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rules and regulations

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

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

Title 7—Agriculture

CHAPTER IV—FEDERAL CROP INSURANCE CORPORATION, DEPARTMENT OF AGRICULTURE

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR CORN CROP INSURANCE; 1976 CROP

Pursuant to the authority contained in § 401.101 of the above identified regulations, as amended, the following counties have been designated for corn crop insurance for the 1976 crop year.

IOWA

Wayne

NEBRASKA

Douglas Sarpy

NEW YORK

Chautauqua

PENNSYLVANIA

Erie

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; (7 U.S.C. 1506, 1516))

[SEAL] M. R. PETERSON,
Manager, Federal Crop Insurance Corporation.

[FR Doc.76-4621 Filed 2-17-76;8:45 am]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR SOYBEAN CROP INSURANCE; 1976 CROP

FEBRUARY 9, 1976.

Pursuant to the authority contained in § 401.101 of the above identified regulations, as amended, the following counties have been designated for soybean crop insurance for the 1976 crop year.

IOWA

Wayne

NEBRASKA

Douglas Sarpy

ALABAMA

Colbert Marshall
DeKalb

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] M. R. PETERSON,
Manager, Federal Crop Insurance Corporation.

[FR Doc.76-4622 Filed 2-17-76;8:45 am]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR RICE CROP INSURANCE; 1976 CROP

Pursuant to the authority contained in § 401.101 of the above identified regulations, as amended, the following parish has been designated for rice crop insurance for the 1976 crop year.

LOUISIANA

Vermilion

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; (7 U.S.C. 1506, 1516))

[SEAL] M. R. PETERSON,
Manager, Federal Crop Insurance Corporation.

[FR Doc.76-4623 Filed 2-17-76;8:45 am]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR TOBACCO INSURANCE; 1976 CROP

Pursuant to the authority contained in § 401.101 of the above identified regulations, as amended, the following county has been designated for tobacco crop insurance for the 1976 crop year.

The Appendix to § 401.101 is amended by adding in alphabetical order the following counties:

VIRGINIA

Henry

(Secs. 506, 516, 52 Stat. 73, as amended, 77 as amended; (7 U.S.C. 1506, 1516))

[SEAL] M. R. PETERSON,
Manager, Federal Crop Insurance Corporation.

[FR Doc.76-4624 Filed 2-17-76;8:45 am]

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

[Lime Reg. 35, Amdt. 2]

PART 911—LIMES GROWN IN FLORIDA

Size Requirements

This amendment reduces the minimum size requirement for shipments of Persian type limes grown in Florida to 1¾ inches for the period February 16 through April 10, 1976, instead of 1⅞ inches currently established for the period. This requirement is designed to promote orderly marketing and provide consumers with an ample supply of acceptable quality fruit.

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 911, as amended (7 CFR Part 911), regulating the handling of limes grown in Florida, 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 of the Florida Lime Administrative Committee, established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that, continuance of regulation, including the specification of a smaller minimum size as hereinafter provided, for the remainder of this marketing season will tend to avoid disruption of the orderly marketing of limes and will tend to effectuate the declared policy of the act.

(2) Shipment of Persian type limes 1⅞ inches in diameter and larger is currently authorized under Lime Regulation 35, Amendment 1 (40 FR 24995) through April 30, 1976. However, this requirement should be modified to allow the shipment of limes 1¾ inches in diameter and larger during the period February 16 through April 10, 1976, as limes are now maturing at smaller sizes than earlier during this season, particularly late bloom fruit, which is not sizing normally. These smaller limes are of good quality, and they meet the minimum juice content requirements. The release of these smaller-sized limes would make more fruit available for market during the remainder of this season. The minimum size requirement would return to 1⅞ inches on April 11, 1976, when new crop fruit becomes available and the higher minimum is necessary to prevent the shipment of immature fruit.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) in that the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to

effectuate the declared policy of the act is insufficient; and this amendment relieves restrictions on the handling of limes.

Order. Paragraph (a)(3) of § 911.337 Lime Regulation 35, Amendment 1 (40 FR 24995) is revised to read as follows:

§ 911.337 Lime Regulation 35.

Order. (a) * * *

(3) Any limes of the group known as large fruited or Persian "seedless" limes (including Tahiti, Bearss, and similar varieties) which are of a size smaller than 1⅞ inches in diameter: *Provided,* That during the period February 16 through April 10, 1976, any handler may handle limes of such group that are smaller than 1⅞ inches in diameter providing such limes are not smaller than 1¾ inches in diameter.

* * * * *

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

Dated: February 12, 1976, to become effective February 16, 1976.

DAVID A. PATTON,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.76-4614 Filed 2-17-76;8:45 am]

[Lime Reg. 5, Amdt. 4]

PART 944—FRUITS; IMPORT REGULATIONS

Limitations of Handling

Pursuant to the provisions of section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), paragraph (a)(3) of § 944.204 (Lime Regulation 5; 36 FR 10774; 22008; 38 FR 12603; 40 FR 2793) is amended.

Paragraph (a)(3) of § 944.204 is revised to read as follows:

§ 944.204 Lime Regulation 5.

(a) * * *
(1) * * *
(2) * * *

(3) Such limes of the group known as large fruited or Persian "seedless" limes (including Tahiti, Bearss, and similar varieties) are of a size not smaller than 1⅞ inches in diameter: *Provided,* That during the period February 16 through April 10, 1976, such limes of the group known as large fruited or Persian "seedless" limes (including Tahiti, Bearss, and similar varieties) are of a size not smaller than 1¾ inches in diameter; and

* * * * *

It is hereby found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective time of this amendment beyond that hereinafter specified (5 U.S.C. 553) in that (a) the requirements of this amended import regulation are imposed pursuant to section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), which makes such regulation mandatory; (b) such regulation imposes the same restrictions being made applicable to domestic shipments of limes under Lime Regulation 35, Amendment 2 (§ 911.337), which becomes effective February 16, 1976; (c) compliance with this amended import regulation will not require any special preparation which cannot be completed by the effective time hereof; and (d) this amendment relieves restrictions on the importation of limes.

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

Dated, February 12, 1976, to become effective February 16, 1976.

DAVID A. PATTON,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.76-4615 Filed 2-17-76;8:45 am]

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

PART 1424—BULK OILS

Subpart—Standards for Approval of Bulk Oil Warehouses

REVISION

The only substantive change under this revision is the elimination of the restrictive requirement for performance bonds or other security covering the obligation of warehousemen storing and handling bulk oils under Commodity Credit Corporation programs. Accordingly, it is determined that compliance with the notice of proposed rulemaking procedures is unnecessary and contrary to the public interest.

The regulations appearing in this subpart which were published on March 6, 1969 (34 FR 4880), and March 15, 1969 (34 FR 5300), and amended February 15, 1974 (39 FR 5776), are revised to read as follows:

Sec.
1424.1 General statement and administration.
1424.2 Basic standards.
1424.3 Bonding requirements for net worth.
1424.4 Examination of warehouses.
1424.5 Exceptions.
1424.6 Approval of warehouses; requests for reconsideration.
1424.7 Exemption from requirements.

AUTHORITY: Sec. 4, 62 Stat. 1070, as amended (15 U.S.C. 714b)

§ 1424.1 General statement and administration.

(a) This subpart prescribes the requirements which must be met by a warehouseman in the United States or Puerto Rico who desires the initial or continuing approval of his warehouse(s) by Commodity Credit Corporation (hereinafter called "CCC") for the storage and handling, under a Contract For Tank Storage, of bulk oil which is owned by CCC or held by CCC as security for price support loans. This subpart also prescribes the procedure to be followed by a warehouseman in obtaining such approval. This subpart is not applicable to bulk oil purchased in store for prompt shipment or to handling operations of a temporary nature.

(b) Copies of the storage contract and other forms required to obtain approval under this subpart may be obtained from the Prairie Village Agricultural Stabilization and Conservation Service Commodity Office, U.S. Department of Agriculture, Post Office Box 8377, Shawnee Mission, Kansas 66208 (hereinafter referred to as the "Prairie Village Office").

(c) A warehouse must be approved by the Prairie Village Office and a storage contract must be entered into by CCC and the warehouseman before such warehouse will be used by CCC. The approval of a warehouse or the entering into of a storage contract does not constitute a commitment that the warehouse will be used by CCC and no official or employee of the U.S. Department of Agriculture is authorized to make any such commitment.

(d) A warehouseman, in applying for approval under this subpart, shall submit to CCC at the Prairie Village Office:

(1) A completed Form CCC–513, "Application for Approval of Tank Farm".

(2) A current financial statement on Form TW–51, "Financial Statement", supported by such supplemental schedules as may be requested. Such statement shall show the financial conditions of the warehouseman as of a date not earlier than ninety (90) days prior to the date of the warehouseman's application or such other date as may be established by CCC. Subsequent financial statements shall be furnished annually and at such other times as may be required by CCC. If the warehouseman employs the services of a public accountant, the financial statement must be certified or otherwise authenticated by the public accountant to the extent consistent with the accountant's verification of facts contained in the statement. Such certification or authentication may be separate from the financial statement. Only one financial statement is required for a chain of warehouses owned or operated by a single business entity.

(3) Evidence that he is licensed by the appropriate licensing authority as required under § 1424.2(b)(2) and such other documents or information as CCC may require.

§ 1424.2 Basic standards.

Unless otherwise provided in this subpart, each warehouseman and each of the warehouses owned or operated by him which is to be approved, or has been approved, for the storage and handling of bulk oil under CCC programs shall meet the following standards:

(a) Neither the warehouseman nor any of his officials or supervisory employees is suspended or debarred under CCC's regulations governing suspension and debarment, Part 1407 of this chapter, for any of the causes set forth in § 1407.5 thereof.

(b) The warehousemen shall:

(1) Be an individual, partnership, corporation, association, or other legal

entity engaged in the business of storing bulk oil for hire. The warehouseman, if a corporation, shall be authorized by its charter to engage in such business.

(2) Have a current and valid license for the kind of storage operation for which he seeks approval if such license is required by State or local laws or regulations.

(3) Have a net worth equal at least to four (4) percent of the value of the estimated quantity of the bulk oil to be stored as determined by CCC, but in no event less than $10,000. If the required minimum net worth exceeds $10,000, the warehouseman may satisfy any deficiency in net worth between the $10,000 and such required minimum net worth by furnishing an acceptable bond or other security acceptable to CCC meeting the requirements of § 1424.3.

(4) Have available sufficient funds to meet ordinary operating expenses.

(5) Have satisfactorily corrected, upon request by CCC, any deficiencies in the performance of any storage contract with CCC.

(6) Maintain complete inventory and operating records.

(7) Use only warehouse receipts prescribed by CCC.

(c) (1) The warehouseman, his officials, or his supervisory employees in charge of the warehouse operating shall have the necessary experience, organization, technical qualifications, and skills in the warehousing business as related to the bulk oil involved to enable them to provide proper storage and handling services, and

(2) The warehouseman, his officials, and each of his supervisory employees in charge of the warehouse operation shall have a satisfactory record of integrity, judgment, and performance.

(d) The warehouse shall:

(1) Be of sound construction, in good state of repair, and adequate to handle, store, and preserve the bulk oil involved.

(2) Be under the control of the contracting warehouseman at all times.

(3) Not be subject to greater than normal risk of fire, flood, or other hazards.

(4) Have available at the warehouse adequate and operable firefighting equipment for the type of warehouse and commodity involved.

(5) Be located on a railroad or waterway or have a suitable method of delivering the commodity involved.

(6) Have a work force and equipment available to complete loadout within approximately seventy-five (75) working days of that quantity of bulk oil for which the warehouse is or may be approved under a Contract for Tank Storage.

§ 1424.3 Bonding requirements for net worth.

A bond furnished by a warehouseman under this subpart must meet the following requirements:

(a) Such bond shall be executed by a surety company which:

(1) Has been approved by the U.S. Treasury Department, and

(2) Maintains an officer or representative authorized to accept service of legal process in the State where the warehouse is located.

(b) A bond furnished by a warehouseman shall be on form CCC–61, "Warehouseman's Bond—Processed Commodities," except that a bond furnished under State law (statutory bond) or under operational rules of nongovernmental supervisory agencies may be accepted in an equivalent amount as a substitute for a bond running directly to CCC if: (1) CCC determines that it provides adequate protection to CCC, (2) it has been executed by a surety specified in paragraph (a) of this section or has a blanket rider and endorsement executed by such a surety with the liability of the surety under such rider or endorsement being the same as that of the surety under the original bond, and (3) it is noncancellable for not less than one hundred twenty (120) days or includes a rider providing for not less than one hundred twenty (120) days' notice to CCC before cancellation. Excess coverage on a substitute bond for one warehouse will not be accepted or applied by CCC against insufficient bond coverage on other warehouses operated by a warehouseman.

(c) Cash and negotiable securities offered by a warehouseman may be accepted by CCC in lieu of the equivalent amount of required bond coverage. Any such cash or negotiable securities accepted by CCC will be returned to the warehouseman when the period for which coverage was required has ended and there appears to CCC to be no liability under the storage contract.

(d) A legal liability insurance policy may be accepted by CCC in lieu of the required amount of bond coverage provided such policy contains a clause or rider making the policy payable to CCC, CCC determines that it affords protection equivalent to a bond, and the Office of the General Counsel, U.S. Department of Agriculture, approves it for legal sufficiency.

§ 1424.4 Examination of warehouses.

Except as otherwise provided in this subpart, a warehouse will be examined by a person designated by CCC before it is approved by CCC for the storage or handling of bulk oil and periodically thereafter to determine its compliance with CCC's standards and requirements.

§ 1424.5 Exceptions.

Notwithstanding any other provisions of this subpart:

(a) The financial, bond, and original and periodic warehouse examination provisions of this subpart are not applicable to any warehouseman approved or applying for approval for the storage and handling of bulk oil under CCC programs if his warehouse is licensed under the U.S. Warehouse Act for the same commodity, but a special examination shall be made of such warehouse whenever such action is determined necessary.

(b) A Certificate of Competency issued by the Small Business Administration with respect to a warehouseman will be accepted by CCC as establishing conformance by the warehouseman with the standards prescribed in § 1424.2(b) (1), (3), and (4), (c) (1), and (d), and the warehouseman will not be required to furnish bond coverage for a deficiency in net worth.

(c) A warehouseman who has a net worth of at least $10,000 but who fails, or whose warehouse fails, to meet one or more of the other standards of this subpart may be approved if:

(1) CCC determines that the warehouse services are needed and the warehouse storage and handling conditions provide satisfactory protection for bulk oil, and

(2) The warehouseman furnishes such additional bond coverage (or cash or acceptable negotiable securities or legal liability insurance policy) as may be prescribed by CCC.

§ 1424.6 Approval of warehouses; requests for reconsideration.

(a) CCC will approve a warehouse if it determines that the warehouse meets the standards set out in this subpart. CCC will forward a notice of approval to the warehouseman. Approval under this subpart, however, does not relieve the warehouseman of his responsibility to perform his obligations under any contract with CCC or any other agency of the United States. An approval will remain in effect until the storage contract expires or is otherwise terminated unless CCC sooner withdraws its approval.

(b) Except as otherwise provided in this subpart:

(1) CCC will not approve the warehouse if CCC determines that the warehouse does not meet the standards set out in this subpart.

(2) CCC may withdraw its approval of a warehouse if CCC determines that such warehouse ceases to meet such standards or if the warehouseman fails to perform his obligations under the CCC storage contract.

(3) CCC will forward a notice of disapproval or withdrawal of approval to the warehouseman. The notice will state the cause(s) for such action. Unless the warehouseman or any of his officials or supervisory employees is suspended or debarred as provided in § 1424.2(a), CCC will approve, or reinstate approval of, the warehouse upon the warehouseman establishing that he has remedied the cause(s) for CCC's action. If there appears to be a justifiable basis for suspension or debarment of the warehouseman or any of his officials or supervisory employees, CCC may defer action on an application for approval or reinstatement of approval or may withdraw approval pending a decision with respect to suspension or debarment proceedings.

(c) (1) If disapproval or withdrawal of approval by CCC is due to failure to meet the standards set forth in § 1424.2, other than the standard in paragraph (a) thereof, the warehouseman may, at any time after receiving notice of such action, request reconsideration of the action and present to the Director of the

Prairie Village Office, orally or in writing, information in support of his request. The Director, upon consideration of such information, shall notify the warehouseman in writing of his determination. The warehouseman may, if the Director's determination is adverse to the warehouseman, obtain a review of the determination and an informal hearing in connection therewith by filing an appeal with the Deputy Administrator, Commodity Operations, ASCS. The time for filing appeals, forms of request for appeal, nature of the informal hearing, determination, and reopening of the hearing shall be as prescribed by §§ 780.6, 780.7, 780.8, 780.9, and 780.10, respectively, of the ASCS regulations governing appeals, 7 CFR Part 780. In connection with such regulations, the warehouseman shall be considered to be a "participant".

(2) If disapproval or withdrawal of approval by CCC is due to failure to meet the standard set forth in § 1424.2(a), the warehouseman's rights of appeal and hearing shall be as provided in regulations governing suspension and debarment by CCC, 7 CFR Part 1407. After expiration of his suspension or debarment, a warehouseman may, at any time, apply for approval under this subpart.

§ 1424.7 Exemption from requirements.

If warehousing services in any area cannot be secured under the provisions of this subpart and no reasonable and economical alternative is available for securing such services for bulk oil under CCC programs, the President or Executive Vice President, CCC, may exempt, in writing, applicants in such area from one or more of the standards of this subpart and may establish such other standards as are considered necessary to safeguard satisfactorily the interests of CCC.

Effective date. This revision is effective on February 18, 1976. Warehousemen approved under prior regulations are not required to submit new applications for approval under this revision but are subject to the provisions of this subpart for continued approval to handle and store bulk oil.

Signed at Washington, D.C., on February 10, 1976.

E. J. PERSON,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc.76-4626 Filed 2-17-76;8:45 am]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

Crude Oil Supplier/Purchaser Rule

On January 15, 1976 the Federal Energy Administration issued a notice of proposed rulemaking and public hearing (41 FR 2830; January 20, 1976) for the purpose of amending the crude oil supplier/purchaser rule (the "rule") set forth in 10 CFR 211.63. The amendments proposed therein were for the purpose of reflecting changes in the domestic crude oil pricing structure under the Energy Policy and Conservation Act (the "EPCA"), which changes were made effective February 1, 1976. Written comments on the proposals were invited through February 2, 1976, and a public hearing was also held on that date.

The specific amendments proposed provided that all supplier/purchaser relationships in effect under contracts for sales, purchases and exchanges of domestic crude oil on January 1, 1976, would remain in effect for the duration of the mandatory allocation program, except purchases and sales made to comply with § 211.65. Under the proposal, relationships for new and stripper well crude oil would be frozen, since a ceiling price for these crude oils first became effective on February 1, 1976, and there would no longer be any substantial potential for changing purchasers based on a higher lawful bid price. Supplier/purchaser relationships could still be terminated by the mutual consent of both parties and in accordance with the provisions of paragraph (d) of the rule governing the substitution of a new crude oil reseller for the existing reseller. In addition, the proposed rule continued not to apply to sales of federal royalty oil under the program administered by the Department of the Interior.

Although the freeze date was changed from December 1, 1973 to January 1, 1976, paragraph (c) of the proposal made it clear that this did not operate to validate any supplier/purchaser relationships in effect on January 1, 1976 where the purchaser of the domestic crude oil involved was not the lawful purchaser thereof under the provisions of the rule then in effect nor to impair any purchaser's rights under § 211.63 as in effect prior to February 1, 1976.

In addition, the proposal conformed existing paragraphs (b) and (c) of the rule (in paragraphs (a)(2) and (b) of the proposal) to the new freeze date by providing, first, that domestic crude oil produced and sold from a property from which domestic crude oil was not produced and sold in January 1976 and increased production from a property's January 1976 level of production could be sold to any person, but that once the sale was made, a supplier/purchaser relationship would be established subject to the rule. Secondly, once the sale of any domestic crude oil that had at any time been the subject of a supplier/purchaser relationship under the rule was made to a person that was not the purchaser thereof on January 1, 1976 (e.g., following the valid termination of a prior relationship), a new supplier/purchaser relationship would be established subject to the provisions of the rule.

In addition to requesting oral and written comments on the proposed amendments through the procedures described below, the FEA also specifically requested that alternatives to the proposed amendment be submitted and discussed. In particular, FEA requested comments on whether an alternative to the January 1, 1976 freeze date would be more appropriate and whether exceptions to the freeze other than those contained in the proposal would be appropriate.

The FEA received numerous comments on this proposal. In general, small and independent refiners supported the proposed amendments as being necessary to ensure the continued flow of their domestic crude oil supplies. However, many comments from producers and marketers of domestic crude oil opposed the amendments as being unduly restrictive of competition and unnecessary to carry out the purposes of the Emergency Petroleum Allocation Act of 1973, as amended (the "EPAA"). In this regard, it was argued that both purchasers and sellers locked in under the rule would not have the same incentive to provide those services that were part of the transaction as they would have if there were greater opportunity for competition. For example, purchasers might be able to delay gathering the sellers' crude oil or otherwise be dilatory in performing services for which they were responsible in order to receive extra time in which to make payment. By the same token, producers having the assurance that their customers had little choice but to purchase crude oil from them might become apathetic in providing services for which they have historically been responsible.

FEA has thoroughly evaluated all of these comments and, as described below, has taken them into account in its promulgation of this rule. The changes made in the final rule reflect some of the suggestions contained in the comments. However, those comments recommending that all or a portion of domestic crude oil be exempted from allocation controls were not adopted because, among other reasons, FEA does not believe that it has the requisite legal authority to dispense completely with allocations at the producer level as to both the lower (old) and upper tier (new and stripper well) crude oil without following the procedures required by section 12 of the EPAA.

Accordingly, in order to have a rule in effect that conforms the crude oil allocation rules with the crude oil pricing provisions required by the EPCA to have been effective on that date, FEA is adopting at this time the amendments to the rule substantially as proposed, effective February 12, 1976. FEA is not making this amendment effective February 1, 1976 (as it had originally proposed) due to the delay in the issuance hereof and the potential difficulties that affected firms would experience in complying with a February 1 effective date. FEA also feels that use of the February 1 date might also cause unnecessary market disruptions.

FEA recognizes the problems that may be created by this rule and therefore is making it effective only for a period of 90 days (i.e., through May 11, 1976). During this period, FEA intends to evaluate alternative procedures for allocating crude oil at the producer level and to propose such further amendments as it deems desirable, including possible ex-

emption of certain categories of crude oil production from allocation controls. Specifically, under consideration are amendments to the rule to provide for termination of supplier/purchaser relationships in cases where the services from the gatherer to the producer are deteriorating, and to exempt crude oil produced from stripper well leases from the regulation. Following this 90-day period, FEA will modify the rule in such a manner as appears to be appropriate as a result of this further analysis. Any amendment having the effect of exempting any category of crude oil requires, of course, submission to Congress in accordance with the procedures specified in section 12 of the EPAA and would not take effect upon disapproval by either House of Congress within the period specified in section 551 of the EPCA.

In the final rule, in response to comments received on the proposal, FEA has retained the language of subparagraph (3) of former § 211.63(a) to cover situations where the present purchaser is not willing to pay the applicable ceiling price for a producer's production. FEA has also modified the proposal to make it clear that, notwithstanding the utilization of January 1, 1976 as the freeze date, a purchaser that was entitled to a specific volume of crude oil under § 211.63 based on the flow as of December 1, 1973 (or as of the first date that a sale was made from the property) would continue to be entitled to that volume regardless of any actual reductions in volume in January 1976. In addition, when domestic crude oil is first produced and sold from a property from which domestic crude oil was not produced and sold prior to January 1976, the producer would have the right to sell that production to any purchaser of its choice; however, that purchaser would then be entitled to continue to purchase that property's production from that producer in subsequent months.

The proposal provided that any increased production of domestic crude oil from a property's January 1976 level of production could be sold in a first sale sale to any firm. Thus, there was a potential for selling production from a particular lease to two purchasers whose respective rights would be based on January 1976 production levels. FEA has not adopted this particular proposal since most firms commenting were of the opinion that it would cause severe administrative difficulties in many cases. Thus, increased production from a property (over December 1975 levels) would be required to flow to the purchaser or (on a pro-rata basis) purchasers that were entitled to the balance of that property's production.

Finally, FEA wishes to emphasize that its interpretation of the rule has always been that the flow of crude oil as of the freeze date December 1, 1973, i.e., the actual monthly volume for December 1973, determines a purchaser's volumetric rights under the rule, although in the event of a production decline at a property the purchasers of that production would have their December 1973 volumes reduced on a proportionate basis. For determining December 1973 volumes, reference would not be made to contract volumes that were either higher or lower than the volume based on the actual flow as of the freeze date. FEA feels that this interpretation is consistent with the general intent of the rule. Thus, the January 28, 1974 amendment to the rule (39 FR 3908; January 30, 1974) made it clear that the supplier/purchaser relationships in effect on December 1, 1973, rather than the related contracts, were to remain in effect under the rule.

(Emergency Petroleum Allocation Act of 1973, as amended by Pub. L. 94–163; Federal Energy Administration Act of 1974, Pub. L. 93–275; E.O. 11790, 39 FR 23185).

In consideration of the foregoing, Part 211, Chapter II of Title 10, Code of Federal Regulations, is amended as set forth below, effective February 12 through May 11, 1976.

Issued in Washington, D.C., February 12, 1976.

MICHAEL F. BUTLER,
General Counsel.

1. Section 211.63 is revised in paragraphs (a), (b) and (c) to read as follows:

§ 211.63 Supplier/purchaser relationships.

(a)(1) All supplier/purchaser relationships in effect under contracts for sales, purchases and exchanges of domestic crude oil on January 1, 1976, shall remain in effect for the duration of this program, except purchases and sales made to comply with § 211.65 of this subpart: *Provided, however,* That (i) any such supplier/purchaser relationship may be terminated by the mutual consent of both parties; (ii) the provisions of this paragraph shall not apply to the sale of any crude oil pursuant to Parts 225 and 225a, Chapter II of Title 30 of the Code of Federal Regulations; (iii) the provisions of this paragraph shall not apply to the seller of any new crude oil or stripper well crude oil (as defined in §§ 212.72 and 212.74, respectively, of Part 212 of this chapter) if the present purchaser of such crude oil refuses, after notice by the seller, to meet any bona fide offer made by another purchaser to purchase such crude oil at a lawful price above the price paid by the present purchaser; and (iv) any such supplier/purchaser relationship may be terminated as set forth in paragraph (d) of this section.

(2) Any domestic crude oil produced and sold from a property from which domestic crude oil was not produced and sold prior to January 1976 may be sold in a first sale to any firm. Increased production of domestic crude oil from a property over December 1975 production levels shall be sold proportionately to the same purchaser or purchasers that are entitled to purchase the December 1975 levels of domestic crude oil production of that property under this section.

(b) Once the sale, purchase or exchange of any domestic crude oil that has at any time been the subject of a supplier/purchaser relationship under paragraph (a)(1) of this section is made in accordance with this section to a firm that was not the purchaser thereof on January 1, 1976, or once the first sale, purchase or exchange of domestic crude oil is made under paragraph (a)(2) of this section, a supplier/purchaser relationship between the seller and purchaser shall be established thereafter under paragraph (a)(1) of this section as though it had been in effect on January 1, 1976.

(c) The provisions of paragraph (a)(1) of this section (1) shall not operate to validate any supplier/purchaser relationship in effect on January 1, 1976 where the purchaser of the domestic crude oil involved was not the lawful purchaser thereof under the provisions of this section as in effect at any time prior to February 12, 1976 and (2) shall not impair any purchaser's rights under this section as in effect prior to February 12, 1976, including a purchaser's right to continue to receive the volumes of domestic crude oil flowing to it on December 1, 1973 or such later date at which its supplier/purchaser relationship was established under this section as in effect prior to February 12, 1976.

* * * * *

§ 211.63 [Amended]

2. The reference to "paragraph (a) or (c) of this section" in paragraph (d) of § 211.63 is amended to read "paragraph (a) or (b) of this section."

[FR Doc.76-4643 Filed 2-12-76;4:36 pm]

Title 12—Banks and Banking

CHAPTER VII—NATIONAL CREDIT UNION ADMINISTRATION

PART 760—FLOOD INSURANCE

Exemption for Loans; Extension

The Administrator of the National Credit Union Administration considers it necessary to amend Part 760 (12 CFR 760) to conform the regulations to the provisions of section 202(b) of the Flood Disaster Protection Act of 1973, as amended (Pub. L. 94–198). Therefore, pursuant to the authority conferred by section 120, 73 Stat. 635, 12 U.S.C. 1766, and section 209, 84 Stat. 1014, 12 U.S.C. 1789, the Administrator hereby amends Part 760 as set forth below, effective immediately.

Pub. L. 94–198 amends the Flood Disaster Protection Act of 1973 to provide a two month extension of the exemption for loans made to finance the acquisition of previously occupied residential dwellings from the prohibition against financing property which is located in communities not participating in the National Flood Insurance Program by federally related financial institutions.

Due to the fact that the provision of Pub. L. 94–198 became effective on December 31, 1975, and requires a regulatory amendment in conformance with that provision, and since the amendment is for the benefit of the public in general, the Administrator has determined that notice and public procedure

as to the amendment are impracticable, unnecessary, and contrary to the public interest as provided by 5 U.S.C. 553(b). Since publication of such amendment for the 30-day period prior to the effective date of such amendments, as provided by 5 U.S.C. 553(d), is not required for the same reasons, the Administrator hereby provides that such amendment shall become effective as previously set forth herein.

HERMAN NICKERSON, Jr.,
Administrator.

FEBRUARY 6, 1976.

(Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and Sec. 209, 84 Stat. 1014 (12 U.S.C. 1789))

Part 760 of the Rules and Regulations is amended as follows:

§ 760.2 [Amended]

1. The last line of § 760.2(a) is amended by substituting the word "March" for the word "January."

[FR Doc.76-4538 Filed 2-17-76;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket 8976-o]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Peacock Buick, Inc., et al.

Subpart—Advertising falsely or misleadingly: § 13.10 Advertising falsely or misleadingly; § 13.15 Business status, advantages or connections; 13.15-255 Reputation, success, or standing; 13.15-270 Size and extent; 13.15-280 Unique or special status or advantage; § 13.135 Nature of product or service; § 13.140 Old, reclaimed or reused product being new; § 13.155 Prices; 13.155-5 Additional charges unmentioned; 13.155-95 Terms and conditions; § 13.205 Scientific or other relevant facts; § 13.260 Terms and conditions; 13.260-40 Insurance coverage. Subpart—Corrective actions and/or requirements: § 13.533 Corrective actions and/or requirements; 13.533-20 Disclosures. Subpart—Misrepresenting oneself and goods—Business status, advantages or connections: § 13.1540 Reputation, success or standing; § 13.1555 Size, extent, or equipment; § 13.1570 Unique status or advantages—Goods: § 13.1595 Condition of goods; § 13.1650 History of product; § 13.1685 Nature; § 13.1695 Old, Secondhand, reclaimed or reconstructed as new; § 13.1740 Scientific or other relevant facts; § 13.1760 Terms and conditions; 13.1760-40 Insurance coverage; 13.1760-50 Sales contract—Prices: § 13.1778 Additional costs unmentioned; § 13.1823 Terms and conditions.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

In the Matter of Peacock Buick, Inc., a corporation, and Dr. Norman Bernstein and Michael B. Peacock, individually and as officers of said corporation.

Order requiring a Falls Church, Va., new and used car dealer, among other things to cease misrepresenting used vehicles as new; failing to disclose previous use and advertising used as new; misrepresenting terms and conditions of purchase; and failing to disclose specific handling and service charges.

The final order, modifying and adopting the initial decision is as follows: [1]

FINAL ORDER

This matter having been heard by the Commission upon the cross-appeals of complaint counsel and respondents' counsel from the initial decision and upon briefs and oral argument in support thereof and opposition thereto, and the Commission, for the reasons stated in the accompanying Opinion, having granted in part and denied in part both appeals:

It is ordered, That the initial decision of the administrative law judge be, and it hereby is, adopted as the Findings of Fact and Conclusions of Law of the Commission to the extent not inconsistent with the accompanying Opinion.

Other Findings of Fact and Conclusions of Law of the Commission are contained in the accompanying Opinion.

It is further ordered, That the following Order to cease and desist be, and it hereby is, entered:

ORDER

It is ordered, That respondents Peacock Buick, Inc., a corporation, its successors and assigns and its officers, and Dr. Norman Bernstein and Michael B. Peacock, individually and as officers of said corporation, and repondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device in connection with the advertising, offering for sale, sale or distribution, service and repair of new and used motor vehicles, or any other products or services, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

I

1. Representing, orally or in writing, directly or by implication, that any vehicle is new when it has been used in any manner, other than the limited use necessary in moving or road testing a new vehicle prior to delivery of such vehicle to the customer.

2. Offering for sale or selling any vehicle of the current or previous model year, which has been used in any manner, other than the limited use referred to in paragraph 1 above, without orally disclosing, prior to any sales presentation, the nature of such previous use of said vehicle, *e.g.*, "student driver training car, rental car, demonstrator."

3. Advertising any vehicle of the current or previous model year which has been used in any manner, other than the limited use referred to in paragraph 1 above, without clearly and conspicuously disclosing in any and all advertising thereof the nature of such previous use of said vehicle, *e.g.*, "student driver training car, rental car, demonstrator."

4. Displaying, offering for sale or selling any vehicle of the current or the previous model year which has been used in any manner, other than the limited use referred to in paragraph 1 above, without clearly and conspicuously disclosing by decal or sticker affixed to the inside of the side window containing the manufacturer's suggested retail price or "Monroney sticker," or if space is not available thereon, in close proximity thereto, so as to be clearly visible, the nature of such previous used of said vehicle. Said decal or sticker shall also contain the following statement: "for exact mileage, see odometer." If no "Monroney sticker" is affixed to a vehicle subject to this paragraph, the prescribed decal or sticker shall be affixed to the right rear window.

5. Misrepresenting, orally or in writing, directly or by implication, the nature or extent of previous use or condition of any vehicle displayed, offered for sale or sold.

6. Representing, orally or in writing, directly or by implication, that customers, as a prerequisite for obtaining consumer credit, must obtain credit life or credit accident and health insurance; misrepresenting, in any manner, the conditions or restrictions under which consumer credit will be extended.

7. Failing to disclose orally prior to the time of the signing of any authorization for insurance coverage, and before the cost of credit life and/or credit accident and health insurance is computed and included within any disclosure statement or retail motor vehicle installment contract, that such insurance is optional; failing to disclose in writing, on the application each customer signs for credit life and/or credit accident and health insurance coverage, in a type size at least the same size as that comprising the bulk of the text, that such insurance is optional.

8. Failing to disclose, both orally and in writing, prior to the signing of the completed retail order for a motor vehicle, and in any and all advertising of such vehicles which mentions the price of a vehicle, the precise amount of any handling and service charges which will be added to the cost of the motor vehicle.

9. Representing, orally or in writing, directly or by implication, that respondent Peacock Buick, Inc., is the number 1 Opel Dealer in the United States, or using words of similar import, unless it does occupy such sales position as of the date referred to in such representation, or if no date is stated, at the time of the aforesaid representation as verified by the most recently prepared manufacturer's delivery records; misrepresenting in any manner the size, status or sales position of respondents' dealership.

II

It is further ordered:

1. That respondents forthwith distribute a copy of this order to each of their operating divisions;

[1] Copies of the Complaint, Initial Decision, Opinion and Final Order, filed with the original document.

2. That respondents deliver a copy of this order to cease and desist to all present and future personnel engaged in the offering for sale, or sale of any motor vehicle, and in the consummation of any extension of consumer credit or in any aspect of preparation, creation, or placing of advertising, and that respondents secure a signed statement acknowledging receipt of said order from each such person;

3. That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order;

4. That each individual respondent promptly notify the Commission of each change in his business or employment status, including discontinuance of his present business or employment, and each affiliation with a new business or employment for a period of ten (10) years after the effective date of this order. Such notice shall include the address of the business or employment with which each respondent is newly affiliated and a description of the business or employment, as well as a description or the respondent's duties and responsibilities in that business or employment.

It is further ordered, That respondents shall, within sixty (60) days after the effective date of the Order served upon them, file with the Commission a report, in writing, signed by respondents, setting forth in detail the manner and form of their compliance with the Order to cease and desist.

The order to cease and desist as contained in the Initial Decision is as follows:

ORDER

It is ordered, That respondent Peacock Buick, Inc., a corporation, its successors and assigns and its officers, agents, representatives and employees directly or through any corporation, subsidiary, division or other device in connection with the advertising, offering for sale, sale or distribution, service and repair of new and used motor vehicles, or any other products or services, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Failing to disclose orally, and in print on any purchase order the customer signs, in a type size at least the same as that comprising the bulk of the text, the nature or extent of previous use or condition of any new or used vehicle displayed, offered for sale or sold, which previous use or condition resulted from a sale or lease of the vehicle respondent negotiated or of which he has knowledge, e.g., student driver training, auto rental, personal use.

2. Offering for sale or selling any motor vehicle of the current or previous model year which has been damaged and repaired at a dealer's cost in excess of $50.00 without disclosing, both orally and on any purchase order the customer signs in type size at least the same as that comprising the bulk of the text, the nature of the damage sustained by the vehicle and the dealer cost to repair it.

3. Representing, contrary to fact, orally or in writing, directly or by implication, that customers, as a prerequisite for obtaining customer credit, must obtain credit life or credit accident and health insurance before a particular lending institution will extend credit; or misrepresenting, in any manner, the conditions or restrictions under which consumer credit will be extended.

4. Failing to disclose, orally and on the application for financing, in a type size at least the same size as that comprising the bulk of the text, that area lending institutions which finance customers' purchases compensate respondent for loans it arranges for such purchasers.

5. Failing to disclose, both orally and on the application the customer signs for credit life and/or credit accident and health insurance coverage, in a type size at least the same size as that comprising the bulk of the text, that such insurance is optional and that, if purchased through the respondent that the insurer compensates the respondent.

6. Failing to disclose, both orally and on any purchase order the customer signs, in a type size at least the same size as that comprising the bulk of the text, the precise amount of handling and service charges which will be added to the cost of respondent's used motor vehicles.

It is further ordered:

(a) That respondent shall forthwith distribute a copy of this order to each of its operating divisions;

(b) That respondent shall deliver a copy of this order to cease and desist to all present and future personnel engaged in the offering for sale, or sale, of any motor vehicle, and in the consummation of any extension of consumer credit or in any aspect of preparation, creation, or placing of advertising, and that respondent secure a signed statement acknowledging receipt of said order from each such person; and

(c) That respondent shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

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.

Opinion of the Commission by Commissioner Dixon.

The Initial Decision Order was issued, July 8, 1975.

The Final Order was issued by the Commission, Dec. 19, 1975.

CHARLES A. TOBIN,
Secretary.

[FR Doc.76-4531 Filed 2-17-76;8:45 am]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 76-48]

PART 153—ANTIDUMPING

Birch 3 Ply Doorskins From Japan

The Secretary of the Treasury makes public a finding of dumping with respect to birch 3 ply doorskins from Japan. Section 153.43, Customs Regulations, amended.

Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), gives the Secretary of the Treasury responsibility for determination of sales at less than fair value. Pursuant to this authority the Secretary of the Treasury has determined that birch 3 ply doorskins from Japan are being, or are likely to be, sold at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). (Published in the FEDERAL REGISTER of October 15, 1975 (40 FR 48383)).

Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), gives the United States International Trade Commission responsibility for determination of injury or likelihood of injury. The United States International Trade Commission has determined, and on January 12, 1976, it notified the Secretary of the Treasury that an industry in the United States is being injured by reason of the importation of birch 3 ply doorskins from Japan that are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. (Published in the FEDERAL REGISTER of January 19, 1976 (41 FR 2690).

On behalf of the Secretary of the Treasury, I hereby make public these determinations, which constitute a finding of dumping with respect to birch 3 ply doorskins from Japan.

Section 153.43 of the Customs Regulations is amended by adding the following to the list of findings of dumping currently in effect:

§ 153.43 [Amended]

* * * * *

Merchandise	Country	T.D.
Birch 3-ply doorskins	Japan	76-48

* * * * *

(Secs. 201, 407, 42 Stat. 11, as amended, 18; 19 U.S.C. 160, 173)

DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

FEBRUARY 6, 1976.

[FR Doc.76-4521 Filed 2-17-76;8:45 am]

Title 42—Public Health

CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 52b—NATIONAL CANCER INSTITUTE CONSTRUCTION GRANTS

On March 17, 1975 a notice of proposed rulemaking was published in the FEDERAL REGISTER (40 FR 12092) proposing addition of a new Part 52b to 42 CFR for the purpose of implementing sections 408(b) and 410(a)(9) of the Public Health Service Act. Section 408(b), as added by the National Cancer Act of 1971 (Pub. L. 92–218), authorized the Director of the National Cancer Institute to make grants for the construction of centers for clinical research, training, and demonstration of advanced diagnostic and treatment methods relating to cancer. Section 410(a)(9), as added by the 1974 National Cancer Act Amendments (Pub. L. 93–352), authorized the Director to make grants for new construction or renovation of basic laboratory facilities. Interested persons were invited to submit, on or before April 16, 1975, written comments regarding the proposed regulations. Several comments were received. One simply questioned the wisdom of the regulations, as imposing excessive and time-consuming administrative review and paperwork. These regulations, however, were patterned after regulations in other Federal health construction programs which have existed for many years, e.g., 42 CFR Part 53. Also, many specific provisions in the regulations reflect statutory requirements.

The following comments were addressed to specific provisions in the regulations:

1. It was urged that the definition of "construction" in § 52b.2(d) be revised to include "preparation of plans and specifications." Although architects' and engineering fees may be allowable costs if they are incurred in connection with the construction for which funding is sought, we believe it is unnecessary to single this item out for special reference, particularly insofar as the failure to mention other items might cause confusion as to whether they are also allowable.

2. It was suggested that § 52b.5 be amended by adding an additional factor: "The relevance of the program for which construction is proposed to the objectives and priorities of the National Cancer Program (42 U.S.C. 286a)." This suggestion was adopted.

3. It was further suggested that § 52b.8(h) be amended: (1) By deletion of the reference to "supervision" inasmuch as architects and engineers no longer undertake this responsibility on a regular basis, and (2) by adding the word "substantially" after "completed work." The first suggestion was adopted, but the second was not because changes in the project are already dealt with in § 52b.8(f).

4. Finally, it was noted that § 52b.8(m) fails to indicate what follows from failure during a facility's useful life to utilize it for the purposes for which it was constructed. Unlike various other construction authorities in the Public Health Service Act (e.g., 42 U.S.C. 293c) which place a time limit on accountability for facilities constructed thereunder, sections 408(b) and 410(a)(9) contain no such limitation. As the result, accountability under these sections exists during the entire useful life of the facility. This obligation is delineated in Subpart O of 45 CFR Part 74, to which reference is made in § 52b.10.

In addition to those additions and revisions already noted, a few minor changes have been made in the regulations, all editorial or technical in nature.

This part shall become effective on February 18, 1976.

Dated: December 29, 1975.

THEODORE COOPER,
Assistant Secretary for Health.

Approved: February 11, 1976.

MARJORIE LYNCH,
Acting Secretary.

Accordingly, Title 42 of the Code of Federal Regulations is amended by adding a new Part 52b, as follows:

Sec.
52b.1 Applicability.
52b.2 Definitions.
52b.3 Eligibility.
52b.4 Application.
52b.5 Evaluation.
52b.6 Nondiscrimination.
52b.7 Rate of Federal financial participation.
52b.8 Terms and conditions.
52b.9 Acquisition of facilities.
52b.10 Applicability of 45 CFR Part 74.
52b.11 Additional conditions.
52b.12 Minimum standards of construction and equipment.

AUTHORITY: Sec. 215, 58 Stat. 690, as amended (42 U.S.C. 216); sec. 408(b), 85 Stat. 781 (42 U.S.C. 286b(b)); sec. 410(a)(9), 88 Stat. 359 (42 U.S.C. 286d(a)(9)).

§ 52b.1 Applicability.

The provisions of this part apply to award of grants under section 408(b) of the Public Health Service Act for the construction of centers for clinical research, training and demonstration of advanced diagnostic and treatment methods relating to cancer, and to the award of grants under section 410(a)(9) for construction of basic research laboratory facilities.

§ 52b.2 Definitions.

(a) "Act" means the Public Health Service Act, as amended.

(b) "Director" means the Director of the National Cancer Institute and any officer or employee of the National Cancer Institute to whom the authority involved may be delegated.

(c) "Construction grant" means a grant of funds for construction pursuant to sections 408(b) and 410(a)(9) of the Act, and in accordance with these regulations.

(d) "Construction" includes the construction of new buildings; acquisition of land or existing buildings provided such acquisition occurs after the filing of the application; the expansion, remodeling, and alteration of existing buildings provided the cost of such expansion, remodeling, and alteration is not less than $75,000; and the initial equipment of any such buildings; but excludes the cost of off-site improvements.

(e) "Equipment" includes those items which are necessary to the functioning of the facility or portion thereof with respect to which the grant is made, but does not include items of current operating expense such as glassware, chemicals, food, fuel, drugs, paper, printed forms, books, pamphlets, periodicals, and disposable housekeeping items.

§ 52b.3 Eligibility.

In order to be eligible for a construction grant under section 408(b) or section 410(a)(9) of the Act, the applicant must be:

(a) A public or private nonprofit agency or institution; and

(b) Located in a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, American Samoa, the Trust Territory of the Pacific Islands, or Guam.

§ 52b.4 Application.

(a) *Submittal.* Applications for construction grants under section 408(b) or section 410(a)(9) of the Act, including both detailed narrative descriptions and detailed estimates of the cost of the respective projects, shall be filed in such form and manner as the Director may from time to time prescribe.

(b) *Amendment.* Any amendment which substantially alters the original application shall be submitted to the Director for processing in the same manner as the original application.

(c) *Execution.* Each application shall be executed by an individual authorized to act for the applicant and to assume on behalf of the applicant all the obligations imposed by the terms and conditions of the grant, including the regulations of this part.

(d) *Environmental impact.* In accordance with Chapter PHS: 1–503 of Department of Health, Education and Welfare Grants Administration Manual,[1] each applicant shall furnish its analysis of the environmental impact of the proposed construction taking into account the consideration set forth in the National Environmental Policy Act, Pub. L. 91–190 ((42 U.S.C. 4321 et seq.), 83 Stat. 852).

(e) *Flood hazards.* Each applicant shall furnish its assessment of the project site in light of the considerations set forth in Executive Order 11296, 31 FR 10663 (August 10, 1966) concerning the evaluation of flood hazards in locating Federally supported facilities.

(f) *Review by State and local comprehensive health planning agency.* In the case of a project for the construction of a facility intended, at least in part, for the provision of health serv-

[1] The Department of Health, Education, and Welfare Grants Administration Manual is available for public inspection and copying at the Department's and Regional Offices' information centers listed in 45 CFR 5.31 and may be purchased from the Superintendent of Documents, U.S. Printing Office, Washington, D.C. 20402.

ices, the applicant shall provide an opportunity for comment and approval with respect to such project to (1) the State agency administering or supervising the administration of the State plan approved under section 314(a) of the Act, and (2) the public or nonprofit private agency or organization responsible for the plan or plans referred to in section 314(b) of the Act and covering the area in which such project is to be located or if there is no such agency, such other public or nonprofit private agency or organization (if any) as performs, as determined in accordance with criteria of the Director, similar functions.

(g) *Clearinghouse review.* As required by OMB Circular A–95 and in accordance with Chapter 1–140 of the Grants Administration Manual, the applicant must provide timely notice to the planning and development clearinghouse of the State and the region, if there is one, or of the metropolitan area in which the project is to be located, of its intent to apply for a grant under this part, and of the nature of the project for which assistance has been sought, including a summary description of such project. Any comments received by the applicant from the clearinghouse pursuant to such notification shall be considered by the applicant and shall be included in or attached to the application.

§ 52b.5 Evaluation.

In approving applications for construction grants under this part, the Director shall take into account, among other factors, the following: (a) The relevance of the program for which construction is proposed to the objectives and priorities of the National Cancer Program (42 U.S.C. 286a), (b) the scientific merits of the program for which construction is proposed, (c) the scientific or professional standing or reputation of the agency or institution and of its existing or proposed officers and research staff, (d) the availability, by affiliation or other association, of other scientific or health personnel and facilities to the extent necessary to carry out effectively the contemplated program, including the adequacy of an acceptable biohazard control and containment program where warranted, (e) the need to accomplish appropriate geographical distribution of facilities, and (f) the financial need of the applicant.

§ 52b.6 Nondiscrimination.

(a) *Executive Order 11246.* Each construction grant is subject to the condition that the grantee shall comply with the requirements of Executive Order 11246, September 24, 1965 (30 FR 12319), as amended, relating to nondiscrimination in construction contract employment, and the applicable rules, regulations, and procedures prescribed pursuant thereto.

(b) *Civil Rights Act of 1964.* Attention is called to the requirements of Title VI of the Civil Rights Act of 1964 ((42 U.S.C. 2000d), 78 Stat. 252) which provides that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance. A regulation implementing such Title VI, applicable to grants made under this part, has been issued by the Secretary of Health, Education, and Welfare with the approval of the President (45 CFR Part 80).

(c) *Discrimination on the basis of sex prohibited.* Attention is also called to the requirements of Title IX of the Education Amendments of 1972 and in particular to section 901 of such Act (20 U.S.C. 1681) which provides that no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

(d) *Rehabilitation Act of 1973.* Attention is called to the requirements of section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), which provides that no otherwise qualified handicapped individual in the United States shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

§ 52b.7 Rate of Federal financial participation.

(a) The amount of a construction grant may not exceed 75 percent of the necessary allowable cost of construction as determined by the Director, except that in situations where the Director finds good cause for waiving requirements, for example, in order to achieve sufficient geographical distribution of facilities, the amount of the construction grant may exceed 75 percent of the necessary allowable cost of construction.

(b) Subject to paragraph (a) of this section, the Director shall set the actual rate of Federal financial participation in the necessary allowable cost of construction taking into consideration the most effective use of available Federal funds to further the purposes of section 408(b) or section 410(a)(9).

(c) In determining "necessary allowable cost of construction" the Director shall exclude an amount equal to the sum of (1) the amount of any other Federal grant which the applicant has obtained, or is assured of obtaining, with respect to the construction to be supported under this part, and (2) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant.

§ 52b.8 Terms and conditions.

In addition to any other requirement imposed by law or determined by the Director to be reasonably necessary with respect to any particular grant to fulfill the purposes thereof, each construction grant shall be subject to the condition that the applicant will furnish and comply with the following assurances, supported by such documentation as the Director may reasonably require. The Director may for good cause shown approve exceptions to these conditions and assurances where he finds that such exceptions are not inconsistent with the Act and the purposes of the program:

(a) *Title.* That the applicant has a fee simple or such other estate or interest in the site, including necessary easements and rights-of-way, sufficient to assure for the estimated useful life of the facility, as determined by the Director, undisturbed use and possession for the purpose of the construction and operation of the facility.

(b) *Plans and specifications.* That approval by the Director of the final working drawings and specifications will be obtained before the project is advertised or placed on the market for bidding and that such approval shall include a determination by the Director that the final plans and specifications conform to the minimum standards of construction and equipment as set forth in § 52b.12 of this part.

(c) *Competitive bids.* That, except as otherwise provided by State or local law, all contracting for construction (including the purchase and installation of fixed equipment) shall, except as provided by the Director in accordance with applicable Department of Health, Education, and Welfare policies, be on a lump sum fixed-price basis, and contracts will be awarded on the basis of competitive bidding obtained by public advertising with award of the contract to the lowest responsive and responsible bidder.

(d) *Relocation assistance.* That in the case of a public applicant with an approved project which involves the displacement of persons or businesses on or after January 4, 1971, the applicant will comply with the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 ((42 U.S.C. 4601 et seq.), 84 Stat. 1984) the applicable regulations issued thereunder (45 CFR Part 15), and Chapter 4–57 of the Grants Administration Manual.

(e) *Approval of changes in estimated cost.* That the applicant will not enter into any construction contract or contracts for the project or a part thereof, the cost of which is in excess of the estimated cost approved in the application for that portion of the work covered by the plans and specifications, without the prior approval of the Director.

(f) *Approval of changes in project.* That the applicant will submit to the Director for prior approval changes that materially alter the scope of work, space utilization, function, utilities, or safety of the facility.

(g) *Completion responsibility.* That the applicant will construct the project, or cause it to be constructed, to final completion in accordance with the grant application and approved plans and specifications.

(h) *Construction inspection.* That the applicant will provide and maintain competent and adequate architectural or engineering inspection at the construction site to insure that the completed work conforms with the approved plans and specifications.

(i) *Records and accounts.* That the applicant will maintain adequate and separate accounting and fiscal records and accounts for all funds provided from any source to pay the cost of the project.

(j) *Progress reports.* That the applicant will furnish progress reports and such other information as the Director may require.

(k) *Non-Federal share.* That sufficient funds will be available to meet the non-Federal share of the cost of constructing the facility.

(l) *Funds for operation.* That sufficient funds will be available when construction is completed for effective use of the facility for the purposes for which it is being constructed.

(m) *Authorized uses.* That the facility will be used for the purposes for which the application has been made. The applicant will promptly notify the Director in writing if at any time during its useful life the facility or any portion thereof is no longer to be used for the purposes for which it was constructed.

(n) *Labor standards: insurance, inspection.* (1) That any laborer or mechanic employed by any contractor or subcontractor in the performance of work on the construction of the facility will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act (42 U.S.C. 276 et seq.) and shall receive compensation at a rate not less than one and one-half times his basic rate of pay for all hours worked in any workweek in excess of 8 hours in any calendar day or 40 hours in the workweek (42 U.S.C. 327–332).

(2) That the following conditions and provisions will be included in all construction contracts:

(i) The provisions set forth in "DHEW Requirements for Federally Assisted Construction Contracts Regarding Labor Standards and Equal Employment Opportunity", Form DHEW 514 (May 1972) (issued by the Office of Grants and Procurement Management, U.S. Department of Health, Education, and Welfare) pertaining to the Davis-Bacon Act, the Contract Work Hours Standards Act, and the Copeland Act (Anti-Kickback) regulations, except in the case of contracts in the amount of $2,000 or less; and pertaining to Executive Order 11246, September 24, 1965 (30 FR 12319), relating to nondiscrimination in construction contract employment except in the case of contracts in the amount of $10,000 or less;

(ii) The Director and his representatives shall have access at all reasonable times to work wherever it is in preparation or progress, and the contractor shall provide proper facilities for such access and inspection.

(o) *Accessibility to handicapped.* That, in accordance with Chapter 4–50 of the Grants Administration Manual, the facility shall be designed to comply with the "American National Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped", American National Standards Institute, Inc. (ANSI) No. A117.1 1961, as modified by other standards prescribed by the Director or the Administrator of General Services. The applicant will be responsible for conducting inspections to insure compliance with these specifications by the contractor.

(p) *Minimum standards of construction and equipment.* That the plans and specifications for the project will conform to the minimum standards of construction and equipment as set forth in § 52b.12 of this part.

§ 52b.9 Acquisition of facilities.

In addition to the other requirements of this part, the following provisions are applicable to the acquisition of existing facilities:

(a) *Minimum standards of construction and equipment.* A determination by the Director that the facility conforms (or upon completion of any necessary construction will conform) to the minimum standards of construction and equipment as set forth in § 52b.12 of this part, shall be obtained before entering into a final or unconditional contract for such acquisition. Where the Director finds that exceptions to or modification of any such minimum standards of construction and equipment would be consistent with the purposes of section 408(b) or section 410(a)(9) of the Act, he may authorize such exceptions or modifications;

(b) *Estimated cost of acquisition and remodeling: suitability of facility.* Each application for a project involving the acquisition of existing facilities shall include in the detailed estimates of the cost of the project, the cost of acquiring such facilities, and any cost of remodeling, renovating or altering such facilities to serve the purposes for which they are acquired. Such application shall demonstrate to the satisfaction of the Director that the architectural, structural and other pertinent features of the facility, as modified by any proposed expansion, remodeling, renovation, or alteration, will be clearly suitable for the purposes of section 408(b) or section 410(a)(9) of the Act, and, to the extent of the costs in which Federal participation is requested, are not in excess of what is necessary for the services proposed to be provided in such facilities;

(c) *Determination of necessary cost.* The necessary cost of acquisition of existing facilities will be determined on the basis of such documentation submitted by the applicant as the Director may prescribe (including the reports of such real estate appraisers as the Director may approve) and other relevant factors;

(d) *Bona fide sale.* Federal participation in the acquisition of existing facilities is on condition that such acquisition constitutes a bona fide sale involving an actual cost to the applicant and will result in additional or improved facilities for purposes of section 408(b) or section 410(a)(9) of the Act; and

(e) *Facility which has previously received Federal grant.* No grant for the acquisition of a facility which has previously received a Federal grant for construction, acquisition, or equipment shall serve either to reduce or restrict the liability of the applicant or any other transferor or transferee from any obligation of accountability imposed by the Federal Government by reason of such prior grant.

§ 52b.10 Applicability of 45 CFR Part 74.

The provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, shall apply to all grants under this subpart to State and local governments as those terms are defined in Subpart A of that Part 74. The relevant provisions of the following subparts of Part 74 shall also apply to grants to all other grantee organizations under this subpart:

45 CFR PART 74

Subpart:
- A General.
- B Cash depositories.
- C Bonding and insurance.
- D Retention and custodial requirements for records.
- F Grant-related income.
- G Matching and cost sharing.
- K Grant payment requirements.
- L Budget revision procedures.
- M Grant closeout, suspension, and termination.
- O Property.
- Q Cost principles.

§ 52b.11 Additional conditions.

The Director may with respect to any grant award impose additional conditions consistent with these regulations prior to or at the time of any award when in his judgment such conditions are necessary to assure or protect advancement of the approved project, the interests of the National Cancer Program, or the conservation of grant funds.

§ 52b.12 Minimum standards of construction and equipment.

The standards set forth in this section have been determined by the Director to constitute minimum requirements for construction and equipment, including remodeling, renovation, or alteration of existing buildings, and shall apply to all projects for which Federal assistance is requested under section 408(b) or section 410(a)(9) of the Act. In accordance with 5 U.S.C. 552(a)(1), the publications to which reference is made in this section, unless otherwise indicated, are hereby incorporated by reference and made a part hereof. These documents are available for inspection at the Department

and Regional Offices' Information Centers listed in 45 CFR 5.31 and copies of such documents may be purchased as specified. The Director may for good cause shown approve plans and specifications which contain deviations from the requirements prescribed, if he is satisfied that the purposes of such requirements have been fulfilled. In addition to these requirements, it is recognized that each project will have to meet the requirements of State and/or local codes and ordinances relating to construction.

(a) *"General"*. The structural design, construction, and fire safety provisions of all project facilities shall comply with the standards of the Uniform Building Code, (available from International Conference of Building Officials, 5360 South Workman Road, Whittier, California 90601) or with applicable State or local codes and ordinances, whichever is more restrictive.

(b) *"Mechanical"*. All installations of fuel burning equipment, steam, heating, air conditioning and ventilation, plumbing and other piping systems, incinerators, and boilers shall comply with the following standards:

(1) Handbook of Fundamentals: American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE), United Engineer Center, 345 East 47th Street, New York, New York 10017.

(2) National Standard Plumbing Code: National Association of Plumbing-Heating-Cooling Contractors, 1016 20th Street NW., Washington, D.C. 20036.

(3) Standard for Non-Flammable Medical Gas Systems, 1973, NFPA Bulletin No. 56F; National Fire Protection Association, 470 Atlantic Avenue, Boston, Massachusetts 02110.

(4) Standard for Medical-Surgical Vacuum Systems in Hospitals, Pamphlet P–2.1: Compressed Gas Association (CGA), 500 Fifth Avenue, New York, New York 10036.

(c) *"Fire and safety"*. The fire-resistant design criteria for the facility will be governed by the criteria necessary for that portion of the facility which is subject to the most severe usage. Remodeled structures shall be up-graded, in total, unless it is feasible to isolate the improved portion of the building with fire walls and fire doors. Fire-resistant design shall be in accordance with the standards of Life Safety Code, NFPA No. 101, 1973, National Fire Protection Association, 470 Atlantic Avenue, Boston, Massachusetts 02110.

(d) *"Emergency electrical service"*. Fire alarm systems and other electrical service shall conform to the standards as specified in Life Safety Code, NFPA No. 101, 1973, National Fire Protection Association, 470 Atlantic Avenue, Boston, Massachusetts 02110.

(e) *"Electrical"*. All electrical installations and equipment shall be in accordance with State and local codes and applicable sections of National Electric Code, NFPA Bulletin No. 70, 1971, National Fire Protection Association, 470 Atlantic Avenue, Boston, Massachusetts 02110.

(f) *"Radiation protection"*. All areas in which X-ray, gamma-ray, beta-ray producing and similar equipment is located shall be protected from radiation in accordance with the standards which are in the Handbook Reports No. 33 and 34: National Council on Radiation Protection (NCRP), P.O. Box 30175, Washington, D.C. 20008.

(g) *"Earthquake"*. All facilities shall be designed and constructed in accordance with the standards specified in the Uniform Building Code, 1973, International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601, unless more restrictive State and local codes govern.

(h) *"Zoning"*. State and local codes shall apply.

NOTE: Incorporation by reference provisions approved by the Director of the Federal Register on May 27, 1975.

[FR Doc.76–4557 Filed 2–17–76;8:45 am]

Title 43—Public Lands: Interior

SUBTITLE A—OFFICE OF THE SECRETARY OF THE INTERIOR

PART 2—RECORDS AND TESTIMONY
Freedom of Information Fee Schedule

Appendix A of Part 2 of Subtitle A, Title 43, contains a schedule of fees to be charged to members of the public for services performed in locating and making available records or copies of records in connection with requests made under the Freedom of Information Act. Appendix A was adopted on February 20, 1975 (40 FR 7450) and, by its own terms, was scheduled to expire on November 30, 1975. To permit time for full consideration a replacement fee schedule, this expiration date was subsequently extended to January 30, 1976. (40 FR 57671).

A replacement fee schedule was proposed in the FEDERAL REGISTER for January 20, 1976. To permit adequate time for public comments on this proposal and for consideration of these comments, it is necessary that the expiration date of the current Appendix A be extended. Accordingly, pursuant to authority granted by 5 U.S.C. 301 and 552, 31 U.S.C. 483a and 43 U.S.C. 1460, paragraph (15) is amended to extend the effective date of the Appendix to April 30, 1976.

Because this extension is an interim extension pending completion of revision of the Appendix through notice and comment procedures, good cause for waiver of those procedures in connection with this extension exists. For the same reason, good cause for waiver of the 30-day waiting period for effectiveness exists.

Effective date. This amendment is effective January 30, 1976.

RICHARD R. HITE,
Deputy Assistant Secretary of the Interior.

FEBRUARY 9, 1976.

Appendix A [Amended]

Appendix A, Paragraph (15) is amended by deleting "January 30, 1976" and substituting "April 30, 1976."

[FR Doc.4560 Filed 2–17–76;8:45 am]

Title 45—Public Welfare

CHAPTER II—SOCIAL AND REHABILITATION SERVICE (ASSISTANCE PROGRAMS), DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 205—GENERAL ADMINISTRATION—PUBLIC ASSISTANCE PROGRAMS
Standards of Personnel Administration

Notice of proposed regulations was published in the FEDERAL REGISTER of October 20, 1975 (40 FR 48937). No comments were received.

The regulations amend 45 CFR 205.200, Standards of Personnel Administration.

The purpose of the amendments is (1) to extend coverage to Title XX of the Social Security Act, enacted by Pub. L. 93–647, the Social Services Amendments of 1974; (2) to reflect the provisions of Pub. L. 91–648, the Intergovernmental Personnel Act of 1970, which transfers to the U.S. Civil Service Commission the authority to prescribe standards; and (3) to require that statements and citations assuring compliance with such standards be submitted to the Commission in accordance with 5 CFR Part 900. The basis for the amendments are the statutory provisions and the implementing regulations at 5 CFR Part 900 and 45 CFR Part 70.

The proposed regulations are hereby adopted, after deleting the reference to Title VI which was superseded by Title XX, effective October 1, 1975.

Part 205, Chapter II, Title 45 of the Code of Federal Regulations is amended by revising § 205.200 to read as follows:

§ 205.200 Standards of personnel administration.

(a) A State plan under title I, IV–A, X, XIV, XVI, XIX, or XX of the Social Security Act shall provide that methods of personnel administration will be established and maintained in the State agency administering or supervising the State plan and in local agencies administering the State plan in conformity with the Standards for a Merit System of Personnel Administration, 45 CFR Part 70 and any standards prescribed by the U.S. Civil Service Commission pursuant to section 208 of the Intergovernmental Personnel Act of 1970 modifying or superseding such standards. Under this requirement, State laws, rules, regulations, and policy statements effectuating such methods of personnel administration are a part of the State plan. Statements of acceptance of these standards by all official local agencies included in the State plan must be obtained and methods must be established by the State to assure compliance by local jurisdictions. These statements and citations of applicable State laws, rules, regulations, and policies which provide assurance of conformity to the standards in 45 CFR Part 70 or to modifying or superseding standards issued by the Commission must be submitted to the U.S. Civil Service Commission in accordance with 5 CFR Part 900 for determination as to adequacy. Copies of the materials cited and of similar local materials maintained by a State official responsible

for compliance by local jurisdictions must be furnished to the Department of Health, Education, and Welfare on request.

(b) The Secretary of Health, Education, and Welfare shall exercise no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods.

(c) The State plan must provide that the State agency will develop and implement an affirmative action plan for equal employment opportunity in all aspects of personnel administration as specified in § 70.4 of this title. The affirmative action plan will provide for specific action steps and timetables to assure such equal opportunity. The plan shall be made available for review upon request.

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302)). (Catalog of Federal Assistance Program No. 13.761).

Effective date: The regulations in this section shall be effective May 18, 1976, or earlier at State option.

Dated: December 22, 1975.

JOHN A. SVAHN,
Acting Administrator,
Social and Rehabilitation Service.

Approved: February 11, 1976.

MARJORIE LYNCH,
Acting Secretary.

[FR Doc.76-4558 Filed 2-17-76;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20119; FCC 76-97]

PART 1—PRACTICE AND PROCEDURE

PART 15—RADIO FREQUENCY DEVICES

Low Power Communication Devices

Report and order—Proceeding terminated. In the matter of amendment of rules Part 15 Subpart E—Low Power Communication Devices—to delete the frequency band 26.97–27.27 MHz, to add the frequency band 49.8–49.9 MHz and to promulgate technical specifications, Docket No. 20119.

1. A notice of proposed rulemaking in this proceeding was adopted by the Commission on July 23, 1974.[1] In the Notice, the Commission announced its intention, subject to information received in this proceeding, to adopt regulations which would move low power communication devices under Part 15 from the frequency band 26.96–27.27 MHz to a new band 49.9–50.0 MHz. For the reasons given in paragraph 14, below, this band was reduced 20 kHz and shifted down in frequency to 49.82–49.90 MHz. The purpose of the proposed regulations was to separate equipment operating without an individual license from equipment operated under a license in the Citizens Radio Service and alleviate the enforcement and interference situation which has resulted from sharing of the same frequencies by the two kinds of equipment.

2. After this proceeding was instituted, Part 15 was reorganized and revised effective April 1, 1975.[2] The regulations for low power communication devices were renumbered. The rules adopted in this proceeding have been numbered to conform to the numbering scheme now in effect. Unless otherwise specified, sections of Part 15 mentioned in the text refer to the rules in the revision effective April 1, 1975.

3. Interested persons were invited to file comments by September 30, 1974, and reply comments by October 14, 1974. Pursuant to a motion filed by the Electronics Industries Association, the period for filing comments was subsequently extended to November 29, 1974, and for reply comments to December 16, 1974. Parties filing comments in this proceeding are listed below. For convenience, they are arranged into the following five groups: (1) C. B. Operators; (2) Walkie-Talkie Manufacturers; (3) Manufacturers of low power non-voice devices; (4) Builder of home-build devices; (5) miscellaneous.

4. C.B. Operators and Walkie-Talkie Manufacturers, in general, support the proposed rule making stating that there will be a reduction of interference to licensed stations in the Citizen's Band Radio Service resulting from the elimination of "walkie-talkies" that now operate without a license under Part 15. Also, they contend that the confusion as to which devices must be licensed would be eliminated with the enactment of these rules. These problems, they indicate, are attributable to the shared use of the 26.96–27.27 MHz band by both Class D Citizens Radio Stations operating under Part 95 of the rules and voice operated low power communication devices (walkie-talkies) under Part 15.

5. These comments support our contention stated in the Notice of Proposed Rule Making that the shared use of the 26.96–27.23 MHz band has given rise to at least two major problems. It has caused confusion as to which devices require licensing and it has created intolerable interference to a license service—the Citizens Radio Service. As pointed out previously, the shared use of this band by equipment operating under Part 15 without a license and by licensed Citizens Radio Stations has created an enforcement problem for the Commission. It has been extremely difficult to identify and differentiate between permitted and prohibited voice communications within this band. With the enactment of these rules, these problems should be resolved.

6. Several of the parties, however, objected to the proscription against the use of superregenerative receivers in the proposed rules. General Electric, Midland, Vanity Fair, Radio Shack, EIA (Citizens Radio Section), and Information Identification Inc. filed comments objecting to proposed Section 15.280(h) which would prohibit the use of superregeneration in any receiver associated with or part of a low power communication device in the 49.9–50 MHz band. All parties objecting to this prohibition argue that the design of a non-superregenerative receiver will significantly increase the ultimate retail cost to the consumer. General Electric estimates the increase in cost to manufacture such a device to be 25 to 30%. Midland estimates the retail price for a pair of low cost "walkie-talkie" units will more than double. Vanity Fair states that a typical pair of their "walkie-talkie" devices operating in the 27 MHz band are now sold at retail prices from $12.95 to $20.00. They claim the price range will be increased to $25.00 to $40. EIA indicates that "the increased costs of design and manufacture would likely double or triple the cost of the product to the consumer and quickly end an estimated 10–15 million dollars of annual product sales in this category each year."

7. These parties further point out that the regulations in Part 15 had been intended to permit the use of low cost equipment to provide a short range communication facility primarily for radio toys and hobby use. They contend this objective will not be accomplished in the 49.9–50 MHz band because of the added costs to manufacture a compliant device. In this connection, Radio Shack claims that because of higher retail prices, the number of persons who might become educated in the use of private communications will be restricted. Midland states that "eliminating superregenerative receivers would prohibit the ultimate user or consumer from using what is today a low-cost communication medium for toy or hobby use."

8. Continuing this argument, General Electric points out that receivers operating in this band will be subject to certification, pursuant to § 15.69. This regulation requires the receiver to comply with the radiation limits set out in § 15.63. They maintain this regulation is adequate to control the interference from such receivers without placing an additional restriction on receiver type. Further to this point, General Electric states that their present line of superregenerative "walkie-talkie" devices complies with the radiation limits in § 15.63 and indicates that "little difficulty would be encountered in obtaining compliance in the 49.9–50 MHz band."

9. We are persuaded by the foregoing arguments, in particular, that a receiver incorporating a superregenerative design, manufactured at a low cost can comply with the radiation limits in § 15.-63. These limits have proved to be adequate in controlling interference from such devices as TV and FM receivers. It follows that a complying receiver using superregeneration is not likely to become a source of interference. Accordingly, the provision prohibiting the use of superregenerative receivers has not been adopted.

[1] 39 FR 28172 of August 5, 1974.

[2] Order: In the Matter of Revision of Part 15 to conform it to Subpart J of Part 2 and to reorganize the rules therein. Adopted November 12, 1974; released March 7, 1975; 40 FR 10673.

10. Objections were also received from parties who are opposed to several of the other technical requirements. Radio Shack claims that the frequency stability requirement proposed in § 15.280(b) is "an excessive and unneeded requirement." They believe this proposed rule is "not necessary or beneficial to a short rage communication facility primarily intended for radio toys and hobby use."

11. EIA objects to proposed § 15.280(c) requiring that emissions be confined to a 20 kHz band centered on the operating frequency and proposed § 15.280(e) requiring that out-of-band emissions be suppressed to certain limits. They claim that these rules would compel an increase in the price of the product as a result to increased costs in design and manufacture. In place of this proposal, EIA urges the continuation of the requirement now applicable to devices operating in the band 26.97–27.27 MHz, namely, that all emissions, including modulation products below and above the frequencies allocated should be suppressed 20 dB or more below the unmodulated carrier.

12. General Electric and Midland object to the proposed rule to limit the field strength of radiated emissions to specific levels (proposed § 15.280(d) and (e)). General Electric states that "unless and until more stringent technical requirements for the transmitter are demonstrated to be necessary, they should not be imposed, since the result of doing so may only be increased cost to the manufacturer and higher prices to the consumer." Midland objects on the same basis and both parties urge that the technical requirements now applicable to devices operating in the 27 MHz band under § 15.115 be extended to devices that will operate in the 49.9–50 MHz band.

13. The above comments suggest that stricter technical requirements are not necessary for non-licensed devices that are to be operated in the 49.9–50 MHz band. Their principal argument against the enactment of these technical rules as proposed in §§ 15.280(b), (c), (d), and (e), which set standards for the operation of the transmitter associated with the low power communication device, is that additional costs will be incurred to manufacture a complying device. While we recognize that the implementation of these requirements may cause some additional cost to the manufacturer and ultimate user, our primary and overriding consideration is that harmful interference not result through the operation of these devices.[3]

14. Notwithstanding these objections, the proposed technical standards, with a minor exception, are being adopted. To protect experimental and research studies by Amateur stations at 50.0–50.1 MHz, the proposed band was shifted down in frequency. It was also necessary to reduce the total frequency space made available by 20 kHz in order to protect USA government operations in this band. Accordingly this Order makes the band 49.82–49.90 MHz available for low power communication devices. To avoid reducing the 5 channels proposed to 4, the spacing between channels is reduced from 20 to 15 kHz. This results in a slight overlapping of the channels, but it is not expected to be a problem. The other provisions are unchanged. Adoption of these rules is considered essential to reduce the chaotic interference that presently exists in the Citizens Band some of which is produced by essentially unregulated Part 15 devices in this band.

15. Radio Shack and EIA indicate they manufacture or represent firms who manufacture low power (100 milliwatts input) "walkie-talkies, now operating in the 26.96–27.27 MHz band under Part 15, which would be type accepted under Part 95 for use in a licensed Citizens Band Radio Station. They urge that the adoption of these rules not preclude or eliminate the possibility of obtaining type acceptance for such low power devices under Part 95. The Commission, in these rules, has not indicated any attempt to preclude type acceptance of such devices. Any equipment capable of complying with the technical standards in Part 95, may be type accepted and marketed to licensees in the Citizens Band Radio Service regardless of the power level.

16. Two comments were received regarding proposed § 15.280(g) which would require any microphone used with the device to be permanently mounted on the box containing the device. CB Magazine indicated that the use of an external microphone should be permitted as should a remote transmitter on-off control in the case of experimenter constructed transmitters. The Commission cannot consider such a proposal without the presentation of a rather convincing argument. It has been our experience that without such regulations, devices might be operated from very high altitudes which increases their potential to cause interference. Since this is contradictory to the basic premise underlying Part 15 to limit the potential for causing interference, the requirement disallowing any remote operation must stand as proposed.

17. The A.C. Nielson Company states that "the wording of 'no remote operating position is permitted' is easily interpreted to include unattended telemetering." They suggest either the deletion of this sentence or the addition of the sentence: remote telemetry of data is permitted. We believe this commentator has misconstrued the intent of this rule since remote operation does not encompass telemetering operation. However, for clarification, this additional sentence regarding telemetering has been added to § 15.118(e) (§ 15.280(g) in the proposal).

18. In the Notice of Proposed Rule Making, two categories of equipment operating in the 49 MHz band were recognized: those devices manufactured for sale to the general public and those built by a person for his own use. The proposed rules did not envision the type of equipment brought to our attention by the A. C. Nielson Company in their comments. This company collects data from a sample of television viewers for determining ratings for various television programs. Information concerning the channel to which the TV receiver is tuned is normally telemetered from the viewer's set to monitoring equipment located in a mobile unit near the viewer's house. It is the desire of A. C. Nielson to continue using this method of sampling in the 49 MHz band. Since they design and build their telemetering equipment in quantities greater than 5 and it is not marketed to the public, Nielson objects to the language in §§ 15.280 (d) and (g) of the proposal which they claim infers that anyone constructing and using more than 5 units cannot do so unless the device is offered for sale to the public. They suggest the addition of the following footnote to allow for the usage of home built units, not available for sale, in a quantity of 5 or more.

Home built devices in quantities greater than 5 must meet all requirements of devices built for sale.

19. Recognizing the merit in Nielson's allegation, we have included in these rules provisions for equipment built in a quantity greater than 5 units and not offered for sale to the public. We recognize that such devices have just as much potential to cause interference as equipment that is offered for sale to the public. With this fact in mind we are subjecting these devices to the Commission's certification program in the same manner as devices that are intended to be sold to the public.

20. In support of the proposed rules as written, SED Systems Ltd. comments that it intends to market a telemetering device known as The High Line Data Acquisition (HILDA) System. The system measures mechanical vibration on high voltage power lines transmits this information via low power telemetry to a nearby receiver and tape recorder where it is recorded for subsequent analysis. Their system is presently in use in Canada and in several other countries on a nearby band: 40.66–40.70 MHz. They claim the proposed 49 MHz band would be suitable for their intended operation.

21. A number of comments were received from parties now using the 27 MHz band for telemetering, for remote actuation of controls, and for signaling. Mr. C. T. Williams, a model aircraft enthusiast, supports the proposed rules as they would tend to minimize the possibility of interference to model aircraft operating in the 27 MHz band under a Class C Citizen Band license. He also suggests that the use of telemetry not be prohibited in the 49 MHz band.

22. The Chamberlain Manufacturing Corporation and its Perma-Power Division of Chicago, Illinois object to the elimination of the 27 MHz band for telemetering purposes and remote control of

[3] Section 15.3 sets forth the general condition of operation of a Part 15 device. Namely, that persons operating such devices shall not have any vested or recognizable right to the continued use of any frequency by virtue of certification of equipment. Also operation of a device under Part 15 is subject to the conditions that no harmful interference is caused to other radio services and any interference received must be accepted.

industrial equipment. Chamberlain/Perma-Power manufactures and markets remote control switching devices that presently operate at 27 MHz under § 15.115 (formerly § 15.205). These radio control devices can remotely regulate motors, valves, pumps, etc. They claim that industrial users of such equipment stand to lose their investment as the seven year termination period is about one half the average product life of the equipment. Also, replacement of additional new equipment could not be made available to industrial users after the first year of enactment of the proposed rules as the manufacturer must terminate the production of low power devices in the 27 MHz band at that time.

23. Further, Chamberlain/Perma-Power contends that for users utilizing both Part 15 devices and licensed Citizens Band devices in a combination system, the proposed rule changes would not permit frequency compatibility for operation with a single receiver. Moreover, Chamberlain/Perma-Power contends that in estimating the cost of the new 49 MHz equipment, the Commission has not taken into account the cost associated with the design, manufacture and marketing of what is essentially a new product. Chamberlain/Perma-Power estimates that it would cost them about $400,000 as well as some 15 months of engineering development time to put on the market equipment operating in the 49 MHz band that would be comparable to the equipment they are currently marketing in the 27 MHz band.

24. Chamberlain/Perma-Power argues further that suitability of such industrial application at 49 MHz has not yet been determined and it would take several additional months of field testing in varied existing installations, once a product design in the 49 MHz frequency range has been completed, to prove the acceptability of this frequency range for such use. They claim a number of technical problems exist at 49 MHz. One is the increase in transmitter power output that is required to achieve comparable coverage. Second, the requirement (§ 15.280(g) in the proposal) that the antenna be mounted on the transmitter box housing renders such equipment impractical for industrial use as the required operating distances can not be obtained without the use of an external antenna. Third, the number of channels in the new band is inadequate. The remote control equipment developed by Chamberlain/Perma-Power for operation in the 27 MHz band uses a band width of 50 kHz. Whereas, at least six such channels were available in the 27 MHz band, only 5 channels are available in the 49 MHz band, and these are limited to a bandwidth of 20 kHz each. This, Chamberlain/Perma-Power contends is inadequate.

25. In concluding its comment, Chamberlain/Perma-Power claims that the proposed rules would seriously affect its contractual relations with their customers. In particular their present contract with Sears, Roebuck & Company requires Chamberlain/Perma-Power to supply Sears for the next eight years with replacement transmitters and receivers in the 27 MHz band that are used as garage door openers. Chamberlain/Perma-Power notes that the proposed rules would only permit the manufacturer of these replacement units subsequent thereto. This would seriously affect their present contract with Sears. Chamberlain/Perma-Power also point out that adopting the rules as proposed would obsolete the inventories of radio control products stored by some 1900 dealers and distributors at a tremendous economic loss to these dealers and distributors.

26. Also, objecting to the elimination of the 27 MHz band for low power devices is the Hoffman Electronics Corporation and its subcontractor, Information Identification Incorporated. Hoffman is the developer and manufacturer of an Automatic Vehicle Monitoring (AVM) System which utilize low power transmitters operating on 27 MHz under the present provision in Part 15. Their system, as with most AVM Systems, is designed to provide the dispatcher with the location and status of vehicle under his control. To accomplish this, Hoffman uses low power transmitters (called Signposts) situated at selected locations for the purpose of transmitting a short range location message which is received and stored by a passing specially equipment vehicle. The vehicle equipment, in turn, may transmit the location message upon entry of each new signpost location, or it may transmit the message only when queried. The location code is transmitted, along with other routine messages, in a digital code format using "data between voice on an existing licensed mobile radio channel.

27. Because the system is dependent on its ability to locate a vehicle in proximity to the signpost and on the availability of a low cost signpost transmitter, Hoffman argues that the operation in the HF portion of the spectrum (below 30 MHz) is necessary to achieve these objectives and that this type of operation cannot be achieved at 49 MHz. In support of this claim, Information Identification Inc. filed a technical statement which claimed that the shorter wavelength at 50 MHz drastically reduces the effective range of system, and that proposed rules allowed only 20 kHz bandwidth; whereas, the present bandwidth is 300 kHz. In conclusion, Hoffman recommends that "systems using signpost transmitters built and installed under the present rules, including extensions of time for sale and manufacture proposed in Docket No. 20119 be allowed to continue to use the 26.97–27.27 MHz band indefinitely. Failure of the Commission to do this will cause a hiatus during which no progress can be made in the development of effective direct proximity signpost system. This will handicap the technology which we feel has the most promise of providing the public with an effective, economic vehicle location system and from receiving the benefits provided by such a system."

28. The Commission agrees in part with the above comments. The attached rules delete operation of voice communication devices within the time schedule originally proposed. Continued operation of non-voice devices will be permitted in the 27 MHz band on a restricted basis. Only six frequencies are made available for this operation, the bandwidth that may be used is specified, and a field strength limit is imposed instead of a power limit. See paragraph 35, infra, for further discussion of the field strength limit. These restrictions were considered necessary to minimize the possibility of interference to Class D Citizen Radio Stations. The rules governing continued operation in the 27 MHz band are set out in § 15.116.

29. The manufacturers and users are reminded, however, that the operation of these devices, as with all Part 15 devices, is strictly on a sufferance basis in accordance with the conditions in § 15.3.[4] In this connection, manufacturers are cautioned that although the Commission sanctions the continued use of low power transmitters in the 27 MHz for telemetering, the 27 MHz band was and is not intended to provide a reliable communications system. If a reliable system is required, operation in one of the licensed radio services is recommended.

30. The Florida State Citizens Band Radio Association suggests that a label should be carried on all Citizen's Band equipment which states that the operation of such a device requires a license from the FCC. Also, hand-held Class D Citizens Band equipment should not be made available for sale with channel 9, 10, or 11 crystals installed. Since these suggestions are not relevant to the present proceeding, they are dismissed.

31. Mr. George Bennett of the American Federation of CB argues that all Class D Citizen's Band licensees should be notified and/or scheduled public hearings should be held before the proposed rules are enacted. He reasons that "a quorum of these licensees can determine if in fact such changes will be in their best interest as Citizen's Band Radio Operations." Since the rules in this proceeding do not effect Part 95 rules governing the operation of Class D Stations, Mr. Bennett's comment is dismissed as not being relevant to this proceeding.

32. The Greater Philadelphia Emergency Radio Team of Philadelphia, Penn. (an association of C. B. licensees) concurs with the proposed rules but advises that consideration should be given to protecting various land mobile services that operate on frequencies below 49.6 MHz, which are relatively close to the band proposed at 49 MHz. In particular, they mention Special Industrial Radio (49.58 MHz), Forestry Conservation (49.58 MHz), Petroleum (49.50 MHz) and Power Radio Services (48.54 MHz). Consideration has been given to protecting adjacent licensed radio services through the technical standards presented in these proposed rules. Out-of-

[4] Ibid. 8.

band emission limitations on the transmitter's spectral output (§§ 15.118(d) and 15.119(d)) have been purposely incorporated to preclude such interference potential. Receivers in this band are also subject to the limits in § 15.63 and to certification pursuant to § 15.69 of the rules.

33. CBS, Inc. of New York, N.Y. supports the proposed rules and sees their enactment leading to a reduction of interference to TV Channel 2. It notes that the second harmonic of operations in the 27 MHz band fall on Channel 2. Under the proposed rules, the worst offenders, the walkie-talkie will be moved out of the 27 MHz band, thus decreasing the interference to TV Channel 2. CBS notes that the FM talkies operating in the 49 MHz band will have a second harmonic that falls in the FM broadcast band; but believes that due to stricter technical specifications, the interference to FM will be minimal.

34. Mr. Lewis Duffing of Warren, Michigan, states that under the proposed rules, home built devices would be permitted a lower level of radiation than commercially constructed units. This, he adds, would make it difficult for a home built device to communicate with a commercially constructed device. However, he did not provide any data to support his contention. Notwithstanding this difficulty, he urges that the proposal be adopted in total. We disagree with Mr. Duffing to the extent that the level of radiation from a home built device could be higher or lower than from a commercially constructed unit and would depend on the efficiency of the device and antenna employed.

35. As discussed in the notice of proposed rulemaking, we have purposely proposed different technical specifications for controlling the level of radiation from commercially constructed units and from home built units. The basis for this difference is that we recognize that a requirement for the measurement of field strength is beyond the capability of the average hobbyist or experimenter. Accordingly, for home built equipment, we have imposed a limit of 100 milliwatts measured at the battery or power line terminals, under any condition of modulation. However, for commercially constructed devices, we have imposed a field strength limit of 10,000 uV/m at 3 meters in order to provide positive control over the interference potential of the device which is directly related to the radiated field strength. This control is required since devices widely marketed to the general public have a greater potential for interference due to the sheer volume of sales.

36. We agree that the resulting level of radiation permitted under these rules for a home built device may be lower in magnitude in comparison with a similar device operating under the provision of Section 15.115 on a frequency in the 26.96–27.27 MHz band. However, it is our intention to limit the radiated field produced by home built devices so as to effectively control the interference potential, not only to U.S. Government users in this band, but also to licensed radio services operating on adjacent bands. Accordingly the regulations as proposed for home built devices are being adopted.

37. Two comments were received regarding the Commission's time schedule for shifting operations in the 27 MHz band to 49 MHz. Chamberlain/Perma-Power argument that the life of their 27 MHz equipment is 14 years—double the seven year amortization period proposed by the Commission—has already been disposed of since the rules adopted herein will permit continued operation (albeit with restrictions) in the 27 MHz band. The greater Philadelphia Emergency Radio Team argues for the termination of said of 27 MHz equipment upon the adoption of the proposed rules. Barring a showing of immediate and compelling danger to the public health and safety, it is unrealistic to require immediate termination of sale which would result in a needless economic loss to the vendor and the manufacturer. In the absence of other objections, the time schedule is adopted as proposed.

38. As discussed in paragraph 12 of the notice of proposed rulemaking a single application with a single fee will suffice for a low power communication device which is a transceiver in the 49 MHz band. The material submitted with such an application must of course cover both the transmitter section and the receiver section of the transceiver. Where the transmitter and the receiver are separate units, individual applications will continue to be required. The present fee schedule is amended to add a new item (4) under § 1.1120(a) to provide for a single applications and fee for Part 15 transceivers.

39. Authority for the amendments set out below is contained in Sections 4(i), 302 and 303(r) of the Communications Act of 1934, as amended.

40. In view of the foregoing, *It is ordered*, Effective March 18, 1976, that Part 15 of the FCC Rules is amended as set forth below and that this proceeding is terminated in all respects.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082, Sec. 302, 82 Stat., 290; (47 U.S.C. 154, 302, 303))

Adopted: February 4, 1976.

Released: February 12, 1976.

FEDERAL COMMUNICATIONS COMMISSION,[5]

[SEAL] VINCENT J. MULLINS,
Secretary.

The following parties, arranged into 5 groups for convenience filed comments in this proceeding:

I. GROUPS OR INDIVIDUALS WHO OPERATE UNDER THE CITIZENS BAND RADIO SERVICE (C. B. OPERATORS)

Tulsa Repeater Organization Inc., Tulsa, Okla.
React National Headquarters, Chicago, Ill.
Harris County Alert Team, Houston, Tex.
Schuylkill Alert Team, Potsville, Pa.
Suburban Baltimore Alert Team, Randallstown, Md.
Puget Sound Alert Team, Seattle, Wa.
Quad Cities Alert Team, Milan, Ill.
Georgia Alert Team, State Line Alert Team No. 398, Lake Elsinore Alert Team, Cal.
Alert Team No. 445, Warminister, Pa.
Jay County Alert Team, Portland, Ind.
Madison County Alert Team, Anderson, Ind.
South Jersey Alert Team, Glassboro, N.J.
Golden Crescent Alert Team, Elyria, Ohio.
Alert Team No. 457, Warren, Ark.
Virginia Beach Alert Team, Virginia.
Alert of Central Connecticut, Middletown, Conn.
Paramount Communicators Alert Team, Alert Team No. 455, South Gate, Cal.
Tri-State Alert Team, Ironton, Ohio.
Dixie CB Alert Club, Jackson, Ms.
Southern Wisconsin Alert Team, Milwaukee, Ws.
Southwest Suburban Alert Team, Berea, Ohio.
Peach State Alert Inc., Gainesville, Ge.
Tri-County Alert Team, Slatington, Pa.
Alert Team No. 474, Corning, N.Y.
Barren River Area Alert Team, Bowling Green, Ky.
Florida Crown React Team, Orange Park, Fla.
Alert Team No. 311, Erion, Ohio.
Nevada Sagebrush Alert, Black Springs, Nev.
National Capital React, Inc., Potomac, Md.
Reno County React Team, Hutchinson, Ky.
Keystone Alert 413 Team Inc., Pittsburg, Pa.
Southern Delaware Valley Alert Team, Glouchester, N.J.
Florida State Citizens Band Radio Association, Glen Saint Mary, Fla.
Club of Mass. Alert Team, Feeding Hills, Mass.
Michigan CB Council, Detroit, Michigan.
McDowell County Alert Team, Coalwood, West Virginia.
CB Magazine, New York, New York.
Jerome Ruhling, South Lake Tahoe, Cal.
Paul Knox, La Habra, Cal.
Greater Philadelphia Emergency Radio Team, Philadelphia, Pa.

II. MANUFACTURERS, DISTRIBUTORS AND A TRADE ASSOCIATION REPRESENTING MANUFACTURERS OF "WALKIE-TALKIE" UNITS MARKETED UNDER PART 15 (WALKIE-TALKIE MANUFACTURERS)

General Electric Co., (G.E.).
Midland International Corp.
Vanity Fair Industries, Inc.
Radio Shack
Citizens Radio Section, Communications Div. of Electronic Industry Association (EIA)

III. MANUFACTURERS AND USERS OF NON-VOICE COMMUNICATION DEVICES WHICH OPERATE IN THE 26.96–27.23 MHZ BAND UNDER PART 15 (MANUFACTURERS OF PART 15 NON-VOICE DEVICES)

Chamberlin Manufacturing Co.
Hoffman Electronics Corporation
SED Systems, Ltd., Saskatoon, Canada
Information Identification Inc.
A. C. Nielson Co.

IV. INDIVIDUAL WHO CONSTRUCT HOME-BUILT EQUIPMENT WHICH OPERATE UNDER PART 15 (BUILDERS OF HOME-BUILT DEVICES)

Lewis Duffing
C. T. Williams

V. MISCELLANEOUS

CBS, Inc.

1. In § 1120(a), item number 3 is revised and a new item number 5 is added, both to read as follows:

[5] Chairman Wiley dissenting; Commissioner Reid concurring in the result.

§ 1.1120 Schedule of fees for equipment type approval, type acceptance, and certification.

* * * * *

(a) * * *

(3) Application for certification of equipment (other than receivers and transceivers in the 30–890 MHz band) operating under Part 15 [3]	$150.00

* * * * *

(5) Application for certification of a transceiver in the 30–890 MHz bank operating under Part 15	$200.00

* * * * *

§ 15.116 [Redesignated]

2. Present § 15.116 is redesignated as § 15.120.

3. Section 15.115 and headnote are revised and Note deleted to read as follows:

§ 15.115 Interim requirements for operation between 26.97 and 27.27 MHz.

A low power communications device complying with all the provisions of paragraphs (a) through (d) of this section, may be operated until March 18, 1983. Manufacture and marketing of such a device shall cease March 18, 1977 and March 18, 1978, respectively. Operation of such a device shall be terminated not later than March 18, 1983.

(a) The carrier of the device shall be maintained within the band 26.97–27.27 MHz.

(b) All emissions, including modulation products, below 26.97 MHz or above 27.27 MHz shall be suppressed 20dB or more below the level of the unmodulated carrier.

(c) The DC power input to the final radio stage (exclusive of filament or heater power) shall not exceed 100 milliwatts.

(d) The antenna shall consist of a single element that does not exceed 1.5m (=5 feet) in length.

4. A new § 15.116 is added to read as follows:

§ 15.116 Operation of a non-voice device between 26.99–27.26 MHz.

A low power communication device may be operated in the band 26.99–27.26 MHz provided it meets all of the following requirements:

(a) The device may *not* be used for voice communications (F3 or A3), or for CW communications (A1).

(b) The device shall operate on one or more of the following frequencies:

26.995 MHz	27.145 MHz
27.045 MHz	27.195 MHz
27.095 MHz	27.255 MHz

(c) Frequency tolerance of carrier: ±0.01%. This tolerance shall be maintained for a temperature variation of —20° to +50° C at normal supply voltage, and for a variation in the primary supply voltage from 85% to 115% of the rated supply voltage at a temperature of 20° C.

(d) Emission shall be confined within a 20 kHz band centered on the carrier frequency.

(e) The emission of RF energy on the carrier frequency shall not exceed μV/m measured at 3 meters.

(f) The out-of-band emissions, including harmonics, on any frequency more than 10 kHz removed from the carrier shall not exceed 500 μV/m measured at 3 meters. The spectrum shall be scanned from 10 to 1000 MHz and all signals exceeding 50 μV/m at 3 meters shall be reported.

(g) If the device is designed to operate from public utility lines, the RF energy fed back into the power lines shall not exceed 100 microvolts on any frequency below 25 MHz.

5. Delete the entry "reserved" for §§ 15.117–15.130 and insert new §§ 15.117, 15.118 and 15.119.

§ 15.117 Operation between 49.82–49.90 MHz.

A low power communication device may be operated on one or more of the permitted frequencies listed in this section without any restriction on the type of modulation provided it complies with all the technical specifications of § 15.118 or § 15.119.

Permitted frequencies of operation:

49.830 MHz	49.875 MHz
49.845 MHz	49.890 MHz
49.860 MHz	

§ 15.118 Technical specification for the band 49.82–49.90 MHz.

A low power communication device that is marketed or that is home built in a quantity greater than 5 and is not marketed, must meet all the technical specifications in this section.

(a) Frequency tolerance of carrier: ±0.01%. This tolerance shall be main— —20° to +50° C at normal supply voltage, and for a variation in the primary supply voltage from 85% to 115% of the rated supply voltage at a temperature of 20° C.

(b) Emission shall be confined within a 20 kHz band centered on the carrier frequency.

(c) The emission of RF energy on the carrier frequency shall not exceed 10,000 μV/m measured at 3 meters.

(d) The out-of-band emissions, including harmonics, on any frequency more than 10 kHz removed from the carrier shall not exceed 500 μV/m measured at 3 meters. The spectrum shall be scanned from 25 to 1000 MHz and all signals exceeding 50 μV/m at 3 meters shall be reported.

(e) The device shall be completely self-contained with the antenna permanently attached to the box containing the device. If a microphone is used it shall be built into the enclosure. No remote operating position is permitted (only remote telemetry of data is permitted).

(f) If the device is designed to operate from public utility lines, the RF energy fed back into the power lines shall not exceed 100 microvolts on any frequency below 25 MHz.

§ 15.119 Alternative technical specifications for the band 49.82–49.90

A low power communication device which is home built in a quantity of 5 or less and which is not marketed may be operated in the band 49.82–49.90 MHz provided it meets all the following technical specifications.

(a) The RF carrier and modulation products shall be maintained within the band 49.82–49.90.

(b) The power input to the device measured at the battery or the power line terminals shall not exceed 100 milliwatts under my condition of modulation.

(c) The antenna shall be a single element 1 meter or less in length permanently mounted on the enclosure containing the device.

(d) The device shall be completely self-contained with the antenna permanently attached to the enclosure containing the device. If a microphone is used it shall be built into the enclosure. No remote operating position is permitted (only remote telemetry of data is permitted).

(e) Harmonic emissions shall be suppressed at least 20 dB below the level of the unmodulated carrier.

6. §§ 15.121–15.130 (reserved)

§§ 15.121–15.130 [Reserved]

7. Section 15.131 is revised to read as follows:

§ 15.131 Certification required for devices that are marketed or built in a quantity greater than 5 and not marketed.

(a) A low power communication device manufactured between December 31, 1957 and October 1, 1975 which is marketed or which is built in a quantity greater than 5 and not marketed, shall be self-certificated pursuant to the provisions of §§ 15.135–15.136.

(b) A low power communication device manufactured after October 1, 1975 which is marketed or built in a quantity greater than 5 and not marketed shall be certificated pursuant to Subpart B of this part.

§ 15.132 [Revised]

8. Section 15.132, headnote, is revised to read as follows:

§ 15.132 Identification required for devices that are marketed or built in a quantity greater than 5 and not marketed.

9. Section 15.142 is amended to read as follows:

§ 15.142 Range of measurements.

Measurements of radiated energy from a low power communications device shall be made over the frequency range listed below.

Frequency band in which the device operates	Range of frequency measurements	
	Lowest frequency	Highest frequency
Below 1600 kHz	10 kHz	20 MHz.
26.97 to 27.27 MHz	Lowest frequency generated in the device	400 MHz.
49.82 to 49.90 MHz	Lowest frequency generated in the device or 25 MHz, whichever is lower.	1000 MHz.
70 to 108 MHz	do	1000 MHz.
108 to 500 MHz	do	2000 MHz.
500 to 1000 MHz	Lowest frequency generated in the device or 100 MHz whichever is lower.	5000 MHz.

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[Docket No. 19692; FCC 76-101]

PART 73—RADIO BROADCAST SERVICES

Type Approval of Antenna Monitors in Standard Broadcast Stations With Directional Antennas

Report and order—(Proceeding Terminated). In the matter of amendment of Part 73 of the Commission's rules and regulations to establish standards for the design and installation of sampling systems for antenna monitors in standard broadcast stations with directional antennas.

1. This proceeding, instituted by a notice of inquiry and notice of proposed rulemaking, adopted February 21, 1973, is an outgrowth of the proceeding in Docket No. 18471, which promulgated rules governing the type approval of antenna monitors, and established a schedule for their installation at all standard broadcast stations using directional antennas.

2. The above mentioned rule amendments insure the eventual substitution at broadcast stations of modern, accurate and stable monitors for obsolete equipment whose performance has never been required to meet any uniform standard. However, the ability of any antenna monitor to reflect accurately the phase and amplitude relationships of the currents in the elements of a directional array is limited by the quality of the system used to convey samples of these currents to the input terminals of the monitor. Comments submitted in Docket No. 18471, in many cases by consulting engineers having familiarity with the antenna systems of numerous stations, suggested that many existing sampling systems are of poor design, or have deteriorated badly since they were first installed. If the potentialities of the new monitors were to be fully realized, the opinion was expressed by a number of parties that some program for the upgrading of existing sampling systems should be instituted.

3. In this proceeding, therefore, the Commission undertook to determine what constitutes the basic elements of an adequate sampling system, and the feasibility of promulgating minimum standards for its design and construction. As a basis for discussion, it offered a tentative list of specifications, formulated largely on the basis of information on this subject submitted in Docket No. 18471. The list is included as Appendix A to the instant document. We indicated that the second stage of the proceeding might be either a further notice of proposed rulemaking in which specific rules were proposed, or, after an examination of the comments filed, if a reasonable consensus appeared possible as to the content of such rules and the procedure for their implementation, a Report and Order might be issued adopting appropriate rule amendments.

4. The deadlines for filing comments and reply comments in this proceeding were originally set as May 7 and May 21, 1973, respectively, but were extended repeatedly, by appropriate Orders, to final dates of October 30, 1973, for comments and November 30, 1973, for reply comments.

5. Thirty-one comments and three reply comments were timely filed. Appendix B is a list of participants in the proceeding. Nearly one-half of the total are firms of consulting engineers who practice before the Commission, and whose combined experience in the matter here under consideration can only be described as vast. Generally, it is their attitude that the objectives sought to be achieved in the proceeding are necessary and laudable. In furtherance of those objectives, they have supplied a wealth of technical material pertinent to sampling system construction, operation and maintenance. Engineering personnel of individual stations, and the engineering departments of group owners also contributed much useful information, although, in general, these parties were more conservative in their opinions of how generally any new rules should be applied.

6. While many of the parties agree that the meeting of any new requirements would impose little hardship on new stations, or on stations authorized to make major changes, there is concern with the expense visited on existing stations whose sampling systems fail to meet, in one or more respects, such new standards as the Commission might adopt. With respect to these stations we have suggestions that (1) existing stations be "grandfathered" or (2) that a long period be provided in which to achieve compliance, or (3) that, on the basis of a satisfactory showing that the present monitoring system is stable, the station be excused from complying with the new rules or (4) that the installation of an approved sampling system, together with a type approved antenna monitor, be tied to a relaxation of certain existing monitoring and inspection requirements, thus providing an incentive for voluntary improvement of individual systems.

7. There are several suggestions that any sampling system specifications which the Commission may adopt be offered only as guidelines. NAB states that "any criteria looking toward standardization of sampling systems should not be part of the Commission's rules but should be included in a companion document to the Rules, depicting operating practices and procedures." NAB further avers that looking toward adoption of rules in this area, we are moving in a direction counter to our present re-regulatory efforts to eliminate "meaningless rules and rules of questionable need." The selection and installation of specific types of sampling systems, urges NAB, should be made by the station licensee and his engineering consultant. Holding that "few sampling systems may be considered unreliable" it suggests that the standardization of the design and installation of such systems is no guarantee of improved performance, as all systems will have a tendency to deteriorate with time. It suggests, as an alternative, a method of testing sampling lines should be considered "so that each licensee could perform such tests to assure nondegradation of the system. Those few sampling systems that are considered unreliable could be dealt with by existing rules, administrative procedure, and the Commission's Field Engineering Bureau inspectors." Finally, NAB is of the opinion that even if we decide that rules are required, any action to finalize such rules is premature, and does not afford all interested parties "the fullest opportunity to participate in the rule drafting procedure."

8. Assuming that NAB's comments represent a consensus of the opinions of many broadcast station licensees, it behooves us, before going further into the consideration of the technical submissions herein, to reexamine critically the basic premises on which this proceeding was instituted, both as to the reasonable need for the remedies here under consideration, and the procedure and occasion for their application. We are contemplating adoption of new regulations governing aspects of station construction over which we presently exert no control, at a time when we are making a major effort to simplify the broadcast regulatory structure. This, in itself, poses a philosophical conflict.

9. In contrast to NAB's opinion that there is no general problem with existing sampling systems, the general tenor of other comments suggest a much more extensive need for system upgrading exists. We know that, in connection with the license renewals of a considerable percentage of stations using directional antennas the Commission has occasion to question the antenna performance and to require corrective action. To what extent these difficulties may have been generated, at least in part, because particular licensees placed undue reliance on inaccurate antenna monitor readings we, of course, can only guess, but it is reasonable to believe that this has been a not inconsiderable contribution to their difficulties.

10. Many existing sampling systems evidently were installed without proper

attention being given to the use of components and constructional techniques which contribute to the stability of the system, and minimize both short and long term environmental effects. In many instances, while such systems presumably were designed as a result of decisions made by licensees and their engineering consultants, it seems likely that the licensee's interest in minimizing immediate costs, rather than the engineer's aim toward maximizing long term performance, may have exerted a predominant influence on the system design. While subsequent experience with such systems may have reinforced the engineer's opinion as to the need for adequate sampling system design, in the absence of any required standards for such systems, cost may continue to remain a major determinant of the kind of system installed.

11. It should be observed that in monitoring observations aimed at maintaining the essential parameters of a transmitting system, it is only in the observation of the relative phases of the fields of the elements in a directional system is the operator required to place total reliance on the accuracy of samples delivered at the end of long transmission lines. For instance, when remote reading of antenna currents is undertaken, periodic calibration of the remote meters against base current meters is required. Such a verification of phase relationships is, of course, not practicable.

12. The contrast between the heavily built transmission system used to feed power to the antenna, and the light, almost flimsy construction of many of the systems used to monitor the performance of the antenna has frequently been cited.

13. In the light of all the above, we believe that a unique case exists for extending the Commission's regulatory control into this area.

14. It has been suggested that such standards as the Commission might wish to adopt be established only as general guides, perhaps compiled as a body of standards of good engineering practice. This proposal has a certain appeal, particularly since the material submitted in this proceeding, in addition to providing recommendations as to the major components of a stable sampling system, also contains a great deal of information on constructional techniques which, if adopted, obviously contribute importantly to the overall quality of the system. While we believe this material is useful, and should be made generally available, it would hardly be feasible to adopt rules containing the mass of detail required.

15. On the other hand, it is not clear how the adoption of a "general guide" would be helpful in upgrading deficient sampling systems. There is a certain degree of unanimity among engineers on the general characteristics of a good sampling system, and such a guide would serve simply as a compendium of what they already know. To the extent that inadequate systems presently exist because of licensees' reluctance to undertake needed improvements, the situation is unlikely to be altered by the adoption of what, at most, can be considered as recommendations, to be adopted or ignored, as the individual may elect.

16. Standards of good engineering practice, if consistently applied, become *de facto* rules. If they are not invoked, they remain no more than the kind of general guides discussed above which, as we have indicated, we believe would be generally ineffective.

17. Accordingly, we believe our aim should be toward the adoption of rather broadly drawn rules, but to include in this Report and Order, in considerably more detail than is necessary to support these rules, a discussion of other relevant aspects of sampling system design. In this way, the total effort may serve both to establish basic requirements for such systems, and, at the same time, provide such guidance as may be desirable in the details of system installation.

18. We agree with those commenting parties who urge that in the formulation of rules for sampling systems, the required constructional features should only be those reasonably necessary to promote stability and repeatability in the antenna monitoring system, and thus its ability to reflect accurately deviations from licensed operating parameters.

19. NAB states that the performance of all sampling systems deteriorate with time, and apparently advances this as a reason why upgrading of systems may be fruitless. We believe that a properly constructed system deteriorates much more slowly than one of poor design, and, in looking at the requirements for an adequate sampling system, those constructional details which contribute to long term stability are considered as of primary importance.

20. NAB assumes that the Commission, by means of the rather infrequent inspections of standard broadcast stations which its limited corps of field engineers are able to perform, can detect unreliable sampling systems, and on this basis may require corrective action. Certainly, if the sampling system is visibly in an advanced state of physical deterioration, this fact may be evident. However, in many instances, electrical deterioration may occur which may not be discovered in the kind of inspection the engineer has the opportunity to make. A study of the station's operating and maintenance logs may reveal that the performance of its directional antenna is not satisfactory, but the reasons for its departure from proper adjustment may not be evident. Excessive phase and current deviations not reflected in abnormal monitoring point readings would tend to indicate trouble in the phase monitoring system, but monitoring points have their own vagaries. Thus, the station operator must rely on both antenna monitoring and field monitoring for a reasonably complete picture of directional operation. It seems not unreasonable to expect that the antenna monitoring system be so installed that it can be relied on to give accurate information to the operator.

Sampling System Design and Installation

21. In this section, we will review the engineering material submitted in this proceeding, and, in some instances, draw tentative conclusions as a result of our study of this material. Under the heading Sampling Lines we consider as the first of the two major components of a sampling system, the design and disposition of the coaxial cable which delivers the sample currents from each tower of the array to the antenna monitor, and under Coupling Elements, the apparatus used to extract samples of the tower currents to be fed into the sampling lines. In the section Maintenance of Sampling System Performance we discuss measurement procedures which may be used to detect any deterioration in system performance, and under Other Considerations outline other minor details of system design which appear of sufficient importance to record for general guidance, but, in many instances, seem inappropriate for inclusion in rather broadly drawn rules.

Sampling Lines. 22. A point on which there is almost entire agreement is that sampling lines should have a solid outer conductor—braided or foil wrapped lines afford insufficient shielding against unwanted fields, are subject to moisture contamination, and are probably the weakest component in many older sampling systems. Also, there is near unanimity as to the necessity for all lines in the system to have identical physical and electrical characteristics.[1] While most comments assume that the outer conductor will be of copper, aluminum cable is also available. While its electrical characteristics are apparently satisfactory, some of the comments cite difficulties in achieving satisfactory bonding and terminations when this material is used as an outer conductor. In addition to being less expensive than copper line, aluminum appears to have one possible long-term advantage—the outer conductor is usually seamless, while the copper version has a welded seam. However, there was no indication that ruptures of this seam is a frequent occurrence.

23. The question of the amount and kind of dielectric, and the initial processing of the cable is rather intimately related to the question of whether equal length sampling lines should be required in any or all systems. The considerations are as follows. When the ambient temperature of a coaxial line is raised, the metal in the cable expands, causing an increase in the physical length of the cable. For any given length of cable, this effect, alone, results in increase in the phase delay in the cable. However, a temperature change in the same direction affects the constant of the dielectric in the cable so as to produce a counter effect—tending to reduce the phase de-

[1] Except for short lengths of more flexible cable needed to connect the sampling lines from their transmitter house termination to the antenna monitor.

lay when temperature increases. If a solid dielectric is employed, the latter effect is predominant, and lines with such dielectric exhibit a rather large negative phase/temperature characteristic. On the other hand, lines in which the dielectric is principally air or other inert gas exhibit a very much lower coefficient, generally in the positive direction. Cable with foamed polyethylene dielectric has a temperature/phase characteristic which, while inferior to air line, is much better than that exhibited by cable with solid dielectric.

24. The phase of the current sample presented to the antenna monitor is delayed by its transmission over the sampling line. If this delay varies with temperature, obviously it is a possible source of error in the monitor indication. If all sampling lines are of equal length, and exposed to the same environmental conditions, the error is cancelled, since we are concerned with the relative phases between towers, and a comparable change in the electrical length of lines leaves the relative phase indication unchanged. While, therefore, the employment of equal length sampling lines insures that temperature changes will have the least effect on the stability of the system, this expedient is quite expensive, necessitating, in many instances, the addition of hundreds of feet of sampling line only to achieve this end. It may also be an unnecessary refinement for those directional antenna systems which are not required to be held to very close operating tolerances. However, even in such cases, the effect of temperature variations on cable characteristics cannot be ignored. If unequal length lines are installed, good quality sampling line with a reasonably low temperature/phase coefficient should be employed.[2]

25. Generally, for stations not required by their authorizations to hold phase and current variations within restricted and specified limits, we believe that the decision as to whether to limit the differences in the relative length of sampling lines may be approached on the following basis. For the average array, the relative phases should be held within ±3 degrees (approximately equivalent to a ±5% variation in current ratio, which is a tolerance specified in our rules (§ 73.52(b)). Assume that, to maintain the relative phases within this tolerance, a monitoring accuracy of one-half this tolerance, or ±1.5 degrees represents good engineering practice. The repeatability of the type approved monitor is ±1 degree (§ 73.53(c)(13(ii)). The permissible variation in samples presented to the monitor, caused by temperature variations, should therefore not exceed 0.5 degree. Accordingly, we believe, a reasonable basis for determining the tolerable difference in the length of lines is to ascertain, considering the phase/temperature characteristic of the line employed, and the temperature variation to which the line would be subject on a diurnal and seasonal basis, that, as between the longest and the shortest sampling lines proposed, a temperature/phase differential in excess of 0.5 degrees will not occur.

26. The following table, based on a study of material supplied by manufacturers of cable for sampling systems, gives a general idea of the magnitude of changes in phase delay occurring in two different types of cable, for different lengths of cable.

Change in delay in degrees for cables of specified lengths over a temperature range of −20 to +140° F

	Frequency (kHz)	Cable length (feet)		
		100	500	1,000
Dielectric	550	0.016	0.08	0.16
Primarily	1000	.03	.15	.29
Air	1600	.05	.24	.47
Foamed	500	.09	.45	.89
Polyethylene	1000	.17	.83	1.7
Dielectric	1600	.27	1.32	2.65

These figures are representative for phase-stabilized cable of the types shown. Solid dielectric cable may have a phase/temperature coefficient as much as three times as great as cable with foamed polyethylene dielectric, and its use obviously would present problems in many cases.

27. While it is obvious that air dielectric line has much the better temperature/phase characteristic, such line is considerably more expensive than line with a dielectric of foamed polyethylene. Also, because air dielectric line must be pressurized with dry air or other inert gas, auxiliary apparatus is required for this purpose. Finally, if the performance of such line is not to deteriorate, it must be subject to careful maintenance procedures. Several consulting engineers who comment discourage the use of such line for the latter reason—they have found a number of instances where maintenance has been neglected, and antenna monitoring systems have become inaccurate or inoperative primarily because moisture has penetrated improperly scavenged and pressurized lines.[3]

28. The majority of engineers appear to favor line with foamed polyethylene dielectric. It has fewer maintenance problems, and has a reasonably good phase/temperature characteristic. It seems entirely satisfactory for the majority of installations, and is probably adequate for even the most critical uses, if measures are taken to minimize phase/temperature differentials to a degree commensurate with the monitoring accuracy required for the particular array.

29. As we have pointed out previously, the employment of lines of precisely equal length seems unnecessary, in most cases, to insure adequate monitoring accuracy. It actually may be undesirable if the result of such a procedure is to present to the monitor, as between pairs of towers phase differences at or near zero or 180 degrees. Monitors are ordinarily less accurate at these extremes, and near these points it may be difficult to resolve ambiguities in the sign of the phase difference. To avoid such situations, sufficient extra cable may need to be added to one or more lines to displace the presented phase differences by several degrees.

30. Potomac, a manufacturer of type approved antenna monitors, points out that it is also desirable to avoid line lengths approximating ¼ wavelength (and presumably odd multiples thereof), since a line of this length, driven by a low impedance high Q loop may produce a high voltage when unterminated. Should an open terminating resistor occur in the monitor input, severe damage may be caused to the monitor.

31. Phase-stabilized line is coaxial line which, on order by a customer, and, of course, subject to an additional charge, has been heat cycled by the manufacturer to reduce semi-permanent stresses produced in line manufacture. Such stabilized line has an initial phase/temperature coefficient much lower than line not so treated.[4] Unstabilized line, subject to normal temperature cycling after installation, eventually becomes stabilized. We had raised the question in our Notice as to the circumstances in which phase-stabilized line should be required. Generally, this would appear to depend on design considerations. If sampling lines are to be substantially equal in length, and so disposed as to be subject to equiv-

[2] Equal length sampling lines, of course, offer another advantage, which, alone, may recommend their installation in particular situations—that, when they are used, the antenna monitor can be made to reflect closely the relative phases of the fields actually existing in the elements of the array. This can simplify the initial adjustment of an array, and the subsequent monitoring and maintenance of its performance. The advantage may be sufficient to justify the extra expense of equal length lines, particularly for multi-element systems. Many of the engineers who commented in this proceeding apparently consider this to be the case, and a number of consulting engineers regularly install lines of uniform length for monitoring directional systems which they design. In some cases, extreme care is exercised by engineers to adjust the various lines to precisely the same electrical length. If a primary aim is to reproduce, at the monitor, the specific phase relationship existing in the array such precision may be desirable. However, when equal length lines are used solely to minimize temperature/phase differentials, it seems unnecessary—nominal differences in length would normally introduce negigible errors.

[3] Older types of semi-flexible air line, such as used in sampling systems, had another frailty—the inner conductor was supported by solid dielectric beads or washers, spaced at intervals along the conductor. Such lines were prone to "shorts" in handling, during which the inner conductor might be displaced between supporting beads sufficiently to contact the outer conductor. Modern semi-flexible air line has the solid dielectric material disposed in continuous helical fashion along the conductors, and apparently does not suffer this weakness.

[4] One comment suggests that the coiling and uncoiling of line after stabilization may create new stresses and, therefore, pre-stabilization is fruitless. However, no evidence is offered on this point.

alent environmental conditions, prestabilization would appear to be unnecessary—since all lines presumably will change equally to the same final condition. However, if lines have lengths that differ greatly, the possibility exists that as the lines approach a stabilized condition, phase indications may drift from those established in the initial adjustment of the array. For this reason, we believe phase stabilized cable should be required for any sampling system in which the sampling lines are not of approximately equal length.[5]

32. It is apparent that if the lengths of cable between each tower base and the transmitter building are buried, not only are these portions of the sampling system subject to less extremes in temperature, but are better shielded from troublesome ambient fields, better protected from damage, and less subject to deterioration from weather. Buried line should, of course, be jacketed. While it is therefore apparent that line preferably should be buried it is emphasized by several of the commenting parties that soil conditions in particular areas, or other factors, may make this disposition of the line undesirable, and perhaps, impossible. In such cases, each cable must be run above ground between the tower and the transmitter house. It is evident that, where this is done, adequate support and protection of the cable is necessary. In addition, to avoid the build-up of troublesome currents in the outer conductor caused by the high fields to which it is subject, the cable must be tied to the station ground system at periodic intervals throughout its horizontal run.

Coupling Elements. 33. The great majority of those filing suggestions on this point favor a single turn, unshielded loop as the coupling element, rigidly constructed, and mounted on a tower leg at a point near the current maximum, but not less than about 10 feet above ground level. The usual alternative to this kind of tower coupling element is the shielded loop, in which the shield imparts rigidity, and encloses the conductor. Such a loop is usually mounted so that it may be rotated on a vertical axis (with, of course, provision for locking in any particular orientation), to adjust the degree of coupling to the tower. While the shielded loop has theoretical advantages, in that coupling to the tower field takes place only electromagnetically, the advantage is generally held to be of no practical significance, and it is outweighed by the fact that shielded loops too often have been found to accumulate internal moisture, with a consequent deterioration in performance. The comparative ease with which such loops may be rotated is seen as a liability, rather than an asset, the general opinion seeming to be that if the loop can be rotated, in the course of time it will be, either inadvertently by high winds, by workmen painting the tower or servicing its lighting, or perhaps by a misguided operator seeking to adjust his antenna monitor readings to values he considers more suitable.

34. While the great majority of engineers believe that the orientation of the loop with respect to the tower should be rigidly fixed, it is suggested that our proposed requirement that the plane of the loop in all cases include the vertical center line of the tower is too restrictive. An alternative orientation, with the plane of the loop including a tower face, should be permitted.

35. While we had proposed that coupling loops on all towers be of equal size and shape, many engineers believe that such a requirement leaves too little flexibility for adjusting the degree of coupling to each tower so that sample voltages delivered at the line terminations will be within a range of values which the antenna monitor can accommodate. The use of loops of equal size would seem to go hand in hand with the employment of sampling lines of equal length, when a primary objective in installing equal lines is to reflect at the antenna monitor, as closely as possible, the phase differences actually obtaining among the fields of the array elements. As we have pointed out previously, we believe that sampling lines of comparable length should be required only where it is necessary to hold phase/temperature differentials to extremely low values. Thus, while we believe that the loops should be of the same general construction, we will not preclude such adjustment of the effective size of individual loops as may be necessary to establish proper coupling levels.

36. Those who favor the use of tower loops as coupling elements believe they are the best means for extracting samples from towers of any height. However, most of these parties concede that base sampling, usually with a shielded current transformer, is an acceptable alternative for towers of limited height ("limited," in this context, includes towers of electrical heights from less than 90 up to 110 or 120 degrees). Outside this general body of opinion are a few parties who argue either that base sampling should never be employed, or that it is entirely suitable for towers of any height.

37. The advantages of base sampling are that the coupling element may be enclosed in the tuning house, protected from the weather, from air contaminants and precipitation which may affect the short and long term performance of an exposed coupling loop. At the base location, furthermore, the coupling unit is readily available for testing and maintenance. Cited as another advantage (but certainly a dubious one) is the rather obvious fact that monitor sample currents, taken at the base, "track" base currents more closely than do currents obtained by tower mounted loops.

38. Those who favor tower loop sampling point out that a sample taken at or near the point where the tower current is greatest can be expected to be a more accurate reflection of the relative magnitude and phase of the field radiated by the tower than can a sample taken from the current in the antenna feed line at the tower base. The latter sample includes a reactive component primarily representing the current flow through the antenna capacitance to ground. The magnitude of this current, at any time, is affected by ground moisture content and cover and by other variable factors. Since this capacitance effectively shunts the antenna resistance, its effect on the accuracy of samples taken at the antenna base depends on the relative magnitudes of the tower capacitance and its base resistance. For towers of uniform cross section up to one quarter wavelength in height, and perhaps somewhat higher, it would appear that the antenna base resistance is sufficiently low, and the shunt reactance is sufficiently high that the error introduced by base sampling is usually small. On the other hand, self supporting towers normally have such a high capacitance to ground that some parties who would approve base sampling for uniform cross section towers of moderate heights believe it should not be employed with self supporting towers of any height. Tower base resistance increases rapidly with increases in electrical height, and, for relatively high antennas, substantial and varying errors may be involved in base sampling. That this effect is real is illustrated by the difficulty frequently experienced in maintaining adequate correspondence between base and loop current ratios in arrays having one or more tall towers.

39. Other objections raised to base sampling is that the sampling element is usually located near other components producing intense fields. The importance of adequate shielding of such transformers is emphasized, particularly the need for an electrostatic shield between the antenna feed line and the transformer secondary. There is one observation that base sampling can produce errors in a tower having a negative resistance, a situation which often occurs in multi-element arrays.

40. Assuming reasonable precautions are taken, and that well designed coupling units are employed, we believe that base sampling is an acceptable alternative to tower sampling for uniform cross section towers up to 110 degrees in electrical height.

41. A single turn, unshielded loop may be operated either at tower potential or at ground potential. When operated at tower potential, the inner leg of the loop is electrically bonded to the tower, and the cable which it feeds maintained at tower potential by electrically connecting the outer conductor to tht tower at frequent points as it descends the tower. Since the point at which the cable leaves the tower is above ground potential, and ing the outer conductor to the tower at the remainder of the cable run is at ground potential, a transfer device must be employed—an isolation coil, consisting of many turns of sampling cable wound on a cylindrical form. This coil may have sufficient inductance alone to present a high reactance at the station

[5] Phase-compensated line is air-dielectric cable in which the amount of supporting solid dielectric has been critically proportioned to yield an extremely low phase/temperature coefficient. The engineer may choose to use such line in highly critical installations. Like all air-dielectric cable, it requires careful maintenance.

operating frequency, or it may be tuned to antiresonance at that frequency by a suitable capacity. A fixed capacitor may be employed, and tuning accomplished by shorting turns of the coil, or by a variable capacitor equipped with provision for locking its adjustment, once tuning is completed.

42. Alternatively, the loop may be mounted on stand-off insulators, and the cable insulated from the tower in similar fashion. When this type of construction is used, no isolation coil is required. Since such is the case, this type of installation is usually less costly than the one just discussed. However, many engineers consider it a less desirable type of installation, since the loop and tower cable introduce a capacitative shunt to ground. Generally, opinions as to its employment are similar to those with respect to base sampling—the insulated loop is tolerable for towers of moderate electrical height—up to about 130 degrees—but, for higher towers, all sampling loops should be installed to operate at tower potential.

43. No one commenting on our suggestion that some advantage might be gained by establishing an impedance match between the sampling element and the transmission line considered such a procedure as either necessary or desirable. We will pursue the matter no further.

44. Similarly, a proposed specification requiring that the inner conductor of the sampling line be connected to the inner leg of the loop was pointed out to be contrary to good practice in many cases, and completely infeasible when the loop is operated at tower potential.

Maintenance of Sampling System Performance. 45. In our Notice in this proceeding, we requested suggestions as to measurement procedures which might be prescribed to determine whether the electrical performance of the sampling system remains at a satisfactory level. We envisaged the procedure as a comparative one—an initial set of measurements made and recorded when the system is first installed, would be repeated at periodic intervals, and compared with the original measurements in an attempt to detect incipient or actual deterioration in monitoring system performance.

46. It would appear that many engineers presently do conduct more or less elaborate tests of sampling systems, and we have been furnished, in some cases, with detailed descriptions of the procedures followed. Simple DC measurements of resistance at the monitor line termination, both with the line open and when terminated by the sampling element are a part of virtually every test program. RF impedance measurements are also common, although the particular procedures employed differ among engineers. In one of two instances, it is indicated that such measurements are supplemented by reflectometer observations.

47. RF impedance measurements at the station's operating frequency are the easiest to accomplish, but it is pointed out that such measurements are a more sensitive indication of sampling system performance if made at a frequency at which the RF impedance of the sampling line is high.[6] However, if such measurements are to be duplicated at a later date, the frequency at which the measurements are made must be accurately known. Thus, a highly stable oscillator, with means for checking its frequency within close limits must be employed. When the system is separable into various sections (for instance where isolation coils are employed) some engineers measure the various sections separately. In addition to the tests described above, checks of characteristic impedance and the electrical length of lines may be made.

48. While we believe measurements of the nature discussed, made at the time the sampling system is first installed, and repeated at periodic intervals thereafter, are valuable in detecting the existence or incipience of conditions which may adversely affect the stability of the monitoring system, we have decided not to adopt rules which would require such measurements to be made, since their performance appears to require capability which are beyond the average licensee and his regularly employed personnel. Thus, impedance measurements require the employment of an RF bridge and associated equipment, rather expensive items of equipment which are not found in the typical station's workshop. The performance of the apparently simple DC resistance measurements, aimed at determining the insulation resistance of the sampling line, would require the periodic disconnection of each sampling element from its line, which, in the case of tower mounted loops, necessitates the disruption of carefully water proofed connections. Moreover, on loops mounted at considerable distances above ground, the operation could be performed only by an experienced tower man, who might have to be retained especially for this purpose. These kinds of considerations generally remove periodic sampling system measurements from the "routine" category. Therefore, while we recommend that an appropriate program of measurements be adopted to establish the initial and continuing integrity of the sampling system, we will not require that such measurements be made.

Other Considerations. 49. The loop should be mounted on the tower at a point well removed from lighting conduit. The sampling line, after being equipped with an approved waterproof end terminal or cable connector designed for use with the specific cable employed, and attached to the loop is brought down the tower inside one leg, for mechanical protection, and attached to the tower (by standoff insulators in case the loop is operated at ground potential or by clamps electrically bonding the outer conductor to the tower, if loop is at tower potential), at sufficiently close intervals to provide substantial lateral restraint from "whipping" or displacement.

50. In critical installations, it may be desirable to employ Austin ring transformers to feed tower lighting, rather than chokes, since the ring transformer has a lower shunt capacity to ground.

51. Where feasible, the sampling line should be in a single length, without splices or connectors from the point it leaves the loop to its termination near the monitor. Short lengths of more flexible line (such as RG cable) may be used to connect the sampling line to the monitor. Where isolation coils are employed, of course, the line must be broken for its insertion, with waterproof connectors at both ends.

52. The isolation coil should be constructed of the same kind of cable which makes up the sampling line, unjacketed if tuning is to be accomplish by the inductance adjustment. The form on which it is wound should be of such construction as to provide rigid support to the coil.

53. It has been suggested that, in many cases, a better installation results if the cable manufacturer cuts the cable to length and installs the connectors. It is further suggested that isolation coils be fabricated to specifications by the cable supplier. The coil should be supported with its "hot" end well above ground level.

54. The outer conductor of buried cable should be tied to the station ground system at the tower, and at its termination within the transmitter building. Care should be taken to insure that the cable sheath and the monitor enclosure are at the same ground potential.

55. Where the sampling lines must be run above ground from the radiating elements to the transmitter house, grounding of the outer conductor of the cable at intermediate points is necessary. Recommended grounding intervals vary from 20 to 50 feet, according to the preferences of individual engineers.[7] The line must be adequately supported and protected in conduit or raceways. Generally, clamps intended for the purpose should be employed to make electrical connections to the outer conductor, to avoid possible damage to the dielectric by the heat generated in soldering.

Discussion and Decision

56. In the notice of inquiry and notice of proposed rulemaking which initiated this proceeding, we stated:

If it appears, from a study of all comments, reply comments and information submitted in response to this Notice that rules should be established in this matter, and

[6] We have one suggestion that RF impedance be made at three separate frequencies: (1) The station's operating frequency; (2) a frequency at which the impedance is high; and (3) a frequency at which the impedance is low.

[7] The approach usually employed is the "brute force" method—to add enough ground connections to preclude the possibility of trouble from ambient fields. We have noted at least one procedure, not described in this proceeding, for determining optimum grounding points—to search along the line, with a field strength meter with the loop held parallel to ground, for "hot spots"—points of standing wave maxima—where grounds should be made.

there is a reasonable consensus as to the content of such rules, we may adopt an appropriate Report and Order without other proceedings. Otherwise, a further notice will be issued before final action is taken.

57. In addition to a number of pertinent aspects of the matter set forth in the *Notice* on which discussion was invited, we outlined, in an Appendix, on a tentative basis, what we considered might be the general content of rules governing sampling system design and installation.

58. The comments submitted herein, from parties with formidable degrees of expertise in the technical area concerned, responded both directly and indirectly to the Commission's proposals. We have thoroughly considered all comments, and have been able to formulate specific standards which we believe represents a reasonable consensus of the parties.

59. While there is rather general agreewere made that they not be embodied in be made available, several suggestions ment that appropriate standards should specific rules, but be issued as general guides or standards of good practice. As we stated hereinbefore, it is our belief that guides or standards of this nature remain largely ineffective unless invested these rules only those major construcwith some color of authority, in which case they become *de facto* rules.

60. Thus, having fully considered all aspects of this matter, we are adopting rules setting forth the basic requirements for sampling systems. These rules will appear as a new § 73.68, and are contained in Appendix C to this document.

61. We have endeavored to include in these rules only those mapor construcctional details which appear essential, and concerning which there is fairly general agreement among the parties to this proceeding. We have incorporated no radical ideas, and believe that many stations with sampling systems which were installed or upgraded in recent years will, without modification, fully meet the requirements we have set forth.

62. While we are convinced that the installation at all stations of sampling systems in accordance with these standards would result in a substantial improvement in the maintenance of radiation patterns within a prescribed limit, with an overall benefit to all stations operating on channels on which directional antennas are employed to limit interstation interference, we are persuaded that, because of the hardship and expense which would be imposed on many stations should we undertake to exact compliance with the rules on a general basis, a more limited approach should be taken. Thus, the rules will have immediate application only to new stations authorized after the effective date of the rules, and to stations authorized to make major changes after that date. Other existing stations will be required to meet the rules only in instances where sampling systems are patently inadequate, or where instabilities in directional operation, which may be attributed in whole or in part to inadequacies in the antenna monitoring system, are evident.

63. Suggestions have been made not infrequently that the rule requiring periodic reading of base currents in the elements of a directional array should be eliminated, on the theory that field ratios determined from these currents are less accurate than those established by loop sampling. Our response to such proposals has been to concede that while antenna monitor ratio indications have the potentiality for greater accuracy than do those determined from base current indications, in the absence of reasonable assurance that samples delivered to the monitor, in fact, consistently and accurately reflect the relative amplitudes of tower currents, we were unwilling to eliminate base currents as the primary source of information for ratio determinations.

64. We believe such reasonable assurance would exist at a station utilizing a sampling system constructed in accordance with the rules we are adopting to feed a type approved antenna monitor. Accordingly, the new rules would provide for the exemption of stations with such monitoring installations from compliance with existing rules requiring the periodic reading and logging of base currents. However, it should be noted that, even in such cases, the amplitudes of base currents should be measured at the time the array is adjusted for proper operation, and submitted for entry into the station authorization. The capability for measuring base currents should be retained to facilitate the measurement of base currents for test purposes, or to permit the reading of these currents during any period the antenna monitor system is inoperative.

65. It also appears that stations with stable and accurate antenna monitoring systems in most cases should be able to maintain proper directional operation with less frequent monitoring point observations than are presently required. In the new rules, therefore, we are prescribing a less demanding schedule for these measurements for stations whose antenna monitoring systems meet the requirements of the rules.

66. When the antenna monitoring system is out of service due to a temporary defect, it is appropriate that alternative measurement procedures be utilized pending repair to insure that the directional antenna is functioning substantially as licensed. Section 73.69(b) of the Rules specifies the procedures to be followed when the antenna monitor is out of service for maintenance. Since a stable and properly functioning sampling system is essential to obtaining valid monitor indications, the same alternative measurement procedures should be used whenever the sampling system is out of service for minor maintenance. The rules are amended to so specify.

67. When the sampling system is being completely overhauled or components mounted on or in the vicinity of antenna towers are being replaced, it generally is not possible to maintain base current ratios, or the field strength values at monitoring points as licensed Prior to beginning repairs affecting the antenna operating parameter, authority to operate the antenna system at variance with the license terms should be obtained, and the indirect method of determining operating power utilized during the repair period. At the completion of a partial or complete replacement of the sample system, it is necessary to reestablish that the radiation pattern remains in adjustment. This is accomplished by conducting a partial proof of performance. A request for modification of license is to be submitted to the Commission with the measurement results and operating data obtained after overhaul of the sampling system is completed. These procedures are prescribed in the amended rules.

68. *Accordingly, it is ordered*, That effective March 18, 1976, Part 73 of the Commission's rules and regulations is amended as set forth below.

69. Authority for the adoption of these rule amendments is found in sections 4(i) and 303(r) of the Communications Act of 1934, as amended.

70. *It is further ordered*, That this proceeding is terminated.

Adopted: February 4, 1976.

Released: February 12, 1976.

Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307.

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

APPENDIX A

1. Sampling lines:

a. All sampling lines shall be of equal total lengths with equal portions of the lines subject to the same environmental conditions.

b. All sampling lines shall have solid outer conductors with air/polyethylene dielectric so proportioned as to produce a minimum phase temperature coefficient.

c. All sampling lines shall have identical electrical characteristics.

d. Those portions of sampling lines between the towers and the transmitter house preferably should be buried. If run above ground, the lines shall be rigidly supported and positioned. Outer conductors shall be grounded at points necessary to insure that fields from the array will not induce error currents in the lines.

2. Sampling elements:

a. Sampling elements shall be single turn, untuned, unshielded loops of rigid construction, with ample gaps at the terminals, solidly supported by nonhygroscopic insulators.

b. Each sampling loop shall be oriented with the plane of the loop including the vertical centerline of the tower, and shall be rigidly mounted on the tower in this orientation. The center conductor of the transmission line shall be connected to the side of the loop nearest the tower.

c. All loops shall be of the same size and shape and of identical construction, and shall be located at the same height on each tower (if the towers are of equal height) at a point close to the current maximum in the tower, but in no case less than 10 feet above ground level.

d. For a tower of less than ¼ wavelength in height, current samples may be obtained from the transmission line, as close to the base of the tower as possible, by a current transformer or other coupling element.

APPENDIX B

COMMENTS

Meri Saxon, Consulting Radio Engineer.
Robert Laughlin, CE, KWK.
Silliman, Moffet and Kowalski (SMIC).
Sparta Electronic Corp.
Paul Godley Co.
A. Earl Cullum, Jr. & Associates (AEC).
Alan Craft, CE, KWDN.
Annapolis Broadcasting Corp. (WANN).
Storer Broadcasting Co.
Potomac Instruments, Inc. (PI).
Scotts Bluff Broadcasting Corp. (KNEB).
S. & S. Broadcasting, Inc. (WTAQ).
Charles Vernon Berlin, CE, KSCO.
J. G. Rountree, Consulting Engineer.
Hammett & Edison, Consulting Engineer.
Valley Broadcasting Co. (KCLN).
Terrell W. Kirksey, Consulting Engineer.
Benjamin F. Dawson III, Consulting Engineer.
J. B. Hatfield, Consulting Radio Engineer.
National Association of Broadcasters (NAB).
Clear Channel Broadcasting Service.
Jansky & Bailey Telecommunications Consulting Dept.
Gautney & Jones, Consulting Radio Engineers.
Frank S. Colligan.
Lin Broadcasting Corp.
Association of Federal Communications Consulting Engineers (AFCCE).
Lohnes & Culver, Consulting Radio Engineers.
Westinghouse Broadcasting Co., Inc.
Association for Broadcast Engineering Standards, Inc. (ABES).
Emerald Broadcasting Co. (KTHO).
Delta Electronics.
Robert A. Jones, R.P.E.
Summit Radio Corporation, Group I Broadcasting Co., Inc. and Lake Huron Broadcasting Corporation.

REPLY COMMENTS

Frank S. Colligan.
Association for Broadcast Engineering Standards, Inc. (ABES).
Association of Federal Communications Consulting Engineers (AFCCE).

New § 73.68 is added, to read as follows:

§ 73.68 Sampling systems for antenna (phase) monitors.

(a) The following requirements shall govern the installation of systems employed to extract samples of the currents flowing in the elements of a directional antenna, and to deliver these samples to the antenna monitor. After March 18, 1976, each new station issued a construction permit, each existing station issued a construction permit authorizing tower construction, and any existing station undertaking modification or reconstruction of its sampling system shall install a system meeting these requirements. The application for license or modification of license shall describe the system in sufficient detail to demonstrate its compliance therewith. In an instance where the sampling system of an existing station authorized before this date is patently of marginal construction, or where the performance of a directional antenna is found to be unsatisfactory, and this deficiency reasonably may be attributed, in whole or in part, to inadequacies in the antenna monitoring system, the Commission may require the reconstruction of the sampling system in accordance with these requirements.

(1) All coaxial cable from the sampling elements to the antenna monitor, including cable used in the construction of isolation coils, except short lengths of flexible cable connecting the transmitter house sampling line termination to the monitor, shall have a solid outer conductor and have uniform physical and electrical characteristics. The dielectric shall either be predominantly pressurized air or other inert gas, or foamed polyethylene. All sampling lines for a critical antenna array (i.e., an array for which the station authorization requires the maintenance of phase and current relationships within specified tolerances) shall be of the same electrical length with corresponding lengths of all lines exposed to equivalent environmental conditions. For other arrays, lines of differing lengths may be employed, provided that the difference in length between the longest and shortest lines is not so great that, over the range of temperatures to which the system is exposed, predicted errors in indicated phase difference resulting from such temperature changes will exceed 0.5 degree. All sampling line mounted on a tower shall be adequately supported to prevent displacement, and shall be protected against physical damage. Where feasible, sampling line sections between each tower base and the transmitter house shall be jacketed and buried; lines run above ground shall be firmly supported, and protected against physical damage, with the outer conductor strapped to the station's ground system at such points as found necessary to minimize currents induced by antenna radiation. All necessary connections, and outdoor cable terminations shall be made with waterproof fittings, designed for use with the type of cable employed.

(2) Sampling elements shall be single turn, unshielded loops of extremely rigid construction, with ample, firmly positioned gaps at the open loop end, mounted on towers at a fixed orientation, provided that, for uniform cross section towers of 110 degrees or less in electrical height, adequately shielded current transformers may be used to extract samples from the antenna feed line at each tower base. Loops shall be installed to operate at tower potential, provided that, for towers of less than 130 degrees in electrical height, loops operating at ground potential may be employed. Generally, each loop should be mounted on the tower near the point of maximum tower current, but in no case less than 10 feet above ground.

(b) Each license or modified license issued pursuant to an application containing a satisfactory showing that a sampling system has been constructed complying with the requirements set forth in subparagraphs (1) and (2) of paragraph (a) of this section, and that an antenna monitor of a make and type approved by the Commission has been installed, will be conditioned to exempt the licensee from compliance witht rules which require:

(1) The routine reading and logging of base currents in the array elements.

(2) That monitoring point measurements be made more frequently than at average monthly intervals.

(c) Any existing station utilizing a type approved antenna monitor, and whose antenna monitoring system meets the specifications of subparagraphs (1) and (2) of paragraph (a) of this section, which desires to take advantage of the relaxation of logging and measurement requirements offered in paragraph (b), may file an informal request with the Commission in Washington signed by an officer of the licensee, describing the characteristics of the system in sufficient detail to demonstrate its compliance with subparagraphs (1) and (2).

(d) In the event the antenna monitor sampling system is temporarily out of service, the station may be operated without logging the monitor indications pending completion of repairs for a period not exceeding 60 days without further authority from the Commission, provided that:

(1) Appropriate entries shall be made in the maintenance log of the station showing the date and time the sampling system was removed from and restored to service.

(2) If remote base current indications are not available at the transmitter control position, base currents shall be read and logged at least once each day for each mode of directional operation.

(3) Field strength measurements at each monitoring point specified in the station's authorization shall be read and logged at least once every seven (7) days.

(4) If the station is operated by remote control and phase indications are read and logged at the remote control point, indicating instruments at the transmitter shall be read and logged at the times specified in § 73.114(a)(9)(ii).

(e) If the antenna sampling system is modified or components of the sampling system are replaced, the following procedure shall be followed:

(1) Temporary authority shall be requested and obtained from the Commission in Washington to operate with parameters at variance with licensed values pending issuance of a modified license specifying parameters subsequent to modification or replacement of components.

(2) Immediately prior to modification or replacement of components of the sampling system not on the towers, and after a verification that all monitoring point values, base current ratios and operating parameters are within the limits or tolerances specified in the instrument of authorization or the pertinent rules, the following indications shall be read and recorded in the maintenance log for each radiation pattern: Final plate current and plate voltage, common point current, base currents and their ratios, antenna monitor phase and current indications, and the field strength at each monitoring point. Subsequent to these modifications or changes the above procedure shall be repeated.

(3) If that portion of the sampling system above the base of the towers is modified or components replaced, a partial proof of performance shall be executed subsequent to these changes consisting of at least 10 field strength measurements on each of the radials established in the latest complete proof of performance of the antenna system. These measurements shall be made at locations, all within 2 to 10 miles from the antenna, which were utilized in such proof, including, on each radial, the location, if any, designated as a monitoring point in the station authorization. Measurements shall be analyzed in the manner prescribed in § 73.186. The partial proof of performance shall be accompanied by common point impedance measurements made in accordance with § 73.54.

(4) Request for modification of license shall be submitted to the Commission in Washington, D.C., within 30 days of the date of sampling system modification or replacement. Such request shall specify the transmitter plate voltage, and plate current, common point current, base currents and their ratios, antenna monitor phase and current indications, and all other data obtained pursuant to this paragraph (e).

[FR Doc.76-4570 Filed 2-17-76;8:45 am]

Title 24—Housing and Urban Development

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

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-884]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Changes Made in Determinations of Ocean City, Maryland, Base Flood Elevations

On January 8, 1976, at 41 FR 1474, the Federal Insurance Administrator published a list of communities that included Flood Insurance Rate Maps for portions of Ocean City. The Federal Insurance Administration, after consultation with the Chief Executive Officer of the community, has determined that it is appropriate to modify the base (100-year) flood elevations of some locations in Ocean City, Maryland. These modified elevations are currently in effect and amend the Flood Insurance Rate Map, which was in effect prior to this determination. A revised rate map will be published as soon as possible. The modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448) 42 U.S.C. 4001-4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 245207D, and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the modified elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

From the date of this notice, any person has 90 days in which he can request through the community that the Federal Insurance Administrator reconsider the changes. Any request for reconsideration must be based on knowledge of changed conditions or new scientific or technical data. All interested parties are on notice that until the 90-day period elapses, the Administrator's new determination of elevations may itself be changed.

Any persons having knowledge or wishing to comment on these changes should immediately notify:

Mayor of Ocean City, P.O. Box 158, Ocean City, Maryland 21842

Also, at this location is the map showing the new base flood elevations. This map is a copy of the one that will be printed. The numerous changes made in the base flood elevations on the Ocean City Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Ocean City map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974)

Issued: February 3, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76-4629 Filed 2-17-76;8:45 am]

[Docket No. FI-883]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determination for the Township of Solebury, Bucks County, Pennsylvania

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for Solebury, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Township must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Township Building on the Bulletin Board, Sugar Road, Solebury.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify the Chairman of the Board of Supervisors, J. Walter Livezey, Jr., Solebury Township, Box 93, Solebury, Pennsylvania 18963. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community or on or before May 18, 1976, whichever is the later.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation—feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Delaware River	South corporate limit	62	(1)	450
	Upper York Rd	83	(1)	250
	Lumberville Bridge	96	(1)	200
Pidcock Creek	River Rd	62	100	20
	Atkinson Rd	116	90	90
Aquetong Creek	Corporate limit at New Hope	90	100	100
	Lower York Rd	108	10	100
Rabbit Run	River Rd	82	100	20
Primrose Creek	River Rd	83	400	100
	Phillips Mill Rd	90	20	50
	School Lane	144	60	70
Primrose Creek Tributary No. 1.	Phillips Mill Rd	172	50	30
Cuttalossa Creek	River Rd	94	10	160
	Cuttalossa Rd	140	80	60
Coppernose Run	River Rd	99	30	20
Paunacussing Creek	River Rd	97	360	350
	Paunacussing Rd	204	100	40
	Fleecy Dale Rd	224	40	50
	Carversville Rd	229	50	30
	Sawmill Rd	266	90	80
Paunacussing Creek Tributary No. 1.	Pipersville Rd	232	80	40

[1] East corporate limit.

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

Issued: February 4, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76–4630 Filed 2–17–76;8:45 am]

[Docket No. FI–882]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determination for the Borough of Stroudsburg, Monroe County, Pennsylvania

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (P.L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the Borough of Stroudsburg, Monroe County, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the borough must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Borough Manager's office, 7th and Farrah Street, Stroudsburg.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Ralph E. Bender, Jr., Borough Manager, 7th and Farrah Street, Stroudsburg, Pennsylvania 18360. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community or on or before May 18, 1976, whichever is the later.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation—feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Brodhead Creek	North corporate limits	398		140
	Main St	396		80
	Interstate 80	394		80
	South corporate limits	392		70
McMichaels Creek	7th St	411	5	280
	5th St	409	10	10
	Interstate 80	414	80	10
Pocono Creek	West corporate limits	456		20
	Main St	422	10	10

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

Issued: February 3, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76–4631 Filed 2–17–76;8:45 am]

[Docket No. FI–881]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determination for the Borough of Renovo, Clinton County, Pennsylvania

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the Borough of Renovo, Clinton County, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the borough must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Fire Building, 5th Street, Renovo.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Carmen Rosamilio, 5th Street, Renovo, Pennsylvania 17764.

The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community or on or before May 18, 1976, whichever is later.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation—feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
West branch Susquehanna River.	Eastern corporate limit	656.5	220	(1)
	Route 144	659.5	580	(1)
	Western corporate limit	665.0	60	(1)
Paddy Run	Penn Central Railroad	656.5	0	0
	Route 120	656.5	0	0

[1] Outside corporate limit.

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

Issued: February 3, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76-4632 Filed 2-17-76;8:45 am]

Title 39—Postal Service

CHAPTER I—U.S. POSTAL SERVICE

PART 955—RULES OF PRACTICE BEFORE THE BOARD OF CONTRACT APPEALS

Revision of Rules of Practice

The Chairman of the Board of Contract Appeals, acting in accordance with authority delegated to him by 39 CFR 224.1(c)(5)(v)(A), hereby adopts a complete revision of Part 955 of title 39, CFR, which contains the Rules of Practice Before the Board of Contract Appeals.

Accordingly, Part 955 of title 39, Code of Federal Regulations, is revised to read as follows:

Sec.
955.1 Jurisdiction, procedure, representation of parties.

PRELIMARY PROCEDURES

955.2 Appeals, how taken.
955.3 Notice of appeal, contents of.
955.4 Forwarding of appeals.
955.5 Preparation, contents, organization, forwarding, and status of appeal file.
955.6 Dismissal for lack of jurisdiction.
955.7 Pleadings.
955.8 Amendments of pleadings or record.
955.9 Hearing election.
955.10 Prehearing briefs.
955.11 Prehearing or presubmission conference.
955.12 Submission without a hearing.
Sec.
955.13 Optional accelerated procedure.
955.14 Settling the record.
955.15 Discovery—depositions.
955.16 Interrogatories to parties, admission of facts, and production and inspection of documents.
955.17 Service of papers.

HEARINGS

955.18 Where and when held.
955.19 Notice of hearings.
955.20 Unexcused absence of a party.
955.21 Nature of hearings.
Sec.
955.22 Examination of witnesses.
955.23 Copies of papers.
955.24 Posthearing briefs.
955.25 Transcript of proceedings.
955.26 Withdrawal of exhibits.

REPRESENTATION

955.27 The appellant.
955.28 The respondent.

DECISIONS

955.29 Decisions.

MOTION FOR RECONSIDERATION

955.30 Motion for reconsideration.

DISMISSALS

955.31 Dismissal without prejudice.
955.32 Dismissal for failure to prosecute.

EX PARTE COMMUNICATION

955.33 Ex parte communications.

SANCTIONS

955.34 Sanctions.

EFFECTIVE DATE AND APPLICABILITY

955.35 Effective date and applicability.

AUTHORITY: 39 U.S.C. 204, 401.

§ 955.1 Jurisdiction, procedure, representation of parties.

(a) *Jurisdiction for considering appeals.* The U.S. Postal Service Board of Contract appeals (referred to herein as the "Board") shall consider and determine appeals from decisions of contracting officers arising under contracts which contain provisions requiring the determination of appeals by the Postmaster General or his duly authorized representative or board. In addition the Board shall have jurisdiction over other matters assigned to it by the Postmaster General. The Board has authority to determine appeals falling within the scope of its jurisdiction as fully and finally as might the Postmaster General himself.

(b) *Organization and location of the Board.* (1) The Board is located in Washington, D.C., and its mailing address is 475 L'Enfant Plaza West SW., Washington, D.C. 20260.

(2) The Board consists of the Judicial Officer as Chairman, and the Administrative Law Judges of the Postal Service. All members of the Board shall be attorneys at law duly licensed by any state, commonwealth, territory, or the District of Columbia. In general, the appeals are assigned to a panel of at least three members of the Board. The decision of a majority of the panel constitutes the decision of the Board.

(c) *Decisions on questions of law.* When an appeal is taken pursuant to a Disputes Clause in a contract which limits appeals to disputes concerning questions of fact, the Board may, in its discretion, hear, consider, and decide all questions of law necessary for the complete adjudication of the issue. In the consideration of an appeal, should it appear that a claim is involved which is not cognizable under the terms of the contract, the Board may make findings of fact with respect to such a claim without expressing an opinion on the question of liability.

(d) *Board of contract appeals procedure*—(1) *Rules.* Appeals referred to the Board are handled in accordance with the rules of the Board.

(2) *Administration and Interpretation of Rules.* Emphasis is placed upon the sound administration of these rules in specific cases, because it is impracticable to articulate a rule to fit every possible circumstance which may be encountered. These rules will be interpreted so as to secure a just and inexpensive determination of appeals without unnecessary delay.

(3) *Preliminary procedures.* Preliminary procedures are available to encourage full disclosure of relevant and material facts, and to discourage unwarranted surprise.

(4) *Time, computation, and extensions.* (i) All time limitations specified for various procedural actions are computed as maximums, and are not to be fully exhausted if the action described can be accomplished in a lesser period. These time limitations are similarly eligible for extension in appropriate circumstances, on good cause shown.

(ii) Except as otherwise provided by law, in computing any period of time prescribed by these rules or by any order of the Board, the day of the event from which the designated period of time begins to run shall not be included, but the last day of the period shall be included unless it is a Saturday, Sunday, or a legal holiday in which event the period shall run to the end of the next business day.

(iii) Requests for extensions of time from either party shall be made in writing stating good cause therefor.

(5) *Place of filings.* Unless the Board otherwise directs, all notices of appeal, pleadings and other communications shall be filed with the Docket Clerk of the Board at its offices in the United States Postal Service Headquarters Building, 475 L'Enfant Plaza West SW., Washington, D.C. 20260. Communications to the Board shall be addressed to Board of Contract Appeals, United States Postal Service, Washington, D.C. 20260.

(e) *Representation of parties.* Whenever reference is made to contractor, appellant, contracting officer, respondent and parties, this shall include respective counsel for the parties, as soon as appropriate notices of appearance have been filed with the Board.

PRELIMINARY PROCEDURES.

§ 955.2 Appeals, how taken.

Notice of an appeal must be in writing, and the original, together with two copies, may be filed with the contracting officer from whose decision the appeal is taken. The notice of appeal must be mailed or otherwise filed within the time specified therefor in the contract or allowed by applicable provision of directive or law.

§ 955.3 Notice of appeal, contents of.

A notice of appeal should indicate that an appeal is thereby intended, and should identify the contract (by number), the department and agency or bureau cognizant of the dispute, and the decision from which the appeal is taken. The notice of appeal should be signed personally by the appellant (the contractor making the appeal), or by an officer of the appellant corporation or member of the appellant firm, or by the contractor's duly authorized representative or attorney. The complaint referred to in § 955.7 may be filed with the notice of appeal, or the appellant may designate the notice of appeal as a complaint, if it otherwise fulfills the requirements of a complaint.

§ 955.4 Forwarding of appeals.

When a notice of appeal in any form has been received by the contracting officer, he shall endorse thereon the date of mailing (or date of receipt, if otherwise conveyed) and within 10 days shall forward said notice of appeal to the Board. Following receipt by the Board of the original notice of an appeal (whether through the contracting officer or otherwise), the contractor and contracting officer will be promptly advised of its receipt and the contractor will be furnished a copy of these rules.

§ 955.5 Preparation, contents, organization, forwarding, and status of appeal file.

(a) *Duties of contracting officer.* Within 30 days of receipt of an appeal, or advice that an appeal has been filed, the contracting officer shall assemble and transmit to the Board through Postal Service counsel an appeal file consisting of all documents pertinent to the appeal, including:

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

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

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

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

(5) Any additional information considered pertinent.

Within the same time above specified Postal Service counsel shall furnish the appellant a copy of each document he transmits to the Board, except those stated in paragraph (a)(2) of this section, as to which a list furnished appellant indicating specific contractual documents transmitted will suffice, and those stated in paragraph (d) of this section.

(b) *Duties of the appellant.* Within 30 days after receipt of a copy of the appeal file assembled by the contracting officer, the appellant shall supplement the same by transmitting to the Board any documents not contained therein which he considers pertinent to the appeal, furnishing two copies of such documents to the Government trial attorney.

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

(d) *Lengthy documents.* The Board may waive the requirement of furnishing to the other party copies of bulky, lengthy, or out-of-size documents in the appeal file when a party has shown that doing so would impose an undue burden. At the time a party files with the Board a document as to which such a waiver has been granted, he shall notify the other party that the same or a copy is available for inspection at the offices of the Board or of the party filing same.

(e) *Status of documents in appeal file.* Documents contained in the appeal file are considered, without further action by the parties, as part of the record upon which the Board will render its decision, unless a party objects to the consideration of a particular document in advance of hearing or of settling the record in the event there is no hearing on the appeal. If objection to a document is made, the Board will rule upon its admissibility into the record as evidence in accordance with § 955.14 and § 955.21.

§ 955.6 Dismissal for lack of jurisdiction.

Any motion addressed to the jurisdiction of the Board shall be promptly filed. Hearing on the motion shall be afforded on application of either party, unless the Board determines that its decision on the motion will be deferred pending hearing on both the merits and the motion. The Board shall have the right at any time and on its own motion to raise the issue of its jurisdiction to proceed with a particular case, and shall do so by an appropriate order, affording the parties an opportunity to be heard thereon.

§ 955.7 Pleadings.

(a) *Appellant.* Within 30 days after receipt of notice of docketing of the appeal, the appellant shall file with the Board an original and one copy of a complaint setting forth simple, concise and direct statements of each of his claims, alleging the basis, with appropriate reference to contract provisions, for each claim, and the dollar amount claimed. This pleading shall fulfill the generally recognized requirements of a complaint although no particular form or formality is required. Upon receipt thereof, the Board shall serve a copy upon the respondent. Should the complaint not be received within 30 days, appellant's claim and appeal may, if in the opinion of the Board the issues before the Board are sufficiently defined, be deemed to set forth his complaint and the respondent shall be so notified.

(b) *Respondent.* Within 30 days from receipt of said complaint, or the aforesaid notice from the Board, respondent shall prepare and file with the Board an original and one copy of an answer thereto, setting forth simple, concise, and direct statements of respondent's defenses to each claim asserted by appellant. This pleading shall fulfill the generally recognized requirements of an answer, and shall set forth any affirmative defenses or counter-claims as appropriate. Upon receipt thereof, the Board shall serve a copy upon appellant. Should the answer not be received within 30 days, the Board may, in its discretion, enter a general denial on behalf of the Government, and the appellant shall be so notified.

§ 955.8 Amendments of pleadings or record.

(a) The Board upon its own initiative or upon application by a party may, in its discretion, order a party to make a more definite statement of the complaint or answer, or to reply to an answer.

(b) The Board may, in its discretion, and within the proper scope of the appeal, permit either party to amend his pleading upon conditions just to both parties. When issues within the proper scope of the appeal, but not raised by the pleadings or the documentation described in § 955.5, are tried by express or implied consent of the parties, or by permission of the Board, they shall be treated in all respects as if they had been raised therein. In such instances, motions to amend the pleadings to conform to the proof may be entered, but are not required. If evidence is objected to at a hearing on the ground that it is not within the issues raised by the pleadings or the documentation required pursuant to § 955.5 (which shall be deemed part of the pleadings for this purpose), it may be admitted within the proper scope of the appeal, provided, however, that the objecting party may be granted a continuance if necessary to enable him to meet such evidence.

§ 955.9 Hearing election.

Upon receipt of respondent's answer or the notice referred to in the last sentence of § 955.7(b), appellant shall advise whether he desires a hearing as prescribed in §§ 955.18 through 955.26, or whether, in the alternative, he elects to submit his case on the record without a hearing, as prescribed in § 955.12. In appropriate cases, the appellant shall also elect whether he desires the optional accelerated procedure prescribed in § 955.13.

§ 955.10 Prehearing briefs.

Based on an examination of the documentation described in § 955.5, the pleadings, and a determination of whether the arguments and authorities

addressed to the issues are adequately set forth therein, the Board may, in its discretion, require the parties to submit prehearing briefs in any case in which a hearing has been elected pursuant to § 955.9. In the absence of a Board requirement therefor, either party may, in its discretion and upon appropriate and sufficient notice to the other party, furnish a prehearing brief to the Board. In any case where a prehearing brief is submitted, it shall be furnished so as to be received by the Board at least 15 days prior to the date set for hearing, and a copy shall simultaneously be furnished to the other party as previously arranged.

§ 955.11 Prehearing or presubmission conference.

Whether the case is to be submitted pursuant to § 955.12, or heard pursuant to §§ 955.18 through 955.26, the Board may upon its own initiative or upon the application of either party, call upon the parties to appear before a Board Member for a conference to consider:

(a) The simplification or clarification of the issues;

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

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

(d) The possibility of agreement disposing of all or any of the issues in dispute; and

(e) Such other matters as may aid in the disposition of the appeal.

The results of the conference shall be reduced to writing by the Board Member and this writing shall thereafter constitute part of the record.

§ 955.12 Submission without a hearing.

Either party may elect to waive a hearing and to submit his case upon the record before the Board, as settled pursuant to § 955.14. Submission of the case without hearing does not relieve the parties from the necessity of proving the facts supporting their allegations or defenses. Affidavits, depositions, admissions, answers to interrogatories, and stipulations may be employed to supplement other documentary evidence in the Board record. The Board may permit such submission to be supplemented by oral argument (transcribed if requested), and by briefs arranged in accordance with § 955.24.

§ 955.13 Optional accelerated procedure.

(a) In appeals involving $25,000 or less, either party may elect, in his notice of appeal, complaint, answer, or by separate correspondence or statement prior to commencement of hearing or settlement of the record, to have the appeal processed under a shortened and accelerated procedure. For application of this rule the amount in controversy will be determined by the sum of the amounts claimed by either party against the other in the appeal proceeding. If no specific amount of claim is stated, a case will be considered to fall within this rule if the sum of the amounts which each party represents in writing that it could recover as a result of a Board decision favorable to it does not exceed $25,000. Upon such election, a case shall then be processed under this rule unless the other party objects and shows good cause why the substantive nature of the dispute requires processing under the Board's regular procedures and the Board sustains such objection. In cases proceeding under this rule, parties are encouraged, to the extent possible consistent with adequate presentation of their factual and legal positions, to waive pleadings, discovery, and briefs.

(b) Written decision by the Board in cases proceeding under this rule normally will be short and contain summary findings of fact and conclusions only. The Board will endeavor to render such decisions within 30 days after the appeal is ready for decision. Such decisions will be rendered for the Board by a single Board Member with the concurrence of the Chairman or a designated member; except that in cases involving $5,000 or less where there has been a hearing, the single Board Member presiding at the hearing may, in his discretion, at the conclusion of the hearing and after entertaining such oral arguments as he deems appropriate, render on the record oral summary findings of fact, conclusions and decision of the appeal. In the latter instance, the Board will subsequently furnish the parties a typed copy of such oral decision for record and payment purposes and to establish the date from which the period for filing a motion for reconsideration under § 955.30 commences.

Except as herein modified, these rules otherwise apply in all respects.

§ 955.14 Settling the record.

(a) The record upon which the Board's decision will be rendered consists of the appeal file described in § 955.5, and to the extent the following items have been filed, pleadings, prehearing conference memoranda or orders, prehearing briefs, depositions or interrogatories received in evidence, admissions, stipulations, transcripts of conferences and hearings, hearing exhibits, posthearing briefs, and documents which the Board has specifically designated be made a part of the record. The record will at all reasonable times be available for inspection by the parties at the office of the Board.

(b) Except as the Board may otherwise order in its discretion, no proof shall be received in evidence after completion of an oral hearing or, in cases submitted on the record, after notification by the Board that the case is ready for decision.

(c) The weight to be attached to any evidence of record will rest within the sound discretion of the Board. The Board may in any case require either party, with appropriate notice to the other party, to submit additional evidence on any matter relevant to the appeal.

§ 955.15 Discovery—depositions.

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

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

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

(d) *Use as evidence.* No testimony taken by depositions shall be considered as part of the evidence in the hearing of an appeal unless and until such testimony is offered and received in evidence at such hearing. It will not ordinarily be received in evidence if the deponent is present and can testify personally at the hearing. In such instances, however, the deposition may be used to contradict or impeach the testimony of the witness given at the hearing. In cases submitted on the record, the Board may, in its discretion, receive depositions as evidence in supplementation of that record.

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

§ 955.16 Interrogatories to parties, admission of facts, and production and inspection of documents.

(a) *Interrogatories to parties.* After an appeal has been filed with the Board, a party may serve on the other party written interrogatories to be answered separately in writing, signed under oath and returned within 30 days. Upon timely objection by the party, the Board will determine the extent to which the interrogatories will be permitted. The scope and use of interrogatories will be controlled by § 955.15.

(b) *Admission of facts.* After an appeal has been filed with the Board, a party may serve upon the other party a request for the admission of specified facts. Within 30 days after service, the

party served shall answer each requested fact or file objections thereto. The factual propositions set out in the request shall be deemed admitted upon the failure of a party to respond to the request for admission.

(c) *Production and inspection of documents.* Upon motion of any party showing good cause therefor, and upon notice, the Board may order the other party to produce and permit the inspection and copying or photographing of any designated documents or objects, not privileged, specifically identified, and their relevance and materiality to the cause or causes in issue explained, which are reasonably calculated to lead to the discovery of admissible evidence. If the parties cannot themselves agree thereon, the Board shall specify just terms and conditions in making the inspection and taking the copies and photographs.

§ 955.17 Service of papers.

Papers shall be served personally or by mailing the same, addressed to the party upon whom service is to be made. Copies of complaints, answers and simultaneous briefs shall be filed directly with the Board. The party filing any other paper with the Board shall send a copy thereof to the opposing party, noting on the paper filed with the Board, or on the letter transmitting the same, that a copy has been so furnished.

HEARINGS

§ 955.18 Where and when held.

Hearings will ordinarily be held in the Washington, D.C. area, except that upon request seasonably made and upon good cause shown, the Board may set the hearing at another location. Hearings will be scheduled at the discretion of the Board with due consideration to the regular order of appeals and other pertinent factors. On request or motion by either party and upon good cause shown, the Board may, in its discretion, advance a hearing.

§ 955.19 Notice of hearings.

The parties shall be given at least 15 days notice of the time and place set for hearings. In scheduling hearings, the Board will give due regard to the desires of the parties and to the requirement for just and inexpensive determination of appeals without unnecessary delay. Notices of hearing shall be promptly acknowledged by the parties.

§ 955.20 Unexcused absence of a party.

The unexcused absence of a party at the time and place set for hearing will not be occasion for delay. In the event of such absence, the hearing will proceed and the case will be regarded as submitted by the absent party as provided in § 955.12.

§ 955.21 Nature of hearings.

Hearings shall be as informal as may be reasonable and appropriate under the circumstances. Appellant and respondent may offer at a hearing on the merits such relevant evidence as they deem appropriate and as would be admissible under the generally accepted rules of evidence applied in the courts of the United States in nonjury trials, subject, however, to the sound discretion of the presiding officer in supervising the extent and manner of presentation of such evidence. In general, admissibility will hinge on relevancy and materiality. Letters or copies thereof, affidavits, or other evidence not ordinarily admissible under the generally accepted rules of evidence, may be admitted in the discretion of the presiding officer. The weight to be attached to evidence presented in any particular form will be within the discretion of the Board, taking into consideration all the circumstances of the particular case. Stipulations of fact agreed upon by the parties may be regarded and used as evidence at the hearing. The parties may stipulate the testimony that would be given by a witness if the witness were present. The Board may in any case require evidence in addition to that offered by the parties.

§ 955.22 Examination of witnesses.

Witnesses before the Board will be examined orally under oath or affirmation, unless the facts are stipulated, or the presiding officer shall otherwise order. If the testimony of a witness is not given under oath, the Board may warn the witness that his statements may be subject to the provisions of Title 18, United States Code, Sections 287 and 1001, and any other provisions of law imposing penalties for knowingly making false representations in connection with claims against the United States or in any matter within the jurisdiction of any department or agency thereof.

§ 955.23 Copies of papers.

When books, records, papers, or documents have been received in evidence, a true copy thereof or of such part thereof as may be material or relevant may be susbtituted therefor, during the hearing or at the conclusion thereof.

§ 955.24 Posthearing briefs.

Posthearing briefs may be submitted upon such terms as may be agreed upon by the parties and the presiding officer at the conclusion of the hearing. Ordinarily, they will be simultaneous briefs, exchanged within 30 days after receipt of transcript.

§ 955.25 Transcript of proceedings.

Testimony and argument at hearings shall be reported verbatim, unless the Board otherwise orders. Transcripts or copies of the proceedings shall be supplied to the parties at such rates as may be fixed by contract between the Reporter and the U.S. Postal Service.

§ 955.26 Withdrawal of exhibits.

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

REPRESENTATION

§ 955.27 The Appellant.

An individual appellant may appear before the Board in person, a corporation by an officer thereof, a partnership or joint venture by a member thereof, or any of these by an attorney at law duly licensed in any state, commonwealth, territory, or in the District of Columbia. An attorney representing an appellant shall file a written notice of appearance with the Board.

§ 955.28 The Respondent.

Postal Service counsel, designated by the General Counsel, will represent the interest of the Government before the Board. Counsel shall file a notice of appearance with the Board, and notice thereof will be given appellant or his attorney in the form specified by the Board from time to time. Whenever at any time it appears that appellant and Postal Service Counsel are in agreement as to disposition of the controversy, the Board may suspend further processing of the appeal: *Provided, however,* That if the Board is advised thereafter by either party that the controversy has not been disposed of by agreement, the case shall be restored to the Board's calendar without loss of position.

DECISIONS

§ 955.29 Decisions.

Decisions of the Board will be made in writing and authenticated copies thereof will be forwarded simultaneously to both parties. The rules of the Board and all final orders and decisions shall be open for public inspection at the offices of the Board in Washington, D.C. Decisions of the Board will be made solely upon the record, as described in § 955.14.

MOTION FOR RECONSIDERATION

§ 955.30 Motion for reconsideration.

A motion for reconsideration, if filed by either party, shall set forth specifically the ground or grounds relied upon to sustain the motion, and shall be filed within 30 days from the date of the receipt of a copy of the decision of the Board by the party filing the motion.

DISMISSALS

§ 955.31 Dismissal without prejudice.

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

§ 955.32 Dismissal for failure to prosecute.

Whenever a record discloses the failure of either party to file documents required by these rules, respond to notices or correspondence from the Board, comply with orders of the Board, or otherwise indicates an intention not to continue the prosecution or defense of an appeal, the Board may issue an order requiring the offending party to show cause why the appeal should not be either dismissed or granted, as appropriate. If the offending party shall fail to show such cause, the Board may take such action as it deems reasonable and proper under the circumstances.

EX PARTE COMMUNICATIONS

§ 955.33 Ex Parte Communications.

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

SANCTIONS

§ 955.34 Sanctions.

If any party fails or refuses to obey an order issued by the Board, the Board may make such order in regard to the failure as it considers necessary to the just and expeditious conduct of the appeal.

EFFECTIVE DATE AND APPLICABILITY

§ 955.35 Effective date and applicability.

These rules shall take effect on February 18, 1976. Except as otherwise directed by the Board, these rules shall not apply to appeals which have been docketed prior to their effective date.

EDWARD F. LUSSIER,
Chairman,
Board of Contract Appeals.

[FR Doc.76-4523 Filed 2-17-76;8:45 am]

Note by Office of the Federal Register: The above document scheduled to appear in today's issue (February 18, 1976) was inadvertently published in the issue of February 17, 1976 (41 FR 7099).

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 1]

LAW AND ORDER ON INDIAN RESERVATIONS

Law Enforcement Standards

FEBRUARY 10, 1976.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2.

Notice is hereby given that it is proposed to revise §§ 11.304 and 11.305 of Subchapter B, Chapter I, of Title 25 of the Code of Federal Regulations. This revision is proposed under the authority contained in 5 U.S.C. 301, 25 U.S.C. 2 and Section 102 of Title I of the Indian Self-Determination and Education Assistance Act (Public Law 93–638, 88 Stat. 2203).

All police departments are entrusted by the community with the right to use force to protect the community. The lives, freedom, and rights of each community member are dependent on the proper use by the police and detention personnel of the authority entrusted to them. For these reasons it is deemed necessary to set out in some detail the requirements for all police and detention programs that receive funding from the Bureau of Indian Affairs. Except where otherwise specified, these proposed regulations would apply to law enforcement programs run directly by the Bureau of Indian Affairs and those conducted under contract or grant with the Bureau of Indian Affairs.

The following is an explanation of the proposed regulations:

1. § 11.304 (a) Misuse of the authority to make arrests and to use a firearm for law enforcement purposes can endanger lives and results in serious invasions of the civil rights of community members. Failure to control strictly who exercises such powers invites such abuses.

2. § 11.304 (b) If uniforms of law enforcement officers are not distinct from those of other persons, the public does not know which persons have the power of arrest. Such a situation may invite abuse by persons who wear uniforms but are not law enforcement officers. If the uniform does not clearly identify that a person has the power of arrest, a citizen may be more likely to offer resistance to a lawful arrest. Name plates promote responsible action on the part of law enforcement officers since officers can be identified later if they engage in misconduct.

3. § 11.304 (c) Any time a firearm is aimed at another person and discharged there is grave danger that someone may be killed. The only justification for a police officer's shooting another person is to protect human life.

4. § 11.304 (d) Reports are required to maintain the accountability necessary for the enforcement of § 11.304(c). Whenever an officer shoots someone, passions are apt to run high. An automatic rule that officers who shoot someone are placed on administrative leave or assigned to administrative duties will give supervising officials time to assess the situation. Since the action is automatic there is no imputation of wrong doing.

5. § 11.304 (e) When an officer draws a weapon to protect human life, it is important that the officer hits the person who is endangering life. Poor aim may not only fail to stop the threatened danger from occurring, but itself may endanger the lives of others.

6. § 11.304(f) Many law enforcement officers tend to feel that the more powerful their armament the safer they are. Because of their concern with self-protection, they are less concerned about the increased danger to others that excessively powerful weapons may pose. Decisions on which weapons should be used can be made more wisely by officials who can weigh the competing interests more objectively.

7. § 11.304(g) A law enforcement officer must receive extensive technical training to understand the law enforcement task and to know how to perform it professionally. Untrained officers are not equipped to gather the evidence necessary to obtain convictions. They are also dangerous to themselves and to the public. Untrained supervisors do not know how to maintain proper discipline to assure that services are rendered in a professional manner.

8. § 11.304(h) As officers develop on the job, they require additional training for new responsibilities. New developments in law enforcement require additional training. There is also a need for refresher courses to sharpen the skills learned during basic training.

9. § 11.304(i) The Interior Department qualification standards for GS–083 have recently been revised and approved by the Civil Service Commission to assure that all requirements are job related. They are the minimum necessary to assure the employment of persons who can carry out their assigned duties to protect the public. The experience required to meet the GS–1811 standards can be obtained by any police officer who has been on the force for six years. The special experience required by the qualifications standards is job related.

10. § 11.304(j) The standards of qualification and conduct required of police cannot be maintained if the pay is so low that qualified individuals can find better paying work elsewhere. Many Federal, State and local police departments now pay better salaries than does the Bureau of Indian Affairs. If tribal salaries are substantially below the Bureau's salaries, recruitment of police qualified to provide adequate protection will be impossible. Dismissal of police who engage in misconduct or are unable to perform their duties properly will be futile if no better qualified applicants are available. Low pay leads to high staff turnover and makes adequate training impossible.

11. § 11.304(k) These informal hearing procedures provide the rudiments of due process that have been required of local housing authorities and welfare agencies. There is no reason to believe that the Federal courts will require a lesser standard of tribal governments under the Indian Civil Rights Act. Giving an accused officer the right to a hearing creates an atmosphere of fairness that is necessary to maintain high morale and good police performance. Such hearings will also produce the evidence necessary to assure that only those who are not performing their duties properly are subjected to an adverse action. Requiring supervisors to present evidence supporting any adverse action also protects officers from undue influence from their supervisors. Officers will be better able to withstand pressure to enforce laws selectively or show other favoritism.

12. § 11.304(l) A tribally developed code of ethics will help develop the professionalism needed for effective law enforcement. Respect for the fairness of law enforcement officials is crucial to obtaining the minimum community cooperation needed for law enforcement that effectively protects the community.

13. § 11.304(m) The Bureau of Indian Affairs is developing and field testing a computerized system of compiling law enforcement statistics. The system will enable the Bureau to do better law enforcement planning. National uniformity is required if the system is to work effectively. Prompt and adequate data collection will enable the Bureau of Indian Affairs to prepare better justifications for funding to the Office of Management and Budget and the Congress. Such data is needed to demonstrate to decision makers that the Bureau knows what the law enforcement needs of Indian communities are and what funds for this purpose can be spent beneficially. Use of the computerized system will also enable the local police decision makers

to plan the deployment of the resources available to them in a more efficient manner.

14. § 11.304(n) Monitoring of the contracts is necessary to assure that there is compliance with contract provisions. Contracting officers do not have the technical expertise to odetermine whether a contractor is in fact complying with the provisions of the law enforcement contract.

15. § 11.305 All of the paragraphs in § 11.305 dealing with detention facilities except paragraphs (e), (l) and (m) are designed to protect prisoners from physical harm. Paragraphs (e) and (l) are to protect against persons giving aid to help prisoners escape. Paragraph (m) is designed to protect prisoner property entrusted to the care of the jailor and to protect the jailor against unfounded charges that property was misappropriated.

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 proposed revision to the Commissioner of Indian Affairs, Bureau of Indian Affairs, Washington, D.C. 20245 on or before February 28, 1976.

It is proposed to revise §§ 11.304 and 11.305 of Subchapter B, Chapter I, Title 25 of the Code of Federal Regulations to read as follows:

§ 11.304 Minimum standards for police programs.

The following minimum standards are required of all law enforcement programs that receive funding from the Bureau of Indian Affairs:

(a) Each law enforcement officer shall be specifically identified as such and shall be individually authorized to make arrests and to carry firearms. Only employees assigned duties as law enforcement officers may be authorized to carry firearms or make arrests.

(b) Uniforms, when worn, shall positively identify the wearer as a law enforcement officer. Badge, name plate and tribal or Bureau of Indian Affairs patch shall be visible at all times. Uniforms of all enforcement personnel shall be plainly distinguishable from the uniforms of any non-enforcement personnel working on the reservation.

(c) A firearm may be discharged only when in the considered judgment of the officer there is imminent danger of loss of life or serious bodily injury to the officer or to another person. The weapon may be fired only for the purpose of rendering the person at whom it is fired incapabale of continuing the activity prompting the officer to shoot. The firing of warning shots is prohibited. This policy does not apply to the use of firearms to participate in official marksmanship training or to kill a dangerous or seriously injured animal.

(d) Except in firearms training, each time a firearm is used for law enforcement purposes a report shall be filed with the superior of the officer who used the weapon. Whenever use of a weapon results in serious injury or death of any person, the officer firing the weapon shall be placed on administrative leave, or be assigned to strictly administraive duties, pending a thorough investigation of all circumstances surrounding the incident.

(e) Each Law Enforcement officer must attain a score of 70 percent or better on an approved firearms qualification course within the previous six months to be qualified to carry a firearm. Whenever an officer's firearms qualification lapses, the officer shall return all weapons issued. The following courses are approved firearms qualifications courses:

(1) The National Rifle Association National Police Course.

(2) The National Rifle Association 25-yard Course.

(3) The National Rifle Association Practical Pistol Course.

(4) The Federal Bureau of Investigation Practical Pistol Course.

(f) (1) Bureau of Indian Affairs law enforcement officers shall be issued the standard police .38 caliber revolver and ammunition. The use of other types of hand guns such as automatics, parabellums, or calibers other than the authorized .38 caliber is prohibited. The barrel length may be not more than 6 inches nor less than 4 inches for uniform personnel, and not less than 2 inches for plainclothes personnel. Only standard load ammunition may be used. Officers who performed law enforcement functions for the Bureau of Indian Affairs before July 17, 1972, may be authorized to carry the .357 Magnum revolver. The Commissioner of Indian Affairs may grant a written waiver for hand guns not authorized by this paragraph.

(2) Each tribe shall specify the type of firearms, ammunition and auxiliary equipment to be used by the law enforcement officers of that tribe.

(g) (1) Newly employed enforcement personnel in non-supervisory positions shall successfully complete within their probationary period of service the approved Basic Police Training Course conducted at the Indian Police Academy or other basic police training course that is certified in the State where the officers are employed.

(2) Within one year after promotion or appointment to a supervisory enforcement position, an employee shall complete the approved Supervisory Enforcement Officers Training Course conducted at the Indian Police Academy or a similar course that is certified in the State where the supervisor is employed.

(3) Within one year after promotion to a criminal investigator position, an officer shall successfully complete the basic criminal investigator course conducted at the Indian Police Academy or any other similar course approved by the Commissioner of Indian Affairs.

(4) Before promotion to a supervisory criminal investigator position, or within one year thereafter, an officer shall successfully complete with Command and Management Course conducted at the Indian Police Academy or any other similar course approved by the Commissioner of Indian Affairs.

(h) Each law enforcement officer shall receive a minimum of forty hours of local in-service training annually to meet training needs determined by the tribe and to keep abreast with developments in the field of law enforcement.

(i) The Civil Service Commission excepted, Bureau of Indian Affairs standards for skill level GS–083 are the minimum entry level qualifications for a patrol officer. The Civil Service Commission standards for skill level GS–1811 are the minimum entry level qualifications for criminal investigators. The standards are available for inspection or copying at any Bureau Agency, Area, or Central Personnel Office.

(j) Salaries paid law enforcement officers by a tribal organization under a contract under Part 271 of this chapter or by a tribal governing body under a grant under Part 272 of this chapter shall be equivalent to the salaries paid officers with similar responsibilities employed directly by the Bureau of Indian Affairs.

(k) Prior to taking an adverse action against any employee, the contractor under Part 271 of this chapter or a grantee under Part 272 of this chapter shall take the following steps:

(1) Notify the employee of the contemplated action and give a full specification of the reasons such action is contemplated.

(2) Provide the employee with a written statement of any specific violation of rules, regulations, or statutes the contractor or grantee alleges the employee has committed and the name of each person upon whose testimony each allegation is based.

(3) Set a hearing date not less than 15 days after the employee has been given the written statement of allegations.

(4) Provide the employee and the employee's counsel at the hearing with an opportunity to confront and cross-examine each adverse witness.

(5) Provide the employee and the employee's counsel at the hearing with an opportunity to delineate issues, to present factual contentions in an orderly manner and to generally protect the employee's interests.

(6) Reconsider the decision to take the adverse action based solely on the evidence given at the hearing and provide the employee at the time the decision is announced with a written statement of the reasons for the decision and the evidence relied upon in reaching the decision.

(7) Issue a final order based on the decision reached after the hearing.

(l) After October 1, 1977, the tribe shall require each law enforcement officer it employs to adhere to a law enforcement code of conduct prescribed by the tribe. The code shall establish specific rules concerning conflicts of interest, employee conduct both on and off duty, impartiality and thoroughness in performance of duty, and acceptance of gifts or favors.

(m) A contractor under Part 271 of this chapter shall use the same report forms and submit the same statistical reports to the Central Office that are required of Bureau of Indian Affairs police programs.

(n) The contractor shall cooperate fully with the Bureau of Indian Affairs law enforcement inspector when conducting a compliance review of the contractor's law enforcement program.

§ 11.305 Minimum standards for detention programs.

Each detention program that receives funds from the Bureau of Indian Affairs shall meet the following minimum standards:

(a) No sick or injured person may be booked or held in a detention facility unless a medical release has been obtained from a medical officer.

(b) Any inmate requiring medical attention shall be treated as soon as possible.

(c) The jailor or other responsible employee shall maintain control over the custody and issue of all medicine to prisoners under treatment for chronic ailments to insure proper use and to guard against overdose.

(d) Routine inspections of all cells shall be conducted on an hourly basis to protect the safety and welfare of prisoners. A record of each inspection shall be logged in appropriate records.

(e) Only persons who have been specifically authorized by the jailor in charge to visit a prisoner or prisoners may be allowed in the cell block areas.

(f) Special attention shall be given to cells occupied by persons jailed for intoxication to guard against the infliction of personal injury.

(g) No juvenile may be kept in the same cell with any adult.

(h) Each prisoner shall be served three meals a day.

(i) Each food handler shall be given a medical examination prior to employment.

(j) All jail facilities including kitchens shall be subject to periodic inspections by personnel from the Indian Health Service or other appropriate agency to insure proper sanitary conditions.

(k) The number of persons in each cell may not exceed the number for which the cell was designed except in extreme emergencies.

(l) A record of all visitors shall be maintained indicating date, time and identity of the visitor.

(m) Proper precautions shall be taken to insure the safekeeping of property belonging to inmates.

MORRIS THOMPSON,
Commissioner of Indian Affairs.

[FR Doc.76-4532 Filed 2-17-76;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 26]

GRAIN STANDARDS

Miscellaneous Amendments; Extension of Comment Period and Change of Public Hearing Date

On February 12, 1976, a notice of proposed rulemaking was published in the FEDERAL REGISTER (30 FR 6265) to amend certain sections under the regulations under the U.S. Grain Standards Act (7 U.S.C. 71 et seq.).

Interested parties have requested an extension of the time to submit written data, views, or arguments because the comment period allowed in the February 12 publication was not considered sufficient to allow review of the proposed amendments and provide written comments. In view of the request, notice is hereby given that the period for filing written data, views, or arguments with respect to the proposed amendments of the regulations published in the February 12 FEDERAL REGISTER is extended to March 4, 1976. The date for public hearing is hereby also changed from February 19, 1976, to March 4, 1976.

Opportunity is hereby afforded all interested parties to submit written data, views, or arguments with respect to the proposed amendments of the regulations to the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions should be in triplicate and should be received by the Hearing Clerk not later than March 4, 1976. In addition, opportunity will be afforded all interested parties to submit oral or written data, views, and arguments at a public hearing to be held in the South Building, Room 2096, U.S. Department of Agriculture, beginning at 9 a.m. on March 4, 1976. All submissions made pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Consideration will be given to the written data, views, or arguments received by the Hearing Clerk and to other information available to the U.S. Department of Agriculture before final determination which is made with respect to this proposal.

Done in Washington, D.C. on February 13, 1976.

IRVING W. THOMAS,
Acting Administrator,
Agricultural Marketing Service.

[FR Doc.76-4750 Filed 2-17-76;8:45 am]

Soil Conservation Service

[7 CFR Part 651]

LAND RIGHTS, WATER RIGHTS, AND CONSTRUCTION PERMITS

Termination of Proposed Rulemaking

The purpose of this notice is to announce that the Administrator of the Soil Conservation Service (SCS) is terminating the rulemaking proceedings on the subject of acquisition of interests in real property needed for projects with federal financial assistance provided under programs administered by SCS, which was published on August 15, 1974 (39 FR 29376–29379).

The August 15, 1974, publication invited interested persons to comment on the proposed rules and regulations. The SCS has reviewed the comments received in response to the proposed rules. Since SCS is currently reappraising the proposed policy, it has determined to terminate rulemaking under the August 15, 1974, publication, and to issue new proposed rules and regulations on this subject. Therefore, the rulemaking in 39 FR 29376–29379 is hereby terminated.

Dated: February 5, 1976.

VERNE M. BATHURST,
Acting Administrator.

[FR Doc.76-4529 Filed 2-17-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

[20 CFR Parts 404, 416]

[Regulations No. 4, 16]

FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE; SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Substantial Gainful Activity

Notice is hereby given, pursuant to the Administrative Procedure Act (5 U.S.C. 553), that the amendments to the Disability Insurance regulations and the Supplemental Security Income for the Aged, Blind, and Disabled regulations set forth below in tentative from are proposed by the Commissioner of Social Security, with the approval of the Secretary of Health, Education, and Welfare. The proposed amendments provide a mechanism for the systematic adjustment of the amounts in the earnings guidelines used for assessing the work activity of title II and title XVI disability claimants and beneficiaries, and they also provide the first adjustment under this procedure.

The earnings guides for determining whether an individual has demonstrated, over a significant period of time, an ability to engage in substantial gainful activity, and the retirement test monthly exempt amount, are measures of whether an individual may be considered to be engaged in the labor market. As such, the earnings amounts used are most effective when they are increased consistently with increases in the average earnings of workers in private industry. As the general level of earnings increases, the fixed level guides become less indicative of engagement in the labor market and need to be adjusted. Covered wages and salaries reported to the Social Security Administration represent the earnings of

workers who would be affected by the guides. Therefore, systematic adjustments will be based on the rate of increase in average taxable wages and salaries of covered employees. This is the same method specified in section 203(f)(8) of the Social Security Act for systematically adjusting the retirement test exempt amount. The mechanism for automatically adjusting the retirement test recently required an increase in the exempt amount, notice of which was published in the FEDERAL REGISTER on October 30, 1975 (40 FR 50556). As noted, the exempt amount is likewise intended to be performing substantial services in the labor market.

About 70.6 million employees had taxable wages reported for the first calendar of 1973 that were posted to the Summary Earnings Records by the end of September 1973, and the average amount of their taxable wages for the quarter was $1,895.04 per employee. The corresponding number of employees and average amount of taxable wages for the first calendar quarter of 1975 were 70.6 million and $2,157.73, respectively. The ratio of average taxable wages reported for the first quarter of 1975 to average taxable wages reported for the first quarter of 1973 is, therefore, 1.1386.

Multiplying the earnings amount in effect as of January 1, 1974, of $200 by the ratio of 1.1386 produces the amount of $227.72, which must then be rounded to $230. Accordingly, the earnings amount in effect as of January 1, 1976, will be $230. The secondary guideline which was $130 a month, is raised to $150 by the same factor.

The new higher earnings amounts, and any future increases in earnings amounts computed under this systematic adjustment mechanism for later years, will apply in the adjudication of any disability claim before the Secretary on or after the January 1 effective date. With respect to the higher amounts which would be effective January 1, 1976, any claim which is before the Secretary on or after that date would be considered or reopened on the basis of those higher amounts as appropriate.

Prior to the final adoption of the proposed amendments to the regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in triplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Maryland 21203, on or before March 18, 1976.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Information, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 4146, 330 Independence Avenue, S.W., Washington, D.C. 20201.

Sections 205, 223, 1102, 1614, and 1631, 53 Stat. 1368, as amended, 70 Stat. 815, as amended, 49 Stat. 647, as amended, 86 Stat. 1471, 1475, as amended; 42 U.S.C. 405, 423, 1302, 1382(c) and 1383.

Catalog of Federal Domestic Program No. 13.802, Disability Insurance; Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income Program.

Dated: September 16, 1975.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: February 4, 1976.

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

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

1. Section 404.1534 is amended by revising paragraphs (b), (c), and (d) and by adding a new paragraph (f) to read as follows:

§ 404.1534 Evaluation of earnings from work.

* * * * *

(b) *Earnings at a monthly rate in excess of $230.* An individual's earnings from work activities averaging in excess of $230 a month shall be deemed to demonstrate his ability to engage in substantial gainful activity unless there is affirmative evidence that such work activities themselves establish that the individual does not have the ability to engage in substantial gainful activity under the criteria in §§ 404.1532 and 404.1533 and paragraph (a) of this section.

(c) *Earnings at a rate of $150 to $230 a month.* Where an individual's earnings from work activities average between $150 and $230 a month, consideration of the amount of his earnings together with the other circumstances relating to his work activities (see §§ 404.1532 and 404.1533), the medical evidence relating to his impairment or impairments, and other factors (see § 404.1502) shall determine whether such individual is able to engage in substantial gainful activity. However, in the case of an individual working in a sheltered workshop (such as a workshop especially organized for disabled individuals) or comparable facility, whose activities are limited by his impairment so that his earnings average $230 a month or less, such activities and such earnings ordinarily would not establish the ability to engage in substantial gainful activity.

(d) *Earnings at a monthly rate of less than $150.* Earnings from work activities as an employee which average less than $150 a month do not show that the individual is able to engage in substantial gainful activity. However, an evaluation of the work performed (see § 404.1532) may establish that the individual is able to engage in substantial gainful activity, regardless of the amount of his average monthly earnings.

* * * * *

(f) *Recomputing the monthly earnings amounts.* The earnings amounts listed in paragraphs (b), (c), and (d) of this section will be recomputed annually, and notice of any modification in the earnings amounts will be published in the FEDERAL REGISTER on or before November 1 of each calendar year. Such modifications shall be effective for all cases adjudicated either initially or at the appellate level on or after January 1 of the calendar year following the date of the announcement. The monthly earnings amounts shall be whichever of the following is the larger:

(1) The earnings amounts in effect as of January 1 of the calendar year in which the recomputation is made; or

(2) The amounts in paragraph (f)(1) of this section multiplied by the ratio of (i) the average of the taxable wages of all employees reported to the Secretary for the first calendar quarter of the calendar year in which the recomputation is being made to (ii) the average of the taxable wages of all employees reported to the Secretary for the first calendar quarter of the most recent calendar year in which an increase in the earnings amounts was determined, with such product, if not a multiple of $10, being rounded to the next higher multiple of $10 where such product is a multiple of $5 but not of $10 and to the nearest multiple of $10 in any other case. The term "reported to the Secretary for the first calendar quarter" means reported for such first calendar quarter *and* posted to the earnings records by the Secretary on or before the last day of the Social Security Administration quarterly updating operations in September of that same year.

2. Section 416.934 is amended by revising paragraphs (b), (c), and (d) and by adding a new paragraph (f) to read as follows:

§ 416.934 Evaluation of earnings from work.

* * * * *

(b) *Earnings at a monthly rate in excess of $230.* An individual's earnings from work activities averaging in excess of $230 a month shall be deemed to demonstrate his ability to engage in substantial gainful activity unless there is affirmative evidence that such work activities themselves establish that the individual does not have the ability to engage in substantial gainful activity under criteria in §§ 416.932 and 416.933 and paragraph (a) of this section.

(c) *Earnings at a rate of $150 to $230 a month.* Where an individual's earnings from work activities average between $150 and $230 a month consideration of the amount of his earnings together with the other circumstances relating to his work activities (see §§ 416.932 and 416.933), the medical evidence relating to his impairment or impairments, and other factors (see § 416.902) shall determine whether such individual is able to engage in substantial gainful activity. However, in the case of an individual working in a sheltered workshop (such as a workshop especially organized for disabled individuals) or comparable facility, whose activities are limited by his impairment so that his earnings average $230 a month or less, such activities and such earnings ordinarily would not establish the ability to engage in substantial gainful activity.

(d) *Earnings at a monthly rate of less than $150.* Earnings from work activities as an employee which average less than $150 a month do not show that the individual is able to engage in substantial gainful activity. However, an evaluation of the work performed (see § 416.932) may establish that the individual is able to engage in substantial gainful activity, regardless of the amount of his average monthly earnings.

* * * * *

(f) *Recomputing the monthly earnings amounts.* The earnings amounts listed in paragraphs (b), (c), and (d) of this section will be recomputed annually, and notice of any modification in the earnings amounts will be published in the FEDERAL REGISTER on or before November 1 of each calendar year. Such modifications shall be effective for all cases adjudicated either initially or at the appellate level on or after January 1 of the calendar year following the date of the announcement. The monthly earnings amounts shall be whichever of the following is the larger:

(1) The earnings amounts in effect as of January 1 of the calendar year in which the recomputation is made; or

(2) The amounts in paragraph (f) (1) of this section multiplied by the ratio of (i) the average of the taxable wages of all employees reported to the Secretary for the first calendar quarter of the calendar year in which the recomputation is being made to (ii) the average of the taxable wages of all employees reported to the Secretary for the first calendar quarter of the most recent calendar year in which an increase in the earnings amounts was determined, with such product, if not a multiple of $10, being rounded to the next higher multiple of $10 where such product is a multiple of $5 but not of $10 and to the nearest multiple of $10 in any other case. The term "reported to the Secretary for the first calendar quarter" means reported for such first calendar quarter *and* posted to the earnings records by the Secretary on or before the last day of the Social Security Administration quarterly updating operations in September of that same year.

[FR Doc.76-4444 Filed 2-17-76;8:45 am]

CIVIL AERONAUTICS BOARD

[14 CFR Part 207, 208, 212, 214, 217, 241, 249, 371 and 389]

[Economic Regs. Special Regs. and Organization Regs. Docket 28852]

ECONOMIC SPECIAL AND ORGANIZATIONAL REGULATIONS

Charter Flights

Notice is hereby given that the Civil Aeronautics Board has under consideration the adoption of a new Part 371 of its Special Regulations establishing a new class of charter designated as an "Advance Booking Charter" (ABC). Under consideration also are implementing amendments to Parts 207, 208, 212, 214, 217, 241, and 249 of the Economic Regulations and Part 389 of the Organization Regulations. The principal features of the proposals are described in the Explanatory Statement, and the proposed amendments are set forth in the Proposed Rules. The amendments are proposed under the authority of sections 101(3), 204(a), 401, 402, 407, 416(a), and 1001 of the Federal Aviation Act of 1958, as amended, 72 Stat. 737 (as amended), 743, 754 (as amended), 757, 766, 771, and 788; 49 U.S.C. 1301, 1324, 1371, 1372, 1377, 1386, and 1481.

Interested persons may participate in the proposed rule making through submission of twelve (12) copies of written data, views or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant material in initial comments received on or before March 19, 1976, and reply comments received on or before April 5, 1976, will be considered by the Board before taking final action on the proposed rules. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 710 Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., upon receipt thereof.

Those persons planning to file comments or responsive comments who wish to be served with such comments filed by others, and are willing to undertake to serve their comments on others, shall file with the Docket Section at the above address by March 1, 1976, a request to be placed on the Service List in Docket 28852. The Service List will be prepared by the Docket Section and sent to the persons named thereon. The persons on the Service List are to serve each other with comments or responsive comments at the time of filing.

A list of all persons filing comments will be prepared by the Docket Section and sent to the persons named thereon. Responsive comments may be filed by any person by April 5, 1976, and comments so filed will be considered by the Board. In addition to those on the Service List who filed comments, persons filing responsive comments should also serve any person whose comment is dealt with in their responsive comment.

Individual members of the general public who wish to express their interest as consumers by participating informally in this proceeding may do so through submission of comments in letter form to the Docket Section at the address indicated above, without the necessity of filing additional copies thereof.

By the Civil Aeronautics Board.

Dated: February 10, 1976.

[SEAL] EDWIN Z. HOLLAND, *Secretary.*

EXPLANATORY STATEMENT

In recent years the Board has been engaged in an intensive process of reexamining its charter rules, in a continuing effort to fashion a regime of charter service which will be sufficiently accessible to satisfy the growing demand for low-cost bulk air transportation for discretionary travelers and, at the same time, be sufficiently restrictive so as to satisfy our statutory mandate to maintain a distinction between charter service and individually ticketed service.[1]

The type of charter most recently authorized was the One-stop-inclusive Tour Charter (OTC).[2] This type of charter enables inclusive "tour packages" for a single destination to be purchased.[3] Since the conceptual foundation of the OTC rule is the "tour package," which serves to provide the legally required distinction between this type of charter service and normal individually ticketed scheduled service, it is not completely suitable for use by vacation travelers who have no need for—or interest in—purchasing anything more than low-cost air transportation. Moreover, to the extent that such charter's legal underpinning rests on a "tour package," the Board is inevitably confronted with problems arising from the various component parts of the tour package, instead of being able to clearly focus on the air transportation aspects of the charter arrangement. Yet, it is the basic air transportation component which is of primary interest to the Board, and, indeed, which alone falls within the Board's area of real expertise.

Accordingly, while we are hopeful that the OTC rule will succeed in providing the best kind of "tour package" charter service which meets the dual objectives of marketability and legality, we are of the firm belief that it is our duty to strive also for a type of charter which offers air transportation service only, unencumbered by a "tour package" of accommodations and services which the American vacationer might prefer to ar-

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[1] The need to reconcile these conflicting objectives has been fully discussed in the Board's explanation of its recent rulemaking actions, as well as in the court decisions which have been rendered with respect thereto, and they need not be repeated here. See, *e.g.*, SPR-61, dated September 27, 1972 (adopting the Travel Group Charter (TGC) rule); SPR-74, dated March 15, 1974 (amending the TGC rule by providing a special "TGC/ABC" rule for certain foreign-originating charters); SPR-78, dated August 12, 1974 (amendments relaxing some of the requirements of the TGC rule); SPR-85, dated August 7, 1975 (adopting the One-stop-inclusive Tour (OTC) rule); *Saturn Airways, Inc.* v. *CAB*, 483 F.2d 1284 (D.C. Cir. 1973), which upheld the basic TGC rule; and *Pan American World Airways, Inc.* v. *CAB* (2d Cir. 1975), upholding the special "TGC/ABC" rule.

[2] Part 378a of the Board's Special Regulations (14 CFR Part 378a), SPR-85, August 7, 1975, 40 F.R. 34089, August 14, 1975. Judicial review of the OTC rule is pending in *Trans World Airlines, Inc.* v. *CAB*, 2d Cir. No. 75-4169.

[3] Previously, the only type of tour charter package generally available to the American traveling public was the Inclusive Tour Charter (ITC), as set forth in Part 378 of the Board's Special Regulations (14 CFR Part 378). Principally because of its requirement that the tour include at least three destinations, not less than 50 miles apart, charters under this rule have not proven to be popular among American travelers, although they continue to be available.

range for himself. In administering and enforcing the OTC rule, we shall of course endeavor to insure that the American consumer receives what he has paid for, but it cannot be gainsaid that, by virtue of this charter's "tour package" aspects, the participant in an OTC is legally required to purchase services which may be extraneous to his needs.

We have therefore tentatively concluded that we should institute this proceeding, proposing a new type of charter which would be available to members of the general public interested in purchasing air transportation only. In doing so, we adhere to our frequently reiterated determination to find an enforceable and nondiscriminatory alternative to the so-called affinity charters which have heretofore had the widest appeal to American vacationers seeking low-cost charter air transportation. On the other hand, we believe that the TGC rule—which is presently the only "nonaffinity" charter type offering air transportation only to American travelers—continues to be too forbidding, from a marketing standpoint, to offer a truly viable alternative mode of charter service. So long as the conceptual nucleus of the TGC rule is the rather synthetic requirement that unaffiliated members of the general public join together for the sole purpose of entering into a charter contract covering not less than 40 seats, then we must insist that they share *pro rata* in the financial risks of the charter. Therefore, while we may ameliorate the most extreme consequences of this concept,[4] the TGC rule cannot realistically be expected to gain widespread acceptance by American travelers,[5] because it precludes use of risk-taking entrepreneurs who charter aircraft space with the hope of reselling individual seats at a fixed price.

The Advance Booking Charter (ABC) rule which we are proposing herein is patterned after the ABC concept which has been developed and adopted by many of our counterpart authorities in Europe, as well as in Canada, and has proven to be a commercial success. Our proposed rules would authorize a new class of charter operator to act as an indirect air carrier of persons. The ABC operator would charter space aboard aircraft for resale to individual members of the general public at a fixed price which he believes will enable him to compete effectively and profitably with other charter operators. In furtherance of our duty to maintain the legally required distinction between charter service and individually ticketed service, our proposed ABC rule would of course include certain restrictions.

In fashioning an appropriate set of restrictions, we are mindful of the need not only to satisfy our statutory mandate but also to propose an ABC rule which will be acceptable in the major international destination countries which already have ABC rules, and with which the United States has agreed to work toward commonality of charter rules.[6] To achieve these dual objectives, we are proposing to have somewhat varying restrictions apply to different markets, as we have done in our most recent charter rules.[7] We are not seeking identity with foreign ABC rules (indeed, complete identity with all foreign rules would be impossible since no two foreign ABC rules are completely identical to each other) but a reasonable commonality of several major aspects. This will facilitate and regularize international charter operations and also enhance the viability of our ABC rule with respect to operations to foreign countries by increasing the likelihood that charter flights to be operated under our ABC rule for American travelers to major European points may realistically be expected to find acceptability by the intended country of destination.

Accordingly, we have tentatively concluded that our proposed rule should reflect our readiness to move a long way toward commonality of rules with the European countries which will be our major ABC markets, by incorporating modifications of certain of the proposed ABC restrictions, so long as such modifications do not compromise the essential legality and viability of our ABC rule. These modified restrictions, as discussed below, are therefore being proposed with respect to ABC's to be operated as "European charters," as defined in proposed § 371.2.[8] Our expectation is that not only should these efforts produce substantial foreign acceptance by governments which now have ABC rules, but that they should evoke reciprocal modifications of foreign rules to bring harmonization closer to realization, *e.g.*, with respect to no minimum price, commingling of other charter types with the ABC, and a reduced minimum stay.

In broad terms, under our proposed rule, all ABC participants would be subject to the following conditions and risks which are not normally imposed on individually ticketed passengers:

(1) Mandatory round trips on predetermined fixed dates;

(2) Mandatory advance purchase of tickets;

(3) Each ABC group must travel together on both legs of the charter (no intermingling of passengers);

(4) Only persons whose names have been prefiled with the Board for a specific ABC will be permitted to participate in that group;[9]

(5) The ABC operator, as the risk-taking charterer of not less than 40 seats, would be expected to impose penalties on ABC participants who may have to cancel their plans at a time when the operator is no longer permitted to fill unsold or canceled seats; and

(6) ABC participants will be exposed to the risk of having their flight canceled upon contingencies set forth in their contract with the ABC operator, rather than only upon cancellation by the direct air carrier.

In our view, the foregoing proposed ABC restrictions "[t]aken together . . . maintain the required distinction between charter service and that of the regularly scheduled airlines."[10]

We therefore believe that scheduled service will continue to be more attractive than ABC's for businessmen and others who need the flexibility and certainty of travel arrangements which are available only in regular scheduled service. Thus, we are of the opinion that ABC's will not be unduly diversionary of scheduled service.[11] Moreover, since scheduled carriers will be fully authorized to perform ABC flights, they will have ample opportunity to compete for a fair share of the new market which may reasonably be expected to be generated among travelers who would otherwise not use air transportation. In view of the foregoing, we have tentatively concluded that ABC's will have a beneficial economic effect, both on the industry we regulate and on the traveling public whose needs

[4] As we did in SPR-78, dated August 12, 1974. Indeed, even the original TGC rule did not permit the TGC participants to bear the full consequences entailed by a true joint venture, *i.e.*, each signatory bearing full joint and several liability for the entire charter contract price.

[5] With respect to foreign-originating travelers, at least from countries whose laws so permit, we have already provided in our special "TGC/ABC" rule for participation in such charters at a fixed price. SPR-74, described in note 1, *supra*.

[6] The United States has entered into bilateral understandings with France, West Germany, Ireland, the Netherlands, and the United Kingdom, pursuant to which this type of charter is to be operated under the laws of the country of origin and the parties thereto are committed to "strive for commonality of charter rules." Bilateral understandings concerning this type of charter, which are similar to the foregoing but do not include the above commitment, exist with Austria, Belgium, Canada, Jordan, Switzerland, and Yugoslavia.

[7] Both the TGC rule and the OTC rule require slightly different conditions to be met for "North American charters" (as defined in §§ 372a.1 and 378a.2, respectively) than apply in other charter markets.

[8] Should any country included in the proposed definition of "European charters" prefer to have our basic ABC rules apply—rather than the more restrictive provisions applicable to "European charters"—then we could of course exclude such country from that term's definition in the final rule.

[9] Except that, for non-European charters, up to 15 percent of the listed participants may be replaced by persons not on the list.

[10] *Pan American World Airways* v. *C.A.B.*, *supra*, at 746.

[11] Should undue diversion develop, proposed § 371.5 (adapted from the parallel provision in § 378a.5 of the OTC rule) would specifically reserve our power to set limitations on ABC operations in particular markets. As a further control against the possibility of "skimming" through off-route ABC operations, the Board of course retains authority to adjust the existing limitations on the volume and frequency/regularity of such operations, as presently set forth in Part 207 of our Economic Regulations (14 CFR Part 207). It should also be noted that the proposed ABC rule is contemplated as a five-year experiment, which proposed § 371.7 tentatively estimates will expire on March 31, 1981.

we must serve, and would thus be in furtherance of the public interest.

As a concomitant of our inability to predict the kinds of changes which the ABC rule, if adopted, might effect in total airline operations (both chartered and scheduled) so are we unable to predict its net effects, if any, on the environment. While we expect that the rule would increase the use of air transportation, by encouraging planeload travel, we do not anticipate that the promulgation of this new charter rule will significantly affect the environment. Therefore, the Board has tentatively concluded that the promulgation of the ABC rule is not a major Federal action significantly affecting the quality of the human environment for which an environmental impact statement is required under section 102(2)(c) of the National Environmental Policy Act of 1969. However, the Board specifically invites those persons filing comments herein to discuss the possible environmental impact of this new rule.

Finally, we wish to emphasize that, while we now contemplate the authorization of ABC's as yet another alternative type of charter, our long-range intention is to devise a simplified charter regime. Our present thinking is that we should ultimately have two basic charter types, one for air transportation only and one for an inclusive tour constructed on charter air transportation. Thus, we view the proposed ABC as an eventual replacement for both "affinities" and TGC's. We specifically invite persons filing comments herein to focus on this long-range goal.

We turn now to a detailed description of our proposed ABC rule. It should be noted that with respect to some of our proposed requirements we are specifically requesting that the comments focus not only on the actual proposals but also on various specific "alternative proposals" which we are also prepared to consider as possible substitute or additional provisions.

1. *Marketing by indirect air carriers; 40-seat minimum.* We have tentatively decided that ABC's, like OTC's, should be marketed by independent charter operators who, as indirect air carriers, will assume full responsibility for the charter, including risk of loss. Although the charter operator will be required to purchase a minimum of 40 seats from the direct air carrier, our proposed rule does not require a minimum number of seats to be sold prior to the filing of the passenger list and/or operation of the flight. As with other risk-taking charter operators, the ABC operator will be permitted to decide the extent of the risk of unsold seats he is prepared to assume. But once he has chosen to file the passenger list, no additional seats may be sold and he may no longer cancel the ABC for inadequacy of participation.

Possible alternative: Although the proposed rule contemplates that split ABC charter contracts will be subject to the customary 40-seat minimum, we are willing to consider suggestions for lowering this minimum in the case of non-European ABCs.

2. *Advance booking requirement and substitutions.* We have proposed advance sign-up periods of not less than 60 days for European [12] ABC's and not less than 30 days for any other ABC. Thus either 30 or 60 days (whichever applies) prior to departure the tour operator would be required to file a passenger list with the Board. Thereafter, if passengers on that list cancel, we have tentatively decided to allow no substitutions, in the case of European ABC's, but for all other ABC's we would permit the operator to find substitutes for up to 15 percent of the charter participants on the passenger list, and those passengers for whom substitutes are found shall be entitled to a full refund.

Possible alternatives: Since provisions with respect to substitution of passengers—let alone, with respect to the sale of additional seats—after the passenger list has been filed, would so significantly affect the risks of ABC participants and operators (and thus indirectly affect the ABC price), we shall consider the following alternatives to the proposal described above.

a. Recognizing that the complete prohibition against substitution of passengers, which we have here proposed for European ABC's, may work too great a hardship on passengers who need to cancel for *bona fide* reasons, we would consider one or more of the following possible alternatives with respect to European ABC's:

(1) to permit substitutions of up to 10% of the participants named on the filed list;

(2) to require the operator to provide each participant with prepaid insurance against the risk of causes which would reasonably necessitate cancellation (*e.g.*, death or serious illness in the passenger's immediate family);

(3) to require the operator to offer each passenger the opportunity to pay a nonrefundable amount (not to exceed 5% of the price of passage), at the first time any payment is made, to obtain the right to refund in full of all other monies paid (for transportation only) in the event the passenger cancels for any reason until departure of the outbound flight; or

(4) to require the operator to limit the forfeiture penalty for postfiling cancellations, for any reason, to a maximum percentage (*e.g.*, 20%) of the price of air transportation for cancellation until departure of the outbound flight.

b. In the case of non-European ABC's, we have tentatively concluded that the proposal to permit up to 15% substitutions to members of the general public is just about as far as we can lawfully go, in proposing a viable fixed-price, transportation-only charter rule. Nonetheless, in recognition of the fact that the proposed "Aviation Act of 1975" (S. 2551, H.R. 10261), which is currently pending in Congress, includes a proposal (Sec. 3) to provide for "advance-purchase charters" which would specifically allow for up to 25 percent of seats to be sold—and not only substituted—at any time prior to flight departure, we are prepared to consider views on whether we should provide a similar feature in our charter rule, even in the absence of explicit statutory authority.

[12] As defined in proposed § 371.2. Proposed § 371.25(b) tentatively contemplates that the predeparture filing period for non-European ABC's would be reduced to 15 days after October 1, 1978, and filed comments should specifically focus on that shorter period as well.

3. *Round-trip group travel requirement.* The ABC rule as proposed will contain the traditional round-trip group travel requirement. Split charters of ABC's and other types will be allowed, but intermingling of passengers will be forbidden.

Possible alternative: As in the case of the proposed 40-seat minimum for ABC's, discussed above, we are willing to consider suggestions to deviate from another of our customary charter prohibitions, by allowing individual participants who depart with one ABC group to be "intermingled" with another ABC group on their return flight, organized by the same operator.

4. *No mandatory ground package.* The basic concept of the ABC is that this charter form involves only point-to-point transportation, and the charter participants are not required to purchase any ground accommodations. However, such land packages are not forbidden. Thus, charter operators will have a wide range of flexibility with respect to the kinds of vacation arrangements they can offer the traveling public.

5. *No minimum duration requirement.* We have tentatively concluded that the non-European ABC regulations should contain no minimum-duration requirement, since we do not consider such a restriction crucial for distinguishing charters from individually ticketed service. However, although we would prefer the same liberal feature for all ABC charters, we are proposing a 7-day minimum duration for European charters as a further effort toward harmonization of charter rules.

Possible alternative: We note that West Germany authorizes special "weekend" ABC's. We are prepared to consider, for European ABC's, a possible 4-day "weekend" ABC, where both Saturday and Sunday would fall within the 4-day weekend trip (including traveling days).

6. *No minimum price.* Consistent with our desire to allow charter operators sufficient latitude to respond to demands of the market place, we have tentatively concluded that we should not impose a minimum charter price on ABC's. The successful entrepreneur will be the operator who can give the traveling public the charter arrangements they want at the best prices. We specifically hope that in a similar effort toward harmonization of charter rules our European counterparts will move away from the prescription of minimum ABC rates to organizers and minimum ABC prices to passengers to reciprocate the moves we have herein proposed toward such harmonization.

The Department of Transportation (DOT) has filed a petition in Docket 28463 requesting that the Board amend the TGC rule (14 CFR Part 372a) in certain respects. DOT's principal proposals would: 1) eliminate the requirement that TGC participants bear a *pro rata* share of the charter price, 2) reduce the advance booking period, and 3) reduce the minimum stay requirement. In its petition DOT also proposes the abolition of affinity charters. Answers supporting

the petition were filed by Carefree Travel, Inc. and by Charter Travel Corporation.

Since the ABC rule which we are proposing herein would establish a type of charter having virtually the same features as the revised TGC proposed by DOT's petition, the Board hereby consolidates DOT's petition in Docket 28643 into this proceeding.

PART 207—CHARTER TRIPS AND SPECIAL SERVICES

1. Amend § 207.11 by adding new paragraphs (b)(10) and (c)(8), respectively, to read as follows:

§ 207.11 Charter flight limitations.

Charter flights (trips) in air transportation shall be limited to the following:

* * * * *

(b) * * *

(10) By a charter operator or foreign charter operator as defined in Part 371 of this chapter; or

(c) * * *

(8) By a charter operator or foreign charter operator as defined in Part 371 of this chapter;

Provided, That with respect to paragraph (c) of this section each person engaging less than the entire capacity of an aircraft shall contract and pay for 40 or more seats: *And provided further,* That paragraph (c) shall not be construed to apply to movements of property.

PART 208—TERMS, CONDITIONS AND LIMITATIONS OF CERTIFICATES TO ENGAGE IN SUPPLEMENTAL AIR TRANSPORTATION

2. Amend § 208.6 by adding new paragraphs (b)(9) and (c)(8), respectively, to read as follows:

§ 208.6 Charter flight limitations.

Charter flights in air transportation performed by supplemental air carriers shall be limited to the following:

* * * * *

(b) * * *

(9) By a charter operator or foreign charter operator, as defined in Part 371 of this chapter.

(c) * * *

(8) By a charter operator or foreign charter operator, as defined in Part 371 of this chapter;

Provided, That with respect to paragraph (c) of this section each person engaging less than the entire capacity of an aircraft shall contract and pay for 40 or more seats: *And provided further,* That paragraph (c) shall not be construed to apply to movements of property.

PART 212—CHARTER TRIPS BY FOREIGN AIR CARRIERS

3. Amend § 212.8 by adding new paragraphs (a)(10) and (b)(8), respectively, to read as follows:

§ 212.8 Charter flight limitations.

Charter flights (trips) shall be limited to foreign air transportation performed by a foreign air carrier holding a foreign air cerrier permit issued pursuant to section 402 of the Act authorizing such carrier to engage in foreign air transportation on an individually ticketed or individually waybilled basis—

(a) * * *

(10) By a charter operator or foreign charter operator as defined in Part 371 of this chapter;

(b) * * *

(8) By a charter operator or foreign charter operator as defined in Part 371 of this chapter;

Provided, That with respect to paragraph (b) of this section each person engaging less than the entire capacity of an aircraft shall contract and pay for 40 or more seats: *And provided further,* That paragraph (b) shall not be construed to apply to movements of property.

PART 214—TERMS, CONDITIONS AND LIMITATIONS OF FOREIGN AIR CARRIERS PERMITS AUTHORIZING CHARTER TRANSPORTATION

4. Amend § 214.7(a) and (b) by adding new paragraphs (7) to read as follows:

§ 214.7 Charter flight limitations.

Charter flights shall be limited to air transportation performed by a direct foreign air carrier on a time, mileage, or trip basis when—

(a) * * *

(7) By a charter operator or foreign charter operator, as defined in Part 371 of this chapter;

(b) * * *

(7) By a charter operator or foreign charter operator, as defined in Part 371 of this chapter;

Provided, That paragraph (b) of this section shall not apply with respect to any foreign air carrier to the extent that its permit authorizes it to engage in "planeload" charter foreign air transportation of persons: *Provided further,* That with respect to paragraph (b) of this section each person engaging less than the entire capacity of the aircraft shall contract and pay for 40 or more seats.

PART 217—REPORTING DATA PERTAINING TO CIVIL AIRCRAFT CHARTERS PERFORMED BY FOREIGN AIR CARRIERS

5. Amend § 217.6(b) by adding new subparagraph (10) to read as follows:

§ 217.6 Reporting instructions.

* * * * *

(b) * * *

(10) Advance Booking Charters, as defined in Part 371 of this chapter.

PART 241—UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

6. Amend Schedule T-6-Summary of Civil Aircraft Charters in Section 25-Traffic and Capacity Elements, by adding a new subparagraph (11) to paragraph (c) to read as follows:

Section 25—Traffic and Capacity Elements

SCHEDULE T-6 SUMMARY OF CIVIL AIRCRAFT CHARTERS

* * * * *

(c) Separate reports shall be filed for each of the below-named types of charters and the type shall be inserted opposite the caption "Type of Charter." Types not operated may be listed on a single separate report.

* * * * *

(11) Advance Booking Charter, as defined in Part 371 of the Board's Special Regulations.

* * * * *

7. Amend Schedule T-6-Summary of Civil Aircraft Charters in Section 35-Traffic and Capacity Elements, by adding a new subparagraph (11) to paragraph (b) to read as follows:

Section 35—Traffic and Capacity Elements

Schedule T-6—Summary of Civil Aircraft Charters

* * * * *

(b) Separate reports shall be filed for each of the below-named types of charters and the type shall be inserted opposite the caption "Type of Charter." Types not operated may be listed on a single separate report.

* * * * *

(11) Advance Booking Charter, as defined in Part 371 of the Board's Special Regulations.

* * * * *

PART 249—PRESERVATION OF AIR CARRIER ACCOUNTS, RECORDS AND MEMORANDA

8. Amend § 249.2 by adding the definition of "charter operator" to read as follows:

§ 249.2 Definitions.

For the purposes of this part:

* * * * *

"Charter operator" means (1) any citizen of the United States, as defined in Section 101(13) of the Act (other than a direct air carrier) who is authorized under the provisions of Part 371 to engage in the formation of groups for transportation on Advance Booking Charters; or (2) any person not a citizen of the United States, as defined in Section 101(13) of the Act (other than a direct foreign air carrier) who is engaged in the formation of groups for transportation on Advance Booking Charters which originate in the United States in accordance with the provisions of Part 371, or both, and who holds a permit issued pursuant to Section 402 of the Act authorizing such transportation.

9. Amend § 249.9 by revising paragraph (a) to read as follows:

§ 249.9 Period of preservation of records by tour operators, study group charterers, overseas military personnel charter operators, and travel group charter organizers.

(a) Every tour operator (as defined in Section 249.2) conducting a tour or series

of tours pursuant to Part 378 or Part 378a of this chapter or every charter operator (as defined in Section 249.2) conducting a charter or series of charters pursuant to Part 371 of this chapter shall retain for two years after completion of a tour or a series of tours, or of a charter or series of charters, true copies of the following documents at its principal or general office in the United States and shall make them available upon request by an authorized representative of the Board:

(1) All receipts and statements of travel agents, and all other documents which evidence or reflect deposits made by each charter participant or tour participant;

(2) All receipts and statements of travel agents, and all other documents which evidence or reflect commissions received by, paid to, or deducted by travel agents in connection with the tour or series of tours, or of the charter or series of charters; and

(3) All statements, invoices, bills, and receipts from suppliers for furnishing of goods or services in connection with the tour or series of tours, or with the charter or series of charters.

* * * * *

Part 371 is proposed to be added to read as follows:

PART 371—ADVANCE BOOKING CHARTERS

Subpart A—General Provisions

Sec.
371.1 Applicability.
371.2 Definitions.
371.3 Waivers.
371.4 Enforcement.
371.5 Procedures for imposition of limitations and restrictions on ABC operations.
371.6 Computation of time.
371.7 Termination of part.

Subpart B—General Conditions and Limitations

371.10 Advance Booking Charter general requirements.
371.11 Payment to direct air carrier(s).
371.12 No intermingling of passengers.
371.13 Unused space.
371.14 Substitution for charter participants named on filed list.

Subpart C—Requirements Applicable to Charter Operators

371.20 Exemption.
371.21 Approval of certain interlocking relationships.
371.22 Effect of exception on antitrust laws.
371.23 Jurisdiction over foreign charter operators.
371.24 Suspension of exemption authority.
371.25 Operating authorization of charter operators.
371.26 Discrimination.
371.27 Methods of competition.
371.28 Charter prospectus.
371.29 Charter contract.
371.30 Contract between charter operator and charter participants.
371.31 Surety bond and depository agreement.
371.32 Disbursements from depository account.
371.33 Record retention.

Subpart D—Requirements Applicable to Direct Air Carriers

Sec.
371.40 Charter not to be performed unless compliance with part.
371.41 Direct air carrier to identify enplanements.
371.42 Tariffs to be on file for charter trips.
371.43 Advance Booking Charters operated by U.S. certificated air carriers or foreign air carriers for foreign charter operators.

Subpart E—Charter Trip Reporting Requirements

371.50 Charter trip reporting.
371.51 Reporting of ABC service under contract.

Secs. 101(3), 204(a), 401, 402, 407, 416 and 1102 of the Federal Aviation Act of 1958, as amended; 72 Stat. 737 (as amended by 75 Stat. 467, 76 Stat. 143, 82 Stat. 867, 84 Stat. 921), 743, 754, 757, 766, 771, and 797; 49 U.S.C. 1301, 1324, 1371, 1372, 1377, 1386, and 1502.)

Subpart A—General Provisions

§ 371.1 Applicability.

This part establishes the terms and conditions governing the furnishing of "Advance Booking Charters" (ABC's) in air transportation by direct air carriers and foreign air carriers and by ABC charter operators. This part also relieves such charter operators (other than foreign charter operators) from various provisions of Title IV of the Federal Aviation Act of 1958, as amended, for the purpose of enabling them to provide ABC's utilizing aircraft chartered from such direct carriers. It also contains a limited declination of exercise of jurisdiction over foreign charter operators. The provisions of this regulation shall not be construed as limiting any other authority to engage in air transportation issued by the Board. Nothing contained in this part shall be construed as repealing or amending any provisions of any of the Board's regulations, unless the context so requires.

§ 371.2 Definitions.

As used in this part, unless the context otherwise requires—

"Advance Booking Charter" (or "ABC") means a round-trip charter to be performed by one or more direct air carriers, which is arranged and sponsored by a charter operator for a group and which meets the requirements set forth in Subpart B of this part.

"Advance Booking Charter operator" (or "ABC operator") means (1) any citizen of the United States, as defined in Section 101(13) of the Act (other than a direct air carrier), who is authorized hereunder to engage in the formation of groups for transportation on ABC's in accordance with the provisions of this part; or (2) a foreign charter operator.

"Charter" means an advance booking charter.

"Charter group" means an aggregate of persons who are assembled by a charter operator or a foreign charter operator for the purpose of participation as a single unit in an Advance Booking Charter.

"Charter operator" means an ABC operator.

"Charter participant" means a person whose name has been filed with the Board in form CAB 371–1 or a person substituted therefor in accordance with section 371.14 of this Part.

"Direct air carrier" means (1) an air carrier holding a certificate of public convenience and necessity issued pursuant to Section 401 of the Act, or (2) a foreign air carrier which holds a permit issued under Section 402 of the Act authorizing direct air transportation.

"European charter" means a charter between a point or points in any State of the United States, the District of Columbia, Puerto Rico, or the U.S. Virgin Islands, on the one hand, and a point or points in Austria, Belgium, the Federal Republic of Germany, Finland, France, Ireland, the Netherlands, Switzerland, and the United Kingdom, on the other hand.

"Foreign charter operator" means any person not a citizen of the United States, as defined in Section 101(13) of the Act (other than a direct foreign air carrier), who is (1) engaged in the formation of groups for transportation on Advance Booking Charters which originate in a foreign country and over whom the Board has declined to exercise its jurisdiction, or (2) engaged in the formation of groups for transportation on Advance Booking Charters which originate in the United States and who holds a permit issued pursuant to Section 402 of the Act authorizing such transportation: *Provided, however*, That with respect to §§ 371.21, 371.24, 371.25(a)(1) and (2), 371.26–.33, and 371.50–.51 the definition for "foreign charter operator" is confined to the definition set forth in subparagraph (2).

"Round trip" refers to any round, open-jaw or circle trip which includes an inbound flight returning to a point no more than 50 air miles from the point of origin.

§ 371.3 Waivers.

A waiver of any of the provisions of this part may be granted by the Board upon its own initiative, or upon the joint submission by a direct air carrier and a charter operator of a written request therefor not less than 30 days prior to the flight to which it relates, provided that such a waiver is in the public interest and it appears to the Board that special or unusual circumstances warrant a departure from the provisions set forth herein. Notwithstanding the foregoing, waiver applications filed less than 30 days prior to a flight may be accepted by the Board in emergency situations in which the circumstances warranting a waiver did not exist 30 days before the flight.

§ 371.4 Enforcement.

In the case of any violation of the provisions of the Act, or of this part, or any other rule, regulation, or order issued under the Act, the violator may be subject to a proceeding pursuant to Sections

1002 and 1007 of the Act before the board or a U.S. District Court, as the case may be, to compel compliance therewith, to civil penalties pursuant to the provisions of Section 901(a) of the Act, or to criminal penalties pursuant to the provisions of Section 902 of the Act; or other lawful sanctions.

§ 371.5 Procedures for imposition of limitations and restrictions on ABC operations.

(a) Whenever in the opinion of the Board there are reasonable grounds to believe that the operation of ABC's to or from any point or points or in any city-pair or pairs may have a detrimental effect on the public interest, the Board may, on its own initiative or in response to a petition therefor, issue an order directing all interested persons to show cause why the Board should not impose a limitation on the number of ABC's that may be operated to or from the point or points, or in the city-pair or pairs, or should not impose other or additional restrictions on ABC operations in respect to the point or points or city-pair or pairs.

(b) Petitions seeking the issuance of such an order to show cause may be filed by any person. Answers to such petitions are permitted, but a failure to file an answer shall not prejudice anyone. Each such petition and any answer thereto shall conform to the requirements of section 302.3 of the Board's Rules of Practice. Copies of such petitions and answers shall be served on such persons as the Director, Bureau of Operating Rights, or his designee, shall direct.

(c) Comments in opposition to or in support of the issuance of an order as proposed in the order to show cause, and reply comments if authorized by the order to show cause, shall be filed with the Board by the date and served upon the persons specified in the order to show cause.

(d) A final order of the Board imposing such limitations or restrictions on the operations of ABC's as the public interest may require or, if it would not be in the public interest to impose any limitation or restriction, terminating the proceeding, shall thereafter be issued: *Provided, however,* That the Board may from time to time conclude, in its discretion, that a hearing is warranted in order to best determine whether limitations or restrictions should be imposed on the operation of ABC's to or from any point or points or in any city-pair or pairs: *And provided, further,* That in the event a hearing is ordered, the Board may impose interim limitations or restrictions, pendente

(e) Notwithstanding the foregoing, when in the judgment of the Board the public interest so requires, the Board shall by order forthwith impose a limitation on the number of ABC's that may be operated to or from a point or points, or in a city-pair or pairs, or impose other or additional limitations and restrictions on ABC operations in respect to the point or points or city-pair or pairs.

§ 371.6 Computation of time.

In computing any period of time prescribed or allowed by this part, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday, or legal holiday for the Board, in which event the period runs until the end of the next day which is neither a Saturday, Sunday, nor holiday.

§ 371.7 Termination of part.

The exemption provided by this part shall terminate on March 31, 1981, and shall not apply to any charter whose originating flight is scheduled to be performed subsequent to such date of termination.

Subpart B—General Conditions and Limitations

§ 371.10 Advance Booking Charter general requirements.

Advance Booking Charters under this part shall meet the following requirements:

(a) The charter shall be arranged and sold by a charter operator as an independent principal with respect to the air transportation included in the charter and not as an agent for a direct air carrier. Such charter may but need not include ground accommodations and services.

(b) The charter contract must be for 40 or more seats.

(c) The charter must be on a round-trip basis, but the departing flight and the returning flight need not be performed by the same direct air carrier.

(d) The minimum duration of a European charter must be seven (7) days, of which the first day shall be the day the originating flight takes off and the last day shall be the day the returning flight lands.

(e) The air transportation portion therefor must be performed by direct air carriers which hold a certificate of public convenience and necessity under section 401 of the Act or a permit under section 402 of the the Act.

(f) Passengers transported on the charter flight shall consist solely of charter participants or persons authorized to occupy unused charter space in accordance with § 371.13.

§ 371.11 Payment to direct air carrier(s).

The direct air carrier(s) shall be paid in full for the cost of the round-trip charter transportation prior to scheduled date of flight depature, as provided for in the basic charter regulations applicable to the direct air carriers under Parts 207, 208, 212, and 214 of this chapter, as the case may be.

§ 371.12 No intermingling of passengers.

There shall be no intermingling of passengers and each planeload group, or less-than-planeload group, shall move together as a group, on both legs of the air transportation except under emergency circumstances provided for in the basic charter regulations applicable to direct air carriers under Parts 207, 208, 212, and 214 of this chapter, as the case may be.

§ 371.13 Unused space.

Nothing contained in this part shall preclude a charter operator from utilizing any unused space on an aircraft chartered by it for an ABC for the transportation, on a free or reduced basis, of such charter operator's employees, directors, and officers, and the parents and immediate families of such persons, subject to the provisions of Part 223 of this chapter.

§ 371.14 Substitution for charter participants named on filed list.

Except with respect to European charters, substitutes may be arranged for charter participants at any time preceding the departure date, in accordance with the following:

(a) The total number of such substitutes may be no larger than 15 percent of the charter participants whose names have been filed with the Board on Form CAB 371–1.[13]

(b) The charter participant for whom a new participant is substituted shall receive a full refund of all monies paid to the charter operator with respect to the charter.

Subpart C—Requirements Applicable to Charter Operators

§ 371.20 Exemption.

Subject to the provisions of this part and the conditions imposed herein, charter operators (other than foreign charter operators) are hereby relieved from the following provisions of Title IV of the Federal Aviation Act of 1958, an amended, to the extent necessary to permit them to organize and arrange ABC's:

(a) Section 401.

(b) Section 403.

(c) Section 404(a), except the requirement to provide adequate service in connection with ABC's operated hereunder.

(d) Section 405(b).

(e) Section 407(b) and (c).

(f) Section 408(a) and 409, except control of interlocking relationships with direct air carriers.

(g) Section 412.

§ 371.21 Approval of certain interlocking relationships.

To the extent that any officer or director of a charter operator would be in violation of any of the provisions of Section 409(a)(3) and (6) of the Act by participating in interlocking, relationships covered by the exemption granted by § 371.20, such participation is hereby approved by the Board.

§ 371.22 Effect of exemption on antitrust laws.

The relief granted by § 371.20 and § 371.21 from Sections 408, 409, and 412 of the Act shall not constitute an order under such sections within the meaning of Section 414 of the Act and shall not confer any immunity or relief from operation of the "antitrust laws" or any

[13] Filed as part of the original document.

other statute (except the Act) with respect to any transaction, interlocking relationship, or agreement otherwise within the purview of such sections.

§ 371.23 Jurisdiction over foreign charter operators.

The Board declines to exercise its jurisdiction over foreign charter operator with respect to ABC's which originate in a foreign country. The Board reserves the right to exercise its jurisdiction over any foreign charter operator at any time it finds that such action is in the public interest.

§ 371.24 Suspension of exemption authority.

The Board reserves the power to suspend the exemption authority of any charter operator, without hearing, if it finds that such action is neceessary in order to protect the rights of the traveling public.

§ 371.25 Operating authorization of charter operators.

A charter operator is authorized hereunder to organize and operate an ABC only in accordance with the provisions of this part, and subject to the following conditions:

(a) (1) No charter or series of charters shall be operated, nor shall any charter operator or foreign charter operator sell, or offer to sell, or solicit persons to participate in, or otherwise advertise such charter or charters, or receive any money from any prospective participant in connection therewith, until at least 15 days after he and the direct air carrier have jointly filed with the Board (Supplementary Services Division, Bureau of Operating Rights), in duplicate, an ABC Prospectus satisfying the requirements of § 371.28: *Provided, however,* That if during the 15-day period following filing hereunder the charter operator or foreign charter operator has been notified that the Board has rejected such statement for noncompliance with this part, then he shall not sell, nor offer to sell, solicit, or advertise such charter until he has subsequently been notified by the Board that such filing has been accepted. If a series of charters is to be performed for one charter operator or foreign charter operator pursuant to one charter contract the Prospectus may cover the entire series, provided the elapsed time between the commencement of the first charter and the departure of the last charter shall not exceed 180 days.

(2) No change in the facts reflected in a filed Prospectus shall become effective until at least 15 days after the charter operator or foreign charter operator and the direct air carrier have jointly filed with the Board (Supplementary Services Division, Bureau of Operating Rights), in duplicate, an amended Prospectus reflecting such change, unless he has been notified by the Board that such change may become effective sooner: *Provided, however,* That if during the 15-day period following filing of an amended Prospectus hereunder, the charter operator or foreign charter operator has been notified that the Board has rejected such amended Prospectus for noncompliance with this part, then such change shall not become effective until he has subsequently been notified by the Board that such filing has been accepted: and *Provided further,* That the direct air carrier need not join in the filing of an amended Prospectus which reflects only such change or changes as to not involve air transportation or services in connection therewith which are to be provided by such direct air carrier. Deviations from the Prospectus may not be made except where they are beyond the control of the carrier or the operator, and there is insufficient time to file an amended Prospectus.

(b) No later than 60 days prior to the scheduled date of departure, in the case of European charters, and no later than 30 days prior to the scheduled date of departure of all others, the charter operator and the direct air carrier(s) shall jointly file with the Board (Supplementary Services Division, Bureau of Operating Rights), in duplicate, the following information, except that the information required by subparagraph (a) (1) of this section shall be filed in the manner prescribed in paragraph (c), hereinbelow:

(1) CAB Form 371–1, which appears as Appendix A to this Part, setting forth the name of each passenger in alphabetical order, his or her address, telephone number, and the name, address, and telephone number of the travel agent (if any) who sold the charter to the passenger;

(2) A statement of the charter operator affirming that each participant (i) has entered into a contract with the operator as provided in this part, and (ii) has made full payment of the total price of the charter; and

(3) A statement of the depository bank, if any, affirming that it has received a deposit of the total charter price payable to the direct air carrier(s):

Provided, however, That for all ABC's other than European charters, where the outbound leg is scheduled to depart on or after October 1, 1978, the information required by this paragraph (b) shall be filed no later than 15 days prior to the scheduled date of departure.

(c) An original copy of the ABC passenger list, along with two photostatic or similarly reproduced copies (not carbons) and accompanied by a self-addressed and postage-prepaid return envelope, shall be filed with the Board (Supplementary Services Division, Bureau of Operating Rights). The Board will stamp the original and two photostatic or similarly reproduced copies of the ABC passenger list so as to verify their receipt and identify the charter to which they pertain, and will return the two stamped copies for use by the direct air carrier in complying with its obligations to identify enplaning ABC-flight passengers, note the documentary source and number, and file required reports.

§ 371.26 Discrimination.

No charter operator shall make, give, or cause any undue or unreasonable preference or advantage to any particular person, port, locality, or description of traffic in air transportation in any respect whatsoever, or subject any particular person, port, locality, or description of traffic in air transportation to any unjust discrimination or any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

§ 371.27 Methods of competition.

No charter operator shall engage in unfair or deceptive practices or unfair methods of competition in air transportation or the sale thereof.

§ 371.28 Charter Prospectus.

The Prospectus shall be filed in duplicate and shall include two copies of the following. The charter contract, the contract between the charter operator or foreign charter operator and charter participants, the charter operator's or foreign charter operator's surety bond (an original bond and a copy thereof), and, where applicable, two copies of the depository agreement with a bank as provided in § 371.31. It shall also contain the following information:

(a) Name and address of the charter operator or the foreign charter operator;

(b) The proposed date and time of each flight;

(c) Equipment to be used, incuding the aggregate number of each type of aircraft and capacity;

(d) The tour itinerary, if any, including hotels (name and length of stay at each), and other ground accommodations and services;

(e) The charter price per passenger and, if the charter trip includes a tour package, the tour price per passenger;

(f) The number of persons expected to participate in the charter;

(g) Charter price of the aircraft;

(h) Samples of solicitation material proposed by the charter operator or foreign charter operator (all sales advertising and solicitation materials employed by the charter operator or foreign charter operator shall state the name of the direct air carrier to be utilized).

§ 371.29 Charter contract.

The charter contract between the charter operator or foreign charter operator and the direct air carrier shall evidence a binding commitment on the part of the carrier to furnish the air transportation required for the trip or trips covered by the contract.

§ 371.30 Contract between charter operator and charter participants.

Where each charter participant receives, or is eligible to receive, the same ground accommodations and services, the contract between the charter operator and the charter participants shall be the same. Contracts between charter operators and charter participants shall include provisions specifically stating:

(a) Method of payment, *e.g.*, installment payments;

(b) That trip, health, and accident insurance is available and that upon request the charter operator will furnish details thereof;

(c) That after the list of prospective charter passengers has been filed with the Board (pursuant to § 371.25(b)) the charter operator shall have no further right to cancel the charter on grounds of inadequate participation, but describing the right to refunds in the event of the charter's cancellation on any other grounds or contingencies set forth in the contract, and the procedure for obtaining such refunds;

(d) The right to refunds in the event of the participant's change of plans and the procedure for obtaining such refunds;

(e) The right to refunds in the event of change in itinerary and the procedure for obtaining such refunds;

(f) The dollar amounts of the direct air carrier's liability limitations for participants' baggage, as set forth in the direct air carrier's tariffs;

(g) Conditions governing aircraft-equipment substitutions;

(h) The name and address of the surety company issuing the surety bond;

(i) That the charter operator is the principal and is responsible to the participants in making arrangements for all services and accommodations offered in connection with the charter: *Provided, however,* That this requirement shall not preclude the charter operator from expressly providing in such contract that, in the absence of negligence on the part of the charter operator, he is not responsible for personal injury or property damage arising out of the act or negligence of any direct air carrier, hotel or other person rendering any of the services being offered in connection with such charter;

(j) That unless the charter participant files a claim with the charter operator or, if he is unavailable, with the surety, within sixty (60) days after termination of the charter, the surety shall be released from all liability under the bond to such participant (see § 371.31(d));

(k) That, when the combined surety bond-depository agreement, as provided in § 371.31(b) is used in connection with the charter, all checks and money orders must be made payable to the escrow account at the depository bank (identifying bank) or, when the charter is sold to the participant by a retail travel agent, checks and money orders may be made payable to the agent, who must in turn make his check payable to the escrow account at the depository bank.

§ 371.31 Surety bond and depository agreement.

(a) Except as provided in paragraph (b) of this section, the charter operator or foreign charter operator shall furnish a surety bond in an amount for not less than the charter price for the air transportation, if only air transportation is involved, or, if the charter involves land accommodations in addition to air transportation a surety bond in one of the following amounts dependent upon the length of the charter or series of charters: (1) for a charter or series of charters of 14 days or less, a bond in an amount of not less than the charter price for the air transportation to be furnished in connection with such charter or series of charters; (2) for a charter or series of charters of more than 14 days but less than 28 days a bond in an amount of not less than twice the charter price; and (3) for a charter or series of charters of 28 days or more, a bond in an amount of not less than three times the charter price: *Provided, however,* That the liability of the surety to any charter participant shall not exceed amounts paid by that participant to the charter operator with respect to the charter.

(b) The direct air carrier and the prospective charter operator or foreign charter operator, before selling or offering to sell, soliciting or advertising any charter flight, may elect, in lieu of furnishing a surety bond as provided under paragraph (a) of this section, to comply with the requirements of paragraphs (b) (1) and (2) of this section, as follows:

(1) A surety bond in the following minimum amounts: (i) If the charter is for air transportation only, a bond in the amount of $5,000 per round-trip charter flight, up to a maximum of $50,000 for a series of 10 or more round-trip flights; or (ii) if the charter involves land accommodations in addition to air transportation, a bond in the amount of $10,000 per round-trip flight, up to a maximum amount of $100,000 for a series of 10 or more round-trip flights: *Provided, however,* That the liability of the surety to any charter participant shall not exceed the amounts paid by such charter participant to the charter operator with respect to the charter; and

(2) The direct air carrier and charter operator or foreign charter operator shall enter into an agreement with a designated bank, the terms of which shall provide that all deposits by charter participants paid to charter operators or foreign charter operators and their retail travel agents shall be deposited with and maintained by the bank subject to the following conditions:

(i) On sales made to charter participants by charter operators or foreign charter operators the participant shall pay by check or money order payable to the bank; on sales made to charter participants by retail travel agents, the retail travel agent may deduct his commission and remit the balance to the designated bank by check or money order: *Provided,* That the travel agent agrees in writing with the charter operator or foreign charter operator that if the charter is canceled the travel agent shall remit to the bank the full amount of commission previously deducted or received within 10 days after receipt of notification of cancellation of the charter;

(ii) The bank shall pay the direct air carrier the charter price for the transportation not earlier than 60 days (including day of departure) prior to the scheduled day of departure of the originating or returning flight, upon certification of the departure date by the air-carrier: *Provided,* That, in the case of a round-trip charter contract to be performed by one carrier, the total round-trip charter price shall be paid to the carrier not earlier than 60 days prior to the scheduled day of departure of the originating flight;

(iii) The bank shall reimburse the charter operator or foreign charter operator for refunds made by the latter to the charter participant upon written notification from the charter operator or foreign charter operator;

(iv) If the charter operator, foreign charter operator or the direct air carrier notifies the bank that a charter has been canceled, the bank shall make applicable refunds directly to the charter participants;

(v) After the charter price has been paid in full to the direct air carrier, the bank shall pay funds from the account directly to the hotels, sightseeing enterprises, or other persons or companies furnishing ground accommodations and services, if any, in connection with the charter or series of charters upon presentation to the bank of vendors' bills and upon certification by the charter operator or foreign charter operator of the amounts payable for such ground accommodations and services and the persons or companies to whom payment is to be made: *Provided, however,* That the total amounts paid by the bank pursuant to paragraphs (b) (2) (ii) and (v) of this section shall not exceed either the total cost of the air transportation, or 80 percent of the total deposits received by the bank less any refunds made to charter participants pursuant to paragraphs (b) (2) (iii) and (iv) of this section, whichever is greater.

(vi) As used in this section, the term "bank" includes a bank, savings and loan association, or other financial institution insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation;

(vii) The bank shall maintain a separate accounting for each charter;

(viii) Notwithstanding any provisions above, the amount of total cash deposits required to be maintained in the depository account of the bank may be reduced by one or both of the following: The amount of surety bond in the form prescribed herein in excess of the minimum bond required by subparagraph (1) of this paragraph; an escrow with the designated bank of Federal, State, or municipal bonds or other securities, consisting of certificates of deposit issued by banks having a stated policy of redeeming such certificates before maturity at the request of the holder (subject only to such interest penalties or other conditions as may be required by law), or negotiable securities which are publicly traded on a securities exchange, all such securities to be made payable to the escrow account: *Provided,* That such other securities shall be substituted in an amount no greater than 80 percent of the total market value of the escrow account at the time of such substitution: *And provided, further,* That should the market value of such other securities subsequently decrease, from time to time, then additional cash or securities qualified for investment hereunder shall promptly be added to the escrow account,

in an amount equal to the amount of such decreased value;

(ix) Except as provided in paragraph (b)(2)(ii), (iii), (iv), (v), and (viii) of this section, the bank shall not pay out any funds from the account prior to two banking days after completion of each charter, when the balance in the account shall be paid the charter operator or foreign charter operator, upon certification of the completion date by the direct air carrier. *Provided, however,* that if the charter involves air transportation only and the bank has paid the direct air carrier(s) the charter price for the originating and returning flights and has paid all refunds due to participants, as provided in subdivisions (ii) and (iii), respectively, of this subparagraph, then the Bank may pay the balance in the account to the charter operator upon certification by the direct air carrier performing the originating flight that such flight has in fact departed.

(c) The bond required under paragraphs (a) and (b) of this section shall insure the financial responsibility of the charter operator or foreign charter operator and the supplying of the transportation and all other accommodations, services, and facilities in accordance with the contract between the charter operator or foreign charter operator and the charter participants, and shall be in the form set forth as Appendix B to this Part 371. Such bond shall be issued by a bonding or surety company (1) whose surety bonds are accepted by the Interstate Commerce Commission under 49 CFR 1084.6; or (2) which is listed in Best's Insurance Reports (Fire and Casualty) with a general policyholders' rating of "A" or better. The bonding or surety company shall be one legally authorized to issue bonds of that type in the State in which the charter originates. For purposes of this section, the term "State" includes any territory or possession of the United States, or the District of Columbia. The bond shall be specifically identified by the issuing surety with a company bond numbering system so that the Board may identify the bond with the specific charter or charters to which it relates: *Provided, however,* That these data may be set forth in an addendum attached to the bond, which addendum must be signed by the charter operator or foreign charter operator and the surety company. It shall be effective on or before the date the charter Prospectus is filed with the Board. If the bond does not comply with the requirements of this section, or for any reason fails to provide satisfactory or adequate protection for the public, the Board will notify the direct air carrier and the charter operator or foreign charter operator, by registered or certified mail, stating the deficiencies of the bond. Unless such deficiencies are corrected within the time set forth in such notification, the subject charter or charters shall in no event be operated.

(d) The bond required by this section shall provide that unless the charter participant files a claim with the charter operator or foreign charter operator, or, if he is unavailable, with the surety, within sixty (60) days after termination of the charter, the surety shall be released from all liability under the bond to such charter participant. The contract between the charter operator or foreign charter operator and the charter participant shall contain notice of this provision.

§ 371.32 Disbursements from depository account.

No charter operator shall cause its agents or the depository bank to make disbursements or payments from deposits except in accordance with the provisions of this part.

§ 371.33 Record retention.

Every charter operator conducting a charter pursuant to this part shall comply with the applicable record-retention provisions of Part 249 of this chapter.

Subpart D—Requirements Applicable to Direct Air Carriers

§ 371.40 Charter not to be performed unless compliance with part.

A direct air carrier shall not perform air transportation in connection with an ABC unless it has made a reasonable effort to verify that all provisions of this part have been complied with, and that the charter operator's authority under this part has not been suspended by the Board: *Provided, however,* That where an ABC is organized by a foreign charter operator over whom the Board has declined to exercise its jurisdiction, pursuant to § 371.23, no direct air carrier may perform air transportation in connection with such ABC unless the charter is formed and implemented in accordance with the general conditions and limitations set forth in Subpart B of this part and the charter operator performs all acts and duties which this part requires to be performed by charter operators within the Board's jurisdiction, other than the provisions set forth in §§ 371.25(a)(1) and (2), 371.28, 371.30–33, 371.50–51.

§ 371.41 Direct air carrier to identify enplanements.

(a) A direct air carrier shall retain a true copy of each document which it has filed (jointly with the charter operator) pursuant to § 371.25, and shall make reasonable efforts to verify the identity of all enplaning passengers by use of a document bearing an identifying number, in order to ensure that enplanements are limited to persons whose names appear on its stamped copy of the passenger list. For international flights, the identity of each enplaning passenger shall be verified by means of a passport, or if there be none, by means of any other travel identity document. For domestic flights a passport or other travel identity document should be used, if available, to identify enplaning passengers, but if no such document is available, then any other numbered document, for example, a Social Security card, may be used.

(b) The direct air carrier shall, at the time of enplanement, enter, on its stamped copy of the passenger list, the documentary source of the identification required by paragraph (a) above, including the number appearing on the document.

§ 371.42 Tariffs to be on file for charter trips.

No direct air carrier shall perform any charter trips pursuant to this part unless such air carrier shall have on file with the Board a currently effective tariff showing all rates, fares and charges for such charter trips.

§ 371.43 Advance Booking Charters operated by U.S. certificated air carriers or foreign air carriers for foreign charter operators.

At least 75 days in advance of the date of departure of a proposed foreign-originated European charter or series of charters, or at least 45 days in advance of the date of departure of all other charters or series of charters, to be operated by a U.S. certificated air carrier or foreign air carrier for a foreign charter operator, such carrier shall file with the Board (Supplementary Services Division, Bureau of Operating Rights) a Charter Prospectus which shall contain the following information:

(a) The name and address of the foreign charter operator;

(b) The proposed date and time of each flight;

(c) The aircraft type to be used for each flight including the number of seats;

(d) The charter price for the aircraft;

(e) The duration of each charter and, if applicable, the tour itinerary, including the names of hotels, and any sightseeing or other arrangements included in the tour; and

(f) The charter price per passenger, and, if the charter trip includes a tour, the tour price per passenger.

Subpart E—Charter Trip Reporting Requirements

§ 371.50 Charter trip reporting.

(a) The direct air carrier shall file with the Board's Bureau of Enforcement within seven days after performing each charter flight, whether departure or return, its stamped copy of the passenger list filed prior to the flight.

(b) The direct air carrier shall promptly notify the Board (Supplementary Services Division, Bureau of Operating Rights) regarding any charters covered by a Prospectus filed under § 371.28 list filed prior to the flight.

(c) Within 30 days after termination of a charter or series of charters, or in the case of series of charters extending over a period longer than 30 days, every 30 days, the direct air carrier and charter operator or foreign charter operator shall jointly file a report with the Board (Supplementary Services Division, Bureau of Operating Rights), on CAB form 371–2, which appears on Appendix, C to this Part. The report shall indicate whether or not the charters authorized hereunder were, in fact, performed. For each charter operated, the report shall indicate the origin, destination(s), and

number of passengers carried. To the extent that the operations differed from those described in the Prospectus filed under § 371.28, such differences shall be fully detailed, including the reasons therefor. However, the making of such an explanation shall not of itself operate as authority for or excuse any such deviations.

§ 371.51 Reporting of ABC service under contract.

Each charter operator and direct air carrier shall jointly file, every calendar month, a summary of all ABC operations under contract. Such report shall state, for each city-pair, the number of round-trip flights and the number of passenger seats under contract during each of the following six (6) months.

APPENDIX B

ADVANCE BOOKING CHARTER OPERATOR'S SURETY BOND UNDER PART 371 OF THE SPECIAL REGULATIONS OF THE CIVIL AERONAUTICS BOARD (14) CFR PART 371)

KNOW ALL MEN BY THESE PRESENTS, THAT we _____ of
(Name of charter operator)
_____, _____ as PRINCIPAL
(City) (State)
(hereinafter called Principal), and _____
(Name of Surety)
_____ a corporation created and existing under the Laws of the State of _____
(State)
as SURETY (hereinafter called Surety) are held and firmly bound unto the United States of America in the sum of _____
(see 371.31 of Part 371)
_____for which payment, well and truly to be made, we bind ourselves and our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal intends to become an Advance Booking Charter (ABC) operator pursuant to the provisions of Part 371 of the Board's Special Regulations and other rules and regulations of the Board relating to insurance or other security for the protection of ABC participants, and has elected to file with the Civil Aeronautics Board such a bond as will insure financial responsibility with respect to all monies received from charter participants for services in connection with an ABC to be operated subject to Part 371 of the Board's Special Regulations in accordance with contracts, agreements, or arrangements therefor, and

WHEREAS, this bond is written to assure compliance by the Principal as an authorized charter operating with Part 371 of the Board's special Regulations, and other rules and regulations of the Board relating to insurance or other security for the protection of charter participants, and shall inure to the benefit of any and all charter participants to whom the Principal may be held legally liable for any of the damages herein described.

NOW, THEREFORE, the condition of this obligation is such that if the Principal shall pay or cause to be paid to charter participants any sum or sums for which the Principal may be held legally liable by reason of the Principal's failure faithfully to perform, fulfill, and carry out all contracts, agreements, and arrangements made by the Principal while this bond is in effect with respect to the receipt of monies from charter participants and proper disbursement thereof pursuant to and in accordance with the provisions of Part 371 of the Board's Special Regulations, then this obligation shall be void, otherwise to remain in full force and effect.

The liability of the Surety with respect to any charter participant shall not exceed the charter price paid by or on behalf of such participant.

The liability of the Surety shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penalty of the bond, but in no event shall the Surety's obligation hereunder exceed the amount of said penalty. The Surety agrees to furnish written notice to the Civil Aeronautics Board forthwith of all suits filed, judgments rendered, and payments made by said Surety under this bond.

The bond shall cover the following charters: [1]

_____
Surety company's bond No.

_____
Date of flight departure

_____
Place of flight departure

This bond is effective the __ day of _____, 19____, 12:01 a.m., standard time at the address of the Principal as stated herein and shall continue in force until terminated as hereinafter provided. The Principal or the Surety may at any time terminate this bond by written notice to the Civil Aeronautics Board at its office in Washington, D.C., such termination to become effective thirty (30) days after actual receipt of said notice by the the Board. The Surety shall not be liable hereunder for the payment of the damages hereinbefore described which arise as the result of any contracts, agreements, undertakings, or arrangements for the supplying of transportation and other services made by the Principal after the termination of this bond as herein provided, but such termination shall not affect the liability of the Surety hereunder for the payment of any such damages arising as the result of contracts, agreements, or arrangements for the supplying of transportation and other services made by the Principal prior to the date such termination becomes effective. Liability of the Surety under this bond shall in all events be limited only to a charter participant or charter participants who shall within sixty (60) days after the termination of the particular charter described herein give written notice of claim to the charter operator or, if he is unavailable to the Surety, and all liability on this bond shall automatically terminate sixty (60) days after the termination date of the particular charter covered by this bond except for claims filed within the time provided herein.

IN WITNESS WHEREOF, the said Principal and Surety have executed this instrument on the _____ day of _____, 19____.

PRINCIPAL

Name _____
By _____
(Signature and Title)
Witness _____

SURETY

Name _____ (SEAL)
By _____
(Signature and Title)
Witness _____

Only corporations may qualify to act as surety and they must meet the requirements set forth in § 371.31(d) of Part 371.

APPENDIX C

ADVANCE BOOKING CHARTER REPORT

General Instructions

1. For the Charter Prospectus Summary and the Market Data Summary, an original and one (1) copy of each shall be jointly filed with the Board (Bureau of Operating Rights, Supplementary Services Division) by the direct air carrier and the charter operator conducting ABC's pursuant to Part 371 of the Board's Special Regulations within thirty (30) days of the close of each calendar month.

2. The information provided for items 1 and 2 of the Charter Prospectus Summary, and all information provided for the Market Data Summary, shall be for the month in which ABC's were operated, and shall not include any information for ABC's previously operated or expected to be operated in the future under any one prospectus—e.g., reports filed in December shall contain information for ABC's operated during November.

A. Charter Prospectus Summary

ABC Number _____

Month Ended _____, 19____

1. Number of charters operated this month _____.

2. Number of charters listed in ABC prospectus for this month that were not operated _____.

3. Specifically identify charter(s) in item 2 that were not operated and given reason, and indicate if prospective charter participants received full refunds _____
_____
_____
_____

4. Indicate if the ABC's performed this month were operated substantially different from the description in the charter prospectus, and, if so, state the reason(s).

_____
Name of Direct Air Carrier

_____
Signature of Direct Air Carrier

_____
Date

_____
Name of Charter Operator or Foreign Charter Operator

_____
Signature of Charter Operator or Foreign Charter Operator

_____
Date

B. Market Data Summary

Reporting Instructions for Market Data Summary

Field 1—*Air Carrier*. This is the official two-letter alpha code of the carrier supplying the charter service.

Field 2—*Month*. This is the spelling of the month the services were performed by the carrier.

Field 3—*ABC File Number*. This is the official number given to the ABC prospectus.

Field 4—This is the flight number assigned by the carrier to this group.

Field 5—This is the three-letter OAG code assigned to the departure airport.

Field 6—This is the three-letter OAG code assigned to the arrival airport.

Field 7—These are the number of passengers that enplaned at the departure airport (Field 5) and deplaned at the arrival airport (Field 6).

Note.—Round trips are reported as two one-way trips showing traffic in each direction.

Example.—A round-trip ABC from JFK to Denver to Los Angeles with 400 people departing JFK and half going to Denver and half to Los Angeles would be reported as follows:

[1] These data may be supplied in an addendum attached to the bond. See § 371.31.

ABC file No.	Flight No.	Point of enplanement	Point of deplanement	Number of passengers enplaned
75-12	0005	JFK	DEN	200
75-12	0005	JFK	LAX	200
75-12	0006	LAX	JFK	200
75-12	0006	DEN	JFK	200

Air carrier	Month of ——, 19—	ABC file No.	Flight No.	Point of enplanement OAG airport code	Point of deplanement OAG airport code	Number of passengers enplaned
(1)	(2)	(3)	(4)	(5)	(6)	(7)

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FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20698; FCC 76-82]

[47 CFR Part 61]

TARIFF FILINGS TO THE PUBLIC

Adequate Notice and Timely Availability; Inquiry

In the matter of amendment of § 61.32 of the Commission's rules to provide adequate notice and timely availability of tariff filings to the public, Docket No. 20698.

1. Notice is hereby given of inquiry and proposed rulemaking in the above-entitled matter.

2. The Commission's rules and regulations now require communication common carriers filing tariff schedules which increase rates to do so no less than 60 days before the effective date of such increases, and to file other tariff schedules not less than 30 days prior to their effective date, except as otherwise provided by regulation, special permission, or order of the Commission.[1] Our rules further provide that petitions to suspend the effective date of a tariff filing shall be filed at least 35 days before the effective date in the case of tariff schedules filed on 60 or more days' notice to the public, and at least 14 days before the effective date with respect to other tariff filings.[2] In the case of a filing on 30 days' notice, if the fourteenth day is a weekend or other holiday, a petition requesting suspension of the tariff's effective date must be filed no later than the last full working day before such date. Hence, petitions for suspension may be due as much as seventeen days before the effective date, thereby allowing only thirteen days for action by parties adversely affected.

3. While we have attempted to issue public notices with respect to major tariff filings, the great majority of tariff schedules filed with the Commission are accepted without our issuance of such public notice.[3] However, concurrently with the filing of tariff schedules and supporting cost and other information required under our rules, the filing carrier is required to forward a copy of the transmittal letter accompanying such filing to the commercial firm or firms to whom we annually award a contract to make copies of Commission records and offer them for sale to the public.[4]

4. We have received complaints concerning delays in the receipt by the contractor of copies of transmittal letters, as well as complaints about delays in timely receiving copies of transmittal letters ordered from the contractor by the public. In some cases, it appears that the time for filing a petition to suspend the effective date of a tariff had expired before an interested party had received a copy of the transmittal letter ordered from the contractor. Furthermore, the short time factor involved is even more critical when Washington counsel must distribute revised tariff schedules to clients at distant locations outside of Washington, D.C. In order to achieve the objective of giving more time to persons interested in, or affected by, proposed tariff revisions filed with the Commission, it appears necessary to extend the 30 day notice period in which such revisions may be filed, or require by rule that all filing carriers furnish, not only copies of their transmittal letters, but also copies of their tariff schedules and supporting data required under our rules to be filed concurrently therewith, to the contractor when they file new or revised tariff schedules.

5. Our rules do not presently require that copies of the tariff schedules and accompanying cost justification be submitted to the contractor by carriers. The American Telephone and Telegraph Company and several other communications common carriers have agreed to do so voluntarily pursuant to written requests by our staff and we understand that the following carriers are presently cooperating in this respect:

American Satellite Corporation, American Telephone and Telegraph Company, Communications Satellite Corporation, Data Transmission Company, ITT World Communications, Inc., MCI Telecommunications, Inc., N-Triple-C, RCA Alaska Communications, Inc., RCA Global Communications, Inc., Southern Pacific Communications Company, TRT Telecommunications Corporation, Transportation Microwave Corporation, United Video, Inc., Western Union International, Inc., Western Union Telegraph Company, and Western Tele-Communications, Inc.

6. Accordingly, we are instituting this inquiry and rule making to determine whether amendment of our procedural and notice requirements for tariff filings would be in the public interest, and if so, what changes should be made to our rules. We also solicit comments from all interested persons on the proposed amendment of Section 61.32 of our Rules as set forth in the Appendix hereto.

7. Authority for the proposed rulemaking instituted herein is contained in sections 2, 3, 4 (i) and (j), 201(b), 203, 214, 303(r) and 403 of the Communications Act.

8. Interested persons may file comments on the proposed rule and issues discussed herein on or before March 18, 1976, and reply comments on or before March 29, 1976. In reaching its decision in this matter, the Commission may take into account any other relevant information before it in addition to the comments invited by this notice.

9. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 11 copies of all comments, replies, pleadings, briefs, and other documents filed shall be furnished to the Commission. Responses filed in this proceeding will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C. (1919 M Street, NW.).

Adopted: February 3, 1976.

Released: February 10, 1976.

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

Section 61.32 is revised to read as follows:

§ 61.32 Publications to be sent to Secretary, FCC, and commercial contractor.

Publications sent for filing shall be addressed to "Secretary, Federal Communications Commission, Washington, D.C. 20554." Concurrently with the filing of the publication with the Commission, the filing carrier shall transmit a copy of the transmittal letter, tariff publication and accompanying supporting data to the commercial firm of firms to whom

[1] Section 61.58. See Tariffs—Evidence, 25 FCC 2d 957 (1970), reconsideration denied, 40 FCC 2d 149, affirmed sub nom., American Telephone and Telegraph Company vs. FCC, 503 F. 2d 612 (2d Cir. 1974).

[2] Section 1.773(b).

[3] Such acceptance for filing does not mean we have found the tariff schedules in question to the lawful; and they are subject to petition for rejection or investigation with or without suspension.

[4] Section 61.32.

the Commission annually awards a contract to make copies of Commission records and offer them for sale to the public.

[FR Doc.76-4572 Filed 2-17-76;8:45 am]

[47 CFR Part 73]

[Docket No. 20702; FCC 76-92]

EDUCATIONAL FM BROADCAST STATIONS IN MOORPARK, CALIF.

Table of Assignments

In the matter of amendment of § 73.507, *Table of Assignments*, Educational FM Broadcast Stations (Moorpark, California), Docket No. 20702, RM-2523.

1. The Commission has before it a petition for rulemaking filed by Moorpark College seeking the assignment of educational FM Channel 216[1] to Moorpark, California. Since Moorpark is within 199 miles of the U.S.-Mexican border, establishment of a station there requires that there be a suitable channel listed in the Table of Assignments of FM channels adopted pursuant to the terms of the United States-Mexico FM Broadcasting Agreement. As such a channel is not now listed, the petition was filed to have it included in the Table under the procedures mentioned in paragraph 3 below.

2. Moorpark is an unincorporated community located in Ventura County, 22 miles east of the town of Ventura and 42 miles northwest of Los Angeles. The population of Moorpark is 3,380 and that of Ventura County 378,497. Moorpark College is a public, post-secondary institution, one of two community colleges in Ventura County. The college is a fully accredited institution with an enrollment of approximately 7,000 students. The college proposes the assignment of a Class B channel to enable it to cover a large area of Ventura County which includes more than 120,000 elementary and secondary students as well as 25,000 university and college students. Currently there are no educational stations in Moorpark or elsewhere in Ventura County. Moorpark College argues that the proposed assignment would provide an opportunity for the college to offer service to the community and surrounding area through instructional programs and the providing of cultural and informational material. In particular, the college notes its expectation that it would place particular emphasis on program service to both Afro-American and Mexican-American communities in the area. It also states that it would use the station as a training ground for students taking a course of study in the field of telecommunications.

3. Under the provisions of the United States-Mexico FM Broadcasting Agreecent the two countries have developed a set of standards to be applied to FM (including educational FM) channel usage close to the border. Utilization of an educational FM channel requires that it be listed in the Table of FM Assignments for educational channels. These channels are listed in Section 73.507 of the rules and the applicable engineering standards for these assignments are specified in § 73.504 of the rules. Mexican concurrence must be obtained for changes in the Table if (as the case is here) the site would be within 199 miles of the United States-Mexican border. In order for the proposal to meet the applicable co-channel spacing to Mexican Station XETRA-FM in Tijuana, Baja, California, a site some 11 miles west of Moorpark is proposed. Nonetheless, operating from such a location, a station still would be able to effectively serve Moorpark and the surrounding area in Ventura County.

4. This case presents a problem of first impression. The channel can be assigned consistent with the terms of the FM agreement with Mexico. The proposal is entirely consistent with applicable technical criteria specified in the Commission's rules. Nevertheless, the proposal cannot be view by itself. In evaluating its impact, it is not clear what policies should govern, particularly in terms of preclusion stemming from the assignment sought. The proposal here would cause some preclusion co-channel and adjacent-channel. Our treatment of this fact in the case of a commercial assignment proposal would be clear. The Commission would consider the extent of the preclusion and the places where it would occur, as well as the availability of alternative channels for any precluded community which was underserved. This would be contrasted with the gain in service the proposed assignment could offer and a balance drawn. This process is easier to employ when the need for and the ability to sustain a station follow a simple correlation with population. Evaluating the importance of the preclusion in the case of an educational station is not so easily accomplished. First of all, we should point out that the availability of additional commercial channels is not really the issue. Rather, the Commission believes that to the extent preclusion is significant, it should be the availability of educational channels which resolves the issue. Petitioner has shown the extent of preclusion but not the availability of substitute educational channels. Thus far we have not been presented with adequate information on this score, and we seek it from petitioner and other interested parties. In addressing these issues parties should take into account the various differences between commercial and educational assignments. In the case of commercial assignments, a channel is either Class A on the one hand or Class B or Class C on the other.[2] Each channel thus has certain unchanging characteristics to be used in making distance computations. In the case of educational stations there is the addition of Class D stations to consider as well as the fact that there is no correlation between channel and class of station. The result is that a particular channel could be used in one place for a Class B station and in another place for a Class A or Class D station. Differing levels of protection (expressed as mileage separations) are specified for each class of station. The rules specify, for example, that co-channel required spacing could be as little as 11 miles (Class D to Class D) or as much as 180 miles (Class C to Class C). Therefore, to give just one example, the effect of a particular assignment could be the preclusion of a Class B operation but not a Class A operation. Under these circumstances it is a different sort of preclusion that the Commission needs to consider. This serves to make it more difficult to evaluate the relative need of precluded communities in order to determine whether it would be appropriate under the mandate of Section 307(b) to make a proposed assignment. Among other things, it would require the Commission to examine the importance of a proposal which would not absolutely preclude another assignment elsewhere but would reduce its possible facilities.

5. In an overall evaluation of these cases, additional problems arise, particularly in determining the need for a channel in a given locality. There is no easy correlation of population grouping on the one hand and interest in and need for a station on the other. In some instances, an eligible entity in a smaller community may wish and be able to effectively utilize an educational station with substantial facilities and so provide service throughout a school district. On the other hand, major universities have sought stations with only limited, perhaps 10-watt, facilities. There is no simple way to correlate the size of the school, university, school district, or other eligible entity with the need for a station and hence, no easy way to determine the significance of any preclusion which is involved.

6. In our view, rule making to consider the possible assignment of a channel to Moorpark is clearly warranted. Were Moorpark's assignment the only question before us, the case would be relatively simple, as there would be much to say in its favor. However, as we have mentioned above, there are a number of related problems which have to be resolved. We seek the guidance of interested parties on the various questions regarding how to treat educational rule making proposals of this sort. Should we proceed in a manner equivalent to the one used for commercial assignments? Should we fashion a procedure similar, but in some respects, different from this procedure? If so, in what respects should the procedure differ? Or, should the Commission fashion an entirely different procedure applicable to educational assignments only? What guidelines ought we to employ in this regard? Should we treat these proposals entirely on their

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[1] Ordinarily, rule making is not required to assign an educational FM channel to a particular community. Unlike the procedure for a commercial FM, the use of educational FM channels usually is governed by a demand system based on the filing of application rather than amending a Table of FM Assignments. As discussed below, this case involves an exception to this usual pattern.

[2] In this case it is the Zone in which the site of the station is located (and not the facilities) which governs the class of station.

own merit, taking into account any responsive filings, but without reference to the impact of the proposal on other possible assignments? This sounds harsh, but doing so would be in accord with the implications of the demand system used for applications in all parts of the country save where treaty requirements necessitate use of rule making to amend the Table. Need we, in other words, make a judgment about the need for new procedures even though we would be applying them only to the border areas?

7. Finally, we seek any specific information thought relevant to the particular decision to be made in this individual case. Specifically, Moorpark College should provide a showing to indicate the availability of alternative educational channels to areas its proposal would preclude and in so doing indicate what class of station the spacings would permit any precluded locality or area.

8. Accordingly, the Commission proposes to amend the Table of Educational FM Assignments, § 73.507 of the Commission's rules and regulations, as follows:

City	Channel No.	
	Present	Proposed
Moorpark, Calif.		216

9. The Commission's authority to institute rulemaking proceedings; showings required; cut-off procedures; and filing requirements are contained below and are incorporated herein.

10. Interested parties may file comments on or before March 18, 1976, and reply comments on or before March 29, 1976.

Adopted: February 3, 1976.

Released: February 10, 1976.

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

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the EFM Table of Assignments, Section 73.507 of the Commission's rules and regulations, as set forth in the *notice of proposed rule making.*

2. *Showings required.* Comments are invited on the proposal(s) discussed in the notice of proposed rulemaking. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420 (d) of the Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rule making. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b), and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc.76-4571 Filed 2-17-76;8:45 am]

[47 CFR Part 73]

FM BROADCAST STATIONS IN MANSFIELD AND MARSHFIELD, MISSOURI

Table of Assignments

In the matter of amendment of § 73.202 (b), *Table of assignments*, FM Broadcast Stations. (Mansfield and Marshfield, Missouri), Docket No. 20711, RM-2555, RM-2565.

1. The Commission has under consideration two petitions which propose the amendment of § 73.202(b) of the rules, the FM Table of Assignments, by assigning a first FM channel to each of two communities: (1) Webster County Broadcasting Company (Webster), licensee of daytime-only AM Station KEMM, Marshfield, Missouri, requests the assignment of Channel 285A to Marshfield, Missouri; and (2) Herbert Starbuck (Starbuck), requests the assignment of Channel 285A to Mansfield, Missouri. Both petitions are unopposed. Channel 285A could be assigned to either Mansfield or Marshfield in conformity with the Commission's minimum mileage separation rule. However, since they are only 24 miles apart, Channel 285A could not be assigned to both communities. A channel study indicates that Channel 240A could be assigned to either Mansfield or Marshfield. We are proposing Channel 285A for Marshfield, and Channel 240A for Mansfield. Channel 240A at Mansfield would not restrict the selection of antenna site as it would at Marshfield.

2. Marshfield (pop. 2,961) [1] is the seat of Webster County (pop. 15,562) and located approximately 20 miles east of Springfield, Missouri. Marshfield has one daytime-only AM station (KEMM) which is licensed to petitioner and no FM assignments.

3. In support of its petition, Webster states that Marshfield is located in a rural, agriculturally oriented area, exhibiting substantial growth. It notes that Webster County has the largest dairy herd population in Missouri, and, in addition, a substantial beef cattle population. Petitioner states that it would be in the public interest to have a station operating before sunrise and after sunset whose progamming and service is also rurally oriented, and that agricultural, political and community affairs of Marshfield would be better served with its own nighttime service via an FM channel. It asserts that should the assignment be made, it will file for a construction permit to establish a Class A FM station in the community of Marshfield.

4. Mansfield (pop. 1,056), is located in Wright County (pop. 13,667) and is situated in south central Missouri, approximately 40 miles southeast of Springfield, Missouri. There is no broadcast facility of any type in the community of Mansfield.

5. In support of his petition, Starbuck states that Mansfield has a city council form of government with a mayor and, although it is located in a rural area, it is fortunate to have a balance of industry in the community. He notes that its industry includes a steel plant and foundry, shoe factory, Mansfield Cheese Corporation, and Kraftco Corp. Petitioner states that Mansfield has two schools, a modern hospital, a senior citizen housing complex, and an extensive commercial area which serves the immediate three counties and which greatly needs the help of a local advertising media that could be provided by the proposed new FM station. He points out that a local facility would fill an important need for coverage of general events in the community and of important news items including storm alerts, nighttime sports, disasters affecting the area, school announcements including closings as well as other cancellations. Petitioner states he will promptly file an application for the channel, if assigned.

[1] Population figures are taken from the 1970 U.S. Census.

6. In light of the above, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) as follows for the communities listed:

City	Channel No.	
	Present	Proposed
Mansfield, Mo.		240A
Marshfield, Mo.		285A

7. The Commission's authority to institute rule making proceedings; showings required; cut-off procedures; and filing requirements are contained below and are incorporated herein.

8. Interested parties may file comments on or before March 30, 1976, and reply comments on or before April 19, 1976.

Adopted: February 4, 1976.

Released: February 12, 1976.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *notice of proposed rulemaking.*

2. *Showings required.* Comments are invited on the proposal(s) discussed in the notice of proposed rule making. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rulemaking which conflicts with the proposal(s) in this notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *notice of proposed rule making.* All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b), and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc.76-4566 Filed 2-17-76;8:45 am]

[47 CFR Part 73]

FM BROADCAST STATIONS, IDA GROVE AND CARROLL, IOWA

Table of Assignments

In the matter of amendment of § 73.202(b), *Table of assignments,* FM Broadcast Stations. (Ida Grove and Carroll, Iowa), Docket No. 20710, RM-2544.

1. The Commission has before it a petition for rule making filed by Midwest Industries (petitioner) on April 4, 1975, proposing the assignment of Channel 224A to Ida Grove, Iowa. No opposing statements were filed.

2. Ida Grove is a community of 2,261 population,[1] and the seat of Ida County, population 9,190. It is located in northwest Iowa, approximately 45 miles east of Sioux City, Iowa, and 35 miles northwest of Carroll, Iowa. It has no AM, FM or TV broadcast facilities.

3. Carroll is a community of 8,716 population, located in Carroll County, population 22,912. It is served by unlimited-time AM Station WCIM (Class III) and Class C FM Station WCIM-FM, operating on Channel 229. Carroll is also assigned Channel 224A, which is unoccupied and unapplied for, and the petitioner proposes to assign Channel 224A to Ida Grove by deleting it from Carroll.

4. In support of the petition, information and data are adduced about local industry (farm equipment manufacturing, plaster manufacturer, commercial trucking, general contracting) and recreational, medical, and civic activities, and we are told that the community has an elementary, junior high and high school. Petitioner states that Channel 224A can be assigned to Ida Grove without any change in the FM Table of Assignments if the station transmitting system is sited 7 miles southeast of Ida Grove. The proposed channel has no new preclusion on affected adjacent channels. If assigned to Ida Grove it will preclude the use of Channel 224A in Carroll, Iowa.

5. Petitioner states a local facility would fill an important need for coverage of general events in the community and of important news items including storm alerts, nighttime sports, disasters affecting the area, and school announcements. It notes that there is also an important need to provide a new local competitive advertising outlet for retail businesses in Ida Grove and Ida County.

6. Accordingly, in light of the above, the Commission proposes to amend the FM Table of Assignments, § 73.202(b), with respect to the cities listed below, as follows:

City	Channel No.	
	Present	Proposed
Ida Grove, Iowa		224A
Carroll, Iowa	224A, 229	229

7. The Commission's authority to institute rule making proceedings; showings required; cut-off procedures; and filing requirements are contained below and are incorporated herein.

8. Interested parties may file comments on or before March 30, 1976, and reply comments on or before April 19, 1976.

Adopted: February 4, 1976.

Released: February 12, 1976.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the notice of proposed rulemaking.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the notice of proposed rulemaking. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the propo-

[1] All population figures are from the 1970 U.S. Census.

sal(s) in this Notice, they will be considered as commnets in the proceeding, and Public Notice to this effect will be given as long they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1 420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rulemaking. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b), and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc.76-4563 Filed 2-17-76;8:45 am]

INTERNATIONAL TRADE COMMISSION

[19 CFR Part 201]

PRIVACY ACT OF 1974

Procedures for Requesting Individual Records in a Records System

Notice is hereby given that the United States International Trade Commission in accordance with the Privacy Act of 1974 (Pub. L. 93-579) proposes to amend Title 19, Part 201, Subpart D, § 201.24 of the Code of Federal Regulations.

Written comments concerning these changes in the regulations are invited from interested persons. Comments may be presented in writing to the Office of the Secretary, United States International Trade Commission, 701 E Street, NW., Washington, D.C. 20436. All comments received not later than April 8, 1976, will be considered.

The Commission's rules of practice and procedure will be amended by making certain additions to § 201.24. The section is proposed to read as set forth below:

Subpart D—Safeguarding Individual Privacy Pursuant to 5 U.S.C. 552a

§ 201.24 Procedures for requests pertaining to individual records in a records system

(a) A request by an individual to gain access to his or her record or to any information pertaining to him or her which is contained in the systems of records maintained by the Commission shall be addressed to the Director of Personnel, United States International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, and shall indicate clearly both on the envelope and in the letter that it is a Privacy Act request.

(b) In order to facilitate location of requested records, the request of the individual shall name the systems of records maintained by the Commission which he or she believes contain records pertaining to him or her or shall reasonably describe the requested record.

(c) The Director of Personnel shall acknowledge receipt of a request within ten days (excluding Saturdays, Sundays, and legal public holidays), and wherever practicable, indicate whether or not access can be granted. If access is not to be granted, the requestor shall be notified of the reason.

(d) The Director of Personnel shall ascertain whether the systems of records maintained by the Commission contain records pertaining to the individual. Thereupon the Director of Personnel shall: (1) Notify the individual whether or not the requested record is contained in any system of records maintained by the Commission; and (2) notify the individual of the procedures as prescribed in §§ 201.25 and 201.26 by which the individual may gain access to those records maintained by the Commission which pertain to him or her. Access to the records will be provided within 30 days (excluding Saturdays, Sundays, and legal public holidays).

Issued: February 13, 1976.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc.76-4786 Filed 2-17-76;10:35 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

[Public Notice CM-6/17]

STUDY GROUP 1 OF THE U.S. NATIONAL COMMITTEE FOR THE INTERNATIONAL TELEGRAPH AND TELEPHONE CONSULTATIVE COMMITTEE (CCITT)

Notice of Meeting

The Department of State announces that Study Group 1 of the U.S. CCITT National Committee will meet on March 10, 1976 at 10:00 a.m. in Room 6331 of the Federal Communications Commission, 2025 M Street NW., Washington, D.C. This Study Group deals with U.S. Government regulatory aspects of international telegraph and telephone operations and tariffs.

The agenda of the March 10 meeting will include consideration and development of the U.S. position to be taken at international CCITT meetings on a variety of questions. Included will be a further review of developments which have occurred at international CCITT meetings during 1974 and 1975 concerning general tariff principles covering the lease of telecommunication circuits.

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.

Dated: February 10, 1976.

GORDON L. HUFFCUTT,
Acting Director, Office of International Communications Policy.

[FR Doc.76-4542 Filed 2-17-76;8:45 am]

[Public Notice CM-6/18]

STUDY GROUP 1 OF THE U.S. NATIONAL COMMITTEE FOR THE INTERNATIONAL TELEGRAPH AND TELEPHONE CONSULTATIVE COMMITTEE (CCITT)

Notice of Meeting

The Department of State announces that Study Group 1 of the U.S. CCITT National Committee will meet on March 11, 1976 at 10:00 a.m. in Room A205 of the Federal Communications Commission, 1229 20th Street NW., Washington, D.C. This Study Group deals with U.S. Government regulatory aspects of international telegraph and telephone operations and tariffs.

The agenda of the March 11 meeting will include consideration and development of the U.S. position to be taken at international CCITT meetings on a variety of questions. Included will be a further review of developments which have occurred at international CCITT meetings during 1974 and 1975 concerning telegraph and telex operations, maritime accounting and related tariff problems.

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.

Dated: February 10, 1976.

GORDON L. HUFFCUTT,
Acting Director, Office of International Communications Policy.

[FR Doc.76-4543 Filed 2-17-76;8:45 am]

DEPARTMENT OF THE TREASURY

Office of Revenue Sharing

ENTITLEMENT DATA

Procedure for Improvement of Entitlement Data

Correction

In FR Doc. 76-4034 appearing at page 6079 in the issue of Wednesday, February 11, 1976, the data definitions referred to in the second paragraph of column one on page 6079 inadvertently were not published. The attachment is published in its entirety as follows:

I. POPULATION

POPULATION OF COUNTIES, CITIES, TOWNS AND TOWNSHIPS

The population of a unit of government for revenue sharing purposes is the resident population as of July 1, 1973 as determined by the Bureau of the Census. The July 1, 1973 population estimates were published by the Bureau of the Census in Current Population Reports, Series P-25, in State reports numbered in alphabetical sequence from number 546 for Alabama through number 595 for Wyoming. The population estimates being used for the revenue sharing program reflect corrections which have been made since the publication of the P-25 Series reports. (The published data reflect the final results of the 1973 Federal-State Cooperative Program for 11 States only and provisional results for the remaining 39 States. The estimates being used for the revenue sharing program, however, incorporate the final results of the 1973 Federal-State Cooperative Program for all 50 States.)

The July 1, 1973 estimates of population were derived by the Bureau of the Census using a component procedure whereby components of population change are estimated separately and then added to the enumerated 1970 census populations of the units of local government. The 1970 population base reflects all population corrections made to the data after the initial Bureau of the Census publications as well as changes due to new incorporations, disincorporations and annexations.

The components of population change are:

1. Natural increase, i.e., the excess of births over deaths: Annual births and deaths were compiled from State vital statistics offices supplemented by data from the National Center for Health Statistics. County statistics were available for all States. When vital statistics were not available for all areas within a county, the births and deaths for these areas were distributed proportionately on the basis of the 1970 census population.

2. Net Migration: This component of population change was estimated for each unit of government by developing a net migration rate for the period between 1970 and 1973. The net migration rate was developed by matching IRS files of 1972 tax returns and 1969 tax returns. Thus, it was possible to determine for each unit of local government the number of taxpayers who did not move, or who moved in or out of the jurisdiction between 1970 and 1973. The number of those who moved in minus the number of those who moved out yields the net migration. The net migration rate of taxpayers was applied to the total population in an area.

In addition to the estimates of natural increase and net migration, adjustments were incorporated into the estimates to account for immigration from abroad, institutional inmates, members of the armed forces and college students. For all areas where special censuses were taken by the Bureau of the Census close to the July 1, 1973 estimate date, the special census counts were used in lieu of the estimates. The special census counts were adjusted to the July 1, 1973 estimate date. In several States, the subcounty estimates were also merged with estimates developed by State agencies participating in the Federal-State Cooperative Program for Local Population Estimates. This occurred in seven States—California, Connecticut, Florida, New Jersey, Oregon, Washington, and Wisconsin.

The July 1, 1973 population estimates being used for revenue sharing for counties represent the average of July 1, 1973 administrative record-based estimates derived by the procedure described above and July 1, 1973 estimates derived from the Federal-State Cooperative Program. The county populations were further adjusted to be consistent with State estimates published by the Bureau of the Census in Current Population Reports, Series P-25. The population estimates for the governments in each county area were adjusted to be consistent with the county population.

The July 1, 1973 population estimates published by the Bureau of the Census in Series P-25 are related to boundaries as of December 31, 1973. Adjustments to the 1970 population base were made for new incorporations, disincorporations, and annexations. Adjustments were made for annexations if (1) the 1970 population of the annexed area was 1,000 or more, or (2) the 1970 population of the annexed area was at least 250 people and at least 5% of the 1970 population of the gaining governments. The estimates being used for revenue sharing purposes have been updated through 1974 to reflect new incorporations, disincorporations and qualifying annexations, i.e., annexations made by places with a population of at least 5,000 and for which the annexed area in-

cludes population equal to 5% or more of the annexing government's population.

POPULATION OF INDIAN TRIBES AND ALASKAN NATIVE VILLAGES

The population of an Indian tribe or Alaskan native village for revenue sharing purposes in the resident population as of July 1, 1973 as determined by the Bureau of Indian Affairs. For Indian tribes, the resident population is the number of Indians living within the boundaries of the tribal reservation plus the number of Indians living on trust land (including public domain allotments) adjacent to the reservation and pertaining to the tribe. The adjacent trust land may be tribally owned or individually owned. Resident non-Indian members of families with an Indian head or spouse are also included in the population estimates.

For Alaskan native villages, the resident population is the number of Indians, Aleuts and Eskimos living within the boundaries of the village. Resident non-Alaskan native members of families with an Alaskan native head or spouse are also included in the population estimate.

The methodology used by the Bureau of Indians Affairs to update the 1970 population of an Indian tribe or Alaskan native village depended on the type of accurate data that was available for that tribe or village. The types of data available varied from place to place. Two examples of the types of data used to make the July 1, 1973 population estimates are lists of residents and school enrollment data. In many cases the Bureau of Indian Affairs worked directly with the Indian tribe or Alaskan native village to obtain the best available data.

II. PER CAPITA INCOME

The 1972 per capita income (PCI) is the estimated mean or average amount of total money income received during calendar year 1972 by all persons residing in a given political jurisdiction in April 1973. The 1972 PCI estimates are based on data from the 1970 census, or later special censuses, and reflect corrections to the census data, as well as changes in income, population, and geographic boundaries which have occurred since 1970. The 1972 PCI estimates were published by the Bureau of the Census in Current Population Reports, Series P–25, in State reports numbered in alphabetical sequence from number 546 for Alabama through number 595 for Wyoming. The estimates being used for revenue sharing will not agree exactly with all of the figures in the P–25 reports, since corrections have been made to the data subsequent to the publication of the reports.

The 1970 census PCI data were updated to 1972 based on income data from the 1969 and 1972 Federal income tax returns and State and county money income estimates prepared by the Bureau of Economic Analysis (BEA) to measure the change from 1969 to 1972.

Total money income is the sum of:

Wage or salary income;

Net nonfarm self-employment income;

Net farm self-employment income;

Social Security or railroad retirement income;

Public assistance income; and

All other income such as interest, dividends, veteran's payments, pensions, unemployment insurance, alimoney, etc.

The total represents the amount of income received before deductions for personal income taxes, Social Security, bond purchases, union dues, medicare deductions, etc.

Receipts from the following sources are not included as income: Money received from the sale of personal property; capital gains; the value of income "in kind" such as food produced and consumed in the home or free living quarters; withdrawal of bank deposits; money borrowed; tax refunds; exchange of money between relatives living in the same household; gifts and lump sum inheritances, insurance payments, and other types of lump sum receipts.

COUNTY ESTIMATES

At the county level, 1972 PCI estimates were developed by carrying forward the 1970 census per capita amount for each income type listed above. Census wage and ssalary per capita income amounts were updated using the percent change in the IRS wage and salary per exemption. For the remaining income types, the percent change in the BEA per capita amounts were used. The 1972 per capita amounts for each income type were then multiplied by the July 1, 1973 population estimates, and the resulting county income aggregates were adjusted to State income aggregates. For each county the aggregate amounts for each income type were added to get an estimated 1972 total money income which was then divided by the estimated population to derive the 1972 PCI estimate.

SUBCOUNTY GOVERNMENTAL UNIT ESTIMATES

For all townships with a 1970 population of 1,000 or more and for all municipalities over 1,000 not in townships, the updates were also developed using per capita amounts. Updated census earnings plus "other income" per capita were developed using the percent changes in IRS Adjusted Gross Income per exemption. The estimates for Social Security and public assistance were made by assuming that the 1970 census per capita amounts for these income types grew at the same rate as that for the county.

The PCI estimates for governmental units with a 1970 population in the 500–999 range were computed by applying the average percent change in PCI for the county, excluding large places (population of 10,000 or more), to their 1970 census PCI. PCI estimates for governmental units with a 1970 population of less than 500 were assumed to be equal to the average PCI of the county excluding any large places. The subcounty estimates were adjusted to the county estimates to ensure conformity.

The PCI estimates for governmental units in townships with a 1970 population of 500 or more were made by applying rates of change for the entire township to the 1970 census estimates for the places. For governmental units with a 1970 population of less than 500, the PCI was assumed to be equal to that of the township. These subtownship estimates were then adjusted to the township estimates to ensure conformity.

III. ADJUSTED TAXES

The adjusted taxes for a unit of local government, as derived from the General Revenue Sharing Survey conducted by the Bureau of the Census in 1975, are the total taxes of the unit of government in Fiscal Year 1975 (that government's 12-month accounting period that ended between July 1, 1974 and June 30, 1975) excluding taxes for schools and other educational purposes. A government's total Fiscal Year 1975 taxes are those which were exacted by that government and which were collected by or for that government during Fiscal Year 1975. Total general purpose taxes include:

1. *Property taxes*—county, muncipal or township taxes levied on the value of real or personal property.

2. *Sales taxes*—county, municipal or township taxes, either general or specific, on goods and services, measured as a percent of sales or receipts, or as an amount per unit sold.

Sales taxes are of two types:

a. General sales or gross receipts taxes.

b. Selective sales or gross receipts taxes.

Examples of selective sales taxes are:

Gasoline taxes;

Liquor taxes;

Cigarette and tobacco taxes;

Public utilities excise taxes;

Amusement taxes; and

Hotel and motel room occupancy and meals taxes.

3. *Licenses, permits and other taxes*—county, municipal or township taxes not included in items 1 and 2 above.

Examples of license taxes are:

Alcoholic beverage licenses;

Business privilege licenses;

Motor vehicle and operators licenses;

Hunting and fishing licenses;

Marriage licenses; and

Inspection fees charged in connection with the granting or renewal of a license.

Examples of permits are:

Building permits; and

Permits for a business or non-business privilege.

Examples of other taxes are:

Income, payroll or earnings taxes;

Mortgage transfer and recordation taxes;

Severance taxes; and

Fees retained by a government for collecting taxes for other governments.

General purpose taxes do not include receipts from service charges, special assessments, interest earnings or fines.

A tax which is jointly imposed by a State government and units of local government is apportioned in order to determine local tax effort. An example of a jointly imposed tax would be a five percent sales tax of which four percent was imposed by the State government and one percent was imposed by the local government. In such case the amount of revenue realized by virtue of the one percent locally imposed portion will be credited to local tax effort. It is important to distinguish a 'jointly imposed tax" from a wholly State imposed tax where part of the tax revenue is shared with local governments. An example of a shared State tax would be a five percent sales tax wholly imposed by the State, but which provides a 20 percent revenue share to units of local government. A local government's share of a "wholly State imposed tax" is classified as an intergovernmental transfer and not as local tax effort. Thus, in determining local tax effort the point of reference is the government which imposed the tax rather than the government which expended the resulting tax revenue.

Certain sales taxes imposed by counties which meet the requirements of Section 109(e)(2)(B) of the Revenue Sharing Act may be considered to be taxes of the units of local government within the county rather than the county government. The "Memphis Rule," as this section is called provides for situations whereby a county government imposes a sales tax within the geographic area of local governments within the county, and then shares part or all of the applicable tax revenue with those local governments. These taxes must be transferred by the county government without specifying the purposes for which the local governments may spend the revenues. In such cases, the Governor of the State must certify to the Secretary of the Treasury that the requirements of the "Memphis Rule" are met. This certification must be made by the Governor before the beginning of the entitlement period when the "Memphis Rule" is to take effect. The taxes which are transferred by the county to the units of local government will then be considered for revenue sharing purposes to be taxes of the local governments and not the taxes of the county government.

Amounts in lieu of taxes received by a government from a utility it operates are treated as internal transfers and are excluded from taxes. Amounts in lieu of taxes

received from utilities operated by other governments are reported as intergovernmental transfers.

School taxes are tax revenues of a unit of government which are allocated for school purposes. They consist of taxes levied for current operation, capital outlay and debt service including amounts collected for a governmental unit's schools by the State or a local government acting as a collecting agent.

In some jurisdictions tax revenues for purposes of education are not separately identifiable because education is financed by expenditure or transfer of monies from a general fund to a school fund. If so, then the ratio of tax revenues to total revenues in such general fund multiplied by the expenditure or transfer of monies from the general fund (or similarly named fund) for education purposes is taken to be the amount of tax revenues allocable to expenses for education.

In Virginia, most of the counties and independent cities do not make a separate school levy, but rather finance their school systems from their general revenue funds. The accounting procedures employed by these governments, however, are not uniform. Some of these governments commingle education and other revenues in a general-type fund and other governments do not. To provide for uniform computation of adjusted taxes for these Virginia governments, dedicated education funds are removed from the general-type fund prior to applying the ratio method for calculation of the adjusted taxes.

IV. INTERGOVERNMENTAL TRANFERS OF REVENUE

Intergovernmental transfers of revenue are amounts received by a unit of government from other governments in Fiscal Year 1975 (the government's 12-month accounting period that ended between July 1, 1974 and June 30, 1975) for use either for specific functions or for general financial support. This amount is derived from the General Revenue Sharing Survey conducted by the Bureau of the Census in 1975. The figure includes grants, shared taxes, contingent loans and reimbursements for tuition costs, hospital care, construction costs, etc. Intergovernmental revenue does not include amounts received from sale of property or commodities, utility services to other governments, or Federal general revenue sharing entitlement funds.

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

CALIFORNIA STATE ADVISORY BOARD

Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that the California State Multiple-Use Advisory Board to the Bureau of Land Management will meet at the Rodeway Inn-Sacramento, 3425 Orange Grove Avenue, North Highlands, California 95660, on April 5-6, 1976. Subjects to be discussed will be off-road vehicle management on National Resource Lands, the Bureau of Land Management's energy program in California, the status of the range management program and environmental education. The Board will also review and consider resolutions forwarded by multiple-use advisory boards in the Bakersfield, Susanville, Redding, Folsom, Ukiah, and Riverside Districts.

The meeting will begin at 8:00 a.m., Monday, April 5, 1976. Opening business will include election of officers and a report to the Board by the California State Director of the Bureau of Land Management. The meeting will be open to the public. Time has been provided beginning at 2:45 p.m. to hear from members of the public, user groups, conservation organizations and agencies regarding subjects on the agenda. Persons who wish to make an oral statement should inform the Board Chairman prior to the meeting. Any interested person may file a written statement with the Board for its consideration. The Chairman is Rob Flournoy, Box 32, Likely, California 96116.

Dated: February 9, 1976.

ED HASTEY,
State Director.

[FR Doc.76-4555 Filed 2-17-76;8:45 am]

[NEV-143493]

NEVADA

Termination of Proposed Withdrawal and Reservation of Lands

FEBRUARY 9, 1976.

Notice of a Federal Aviation Administration application, Nev-043493, for withdrawal and reservation of lands as an addition to the Elko VORTAC site was noted on the records of the Nevada State Office on November 10, 1975. The applicant agency has cancelled its application in its entirety. Therefore, pursuant to the regulations contained in 43 CFR 2091.2-5(b)(1) the land described below will be, at 10:00 a.m., on March 15, 1976, relieved of the segregative effect of the above-mentioned application.

MOUNT DIABLO MERIDIAN, NEVADA

T. 33 N., R. 55 E., sec. 10, a parcel of land more particularly described as follows:
Beginning at the NW corner of the NE¼ NW¼SE¼ said sec. 10;
Thence N. 00°02' W., 230 feet;
Thence S. 89°50' E., 720 feet;
Thence S. 00°02' E., 830 feet;
Thence N. 89°50' W., 120 feet;
Thence N. 00°02' W., 600 feet;
Thence N. 89°50' W., 600 feet, to the true point of beginning.

The area described contains 5.45 acres, more or less.

WILLIAM J. MALENCIK,
Chief,
Division of Technical Services.

[FR Doc.76-4601 Filed 2-17-76;8:45 am]

Geological Survey

WARM SPRINGS, NEVADA

Known Geothermal Resources Area

Pursuant to the authority vested in the Secretary of the Interior by Sec. 21 (a) of the Geothermal Steam Act of 1970 (84 Stat. 1566, 1572; 30 U.S.C. 1020), the delegations of authority in 220 Departmental Manual 4.1 H, Geological Survey Manual 220.2.3, and Conservation Division Supplement (Geological Survey Manual) 220.2.1 G, the following described lands are hereby defined as the Warm Springs known geothermal resources area, effective March 1, 1974.

(28) Nevada

WARM SPRINGS KNOWN GEOTHERMAL RESOURCES AREA, MT. DIABLO MERIDIAN

PARTIALLY SURVEYED T. 4 N., R. 50 E.

Protraction Diagram No. 181
Secs. 19, 20, 21, 28, 29, 30

The above area aggregates 3,812.00 acres (1,524.8 hectares), more or less.

Dated: January 20, 1976.

WILLARD C. GERE,
Conservation Manager,
Western Region.

[FR Doc.76-4533 Filed 2-17-76;8:45 am]

Office of Hearings and Appeals

[Docket No. M 76-85]

COAL RESOURCES 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. section 861(c) (1970), Coal Resources Corporation has filed a petition to modify the application of 30 CFR 77.1605(k) to its Oxford Division No. 3 Mine, Coalgood, Kentucky.

30 CFR 77.1605(k) provides:

Berms or guards shall be provided on the outer bank of elevated roadways.

In support of its petition, Petitioner states that compliance with section 77.-1605(k) presents the following hazards:

1. Drainage and snow removal are hampered by the existence of berms on Petitioner's haulage roads.

2. Berms have caused rock falls from haulage roads with a high elevation to haulage roads with a lower elevation.

3. Berms have narrowed Petitioner's haulage roads and decreased driver visibility.

Petitioner's alternate method is set forth below:

(1) All haulage vehicles will have the right-of-way on highwall sides of the roads regardless of their direction of travel.

(2) Training of operators of haulage vehicles in the manner and safety of handling haulage vehicles on haulage roads.

(3) Roads are to be maintained in a safe condition; surface, ditches, and passing areas.

(4) All haulage vehicles are to have:
(a) original manufacturers' brakes;
(b) Engine or Jacobs brake; and
(c) Emergency braking system.

(5) Roads are and will be maintained as well as or better than unpaved secondary roads in elevated areas in the State of Kentucky.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before March 19, 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.

BRUCE A. BURNS,
Acting Director,
Office of Hearings and Appeals.

JANUARY 30, 1976.

[FR Doc.76-4534 Filed 2-7-76;8:45 am]

[Docket No. M 76-83]

CONSOLIDATION COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. section 861(c) (1970), Consolidation Coal Company has filed a petition to modify the application of 30 CFR 75.1710 to the following mines located in West Virginia.

Mine:	*Location by county*
Beech Fork	McDowell
Crane Creek	Mercer
Eckman	McDowell
Lynco-No. 5 Eagle	Wyoming
Turkey Gap	Mercer
Lynco-Cook No. 6	Wyoming
Maitland	McDowell

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 protest the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with § 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 43 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. * * *

In support of its petition, Petitioner states:

1. By memorandum to all District Managers dated September 20, 1973, the MESA Acting Assistant Administrator further interpreted these sections to mean that the mining heights listed in 30 CFR 75.1710–1 were "the distance from the floor to the finished roof less 12 inches."

2. Petitioner's Beech Fork, Crane Creek No. 11, Eckman, Lynco-No. 5 Eagle, Turkey Gap (Tunnel Section), Lynco No. 6 and Maitland Mines each have an unadjusted average coalbed height of under 48 inches. The specific coalbed height at each of the subject mines is as follows:

Mine:	*Average coalbed height (inches)*
Beech Fork	36–40
Crane Creek No. 11	36
Eckman (No. 11 Seam)	36
(No. 12 Seam)	38
Lynco-No. 5 Eagle	37
Turkey Gap (tunnel section)	44
Lynco-No. 6	38–48
Maitland	38–48

3. The design characteristics of the electrical face equipment presently in use at the subject mines will not permit the installation of cabs or canopies which will allow the operator proper visibility for safe operation of the equipment while remaining under the cab or canopy.

4. The design characteristics of the electrical face equipment presently in use at the subject mines will not permit the installation of cabs or canopies which will clear the top in areas where the equipment must operate in these mines.

5. The design characteristics of the electrical face equipment presently in use at the subject mines will not permit the installation of cabs or canopies which will allow the operator to rapidly escape the confines of such cabs or canopies in the event of an emergency.

6. Petitioner has experimented with various cab and canopy designs on the electrical face equipment presently in use but has not been able to find an effective and safe configuration which will allow proper visibility for the operator, prevent "roofing" caused by operation over uneven bottom or under uneven top, or which will allow the operator to rapidly escape from under the cab or canopy in the event of an emergency.

7. Petitioner has been unable to discover any form of prefabricated cab or canopy which can be fitted to the present electrical face equipment in a manner to remove or reduce the visibility, "roofing" and entrapment dangers. Petitioner has been unable to discover any design for construction of a cab or canopy for the present electrical face equipment in the coalbed heights shown which will remove or reduce these dangers.

8. Numerous UMW members employed at Petitioner's mines have complained that installation of cabs or canopies on the present electrical face equipment in the coalbed heights shown will reduce safety. In some cases, UMW members have threatened to stop work if they are required to operate electrical face equipment hampered by a cab or canopy which reduces visibility, bumps or catches the top or prevents rapid escape from its confines.

9. Petitioner contends that application of 30 CFR 75.1710 and 1710–1(a)(5) to its present electrical face equipment in the coalbed heights in the subject mines will result in a dimunition of safety in the operation of said equipment.

PETITIONER'S ALTERNATE METHOD

Petitioner proposes the following alternative method for maintenance of safe roof and rib conditions in connection with operation of its presently used electric face equipment at the subject mines:

1. Petitioner will replace his present electrical face equipment as that equipment wears out with new redesigned smaller equipment with cabs or canopies installed to the extent that the cabs or canopies on such new equipment may be developed to satisfy the human and physical engineering problems identified in paragraphs 3, 4 and 5 above.

2. Petitioner will continue to perform research in order to enable experimental design of a cab or canopy for each piece of electric face equipment which will overcome or alleviate the human and physical engineering problems outlined in paragraphs 3, 4, and 5 of this Petition.

3. If a workable design is discovered by Petitioner's engineers, said design will be implemented on an experimental basis for evaluation by Petitioner, MESA and UMW personnel under actual working conditions. If said experimental operation is successful, Petitioner will retrofit those pieces of electrical face equipment with the form of cab or canopy for which successful evaluation has been made.

4. Petitioner will affirmatively seek ideas from UMW personnel as to design for cabs and canopies for use in low coal.

5. Petitioner will, by letter, advise MESA's local District Manager with jurisdiction over the subject mines of the progress being made if requested by the District Manager.

6. In addition to complying with the roof control plan in effect at each of the subject mines, Petitioner will reinstruct all face workers and section supervisory and inspection personnel in roof and rib fall recognition and prevention techniques as well as safe equipment operation.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before March 19, 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.

FEBRUARY 9, 1976.

[FR Doc.76-4536 Filed 2-17-76;8:45 am]

[Docket No. M 76-84]

ISLAND CREEK COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. section 861(c) (1970), Island Creek Coal Company has filed a petition to modify the application of 30 CFR 75.1710 to the following mines located in Kentucky:

Mine name:	*Location*
Fies	Hopkins.
Providence	Do.
Crescent	Muhlenberg.
No. 9	Hopkins.
Hamilton No. 2	Union.
Ohio No. 11	Do.
Hamilton No. 1	Do.

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 room falls and from rib and face rolls.

To be read in conjunction with § 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 or 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 43 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. * * *

In support of its petition, Petitioner states:

1. The height of the coalbed in Petitioner's mines varies from approximately 54 inches to 65 inches at the highest points in the 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 mine. Therefore, the 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 mine.

2. At the present time, Petitioner operates the following types of self-propelled electric face equipment at the subject mines:

1. Shuttle Cars—10SC Joy and 48-S-42 Torkar.
2. Loading Machines—14BU-10 Joy.
3. Roof Bolters—320 Galis.
4. Cutters—15RU Joy.
5. Drills—TDF 24 Long Airdox.

Because of the variation of the physical characteristics of each of these types of equipment (*i.e.*, heights, width, location of operator compartment and positioning of controls) each may require a different style of canopy.

3. Petitioner has developed on its own, or there are available from equipment manufacturers, canopies for each type of the above-listed equipment which meet the structural capacity requirements of 30 CFR 375 and 75.1719-1(d). However, to meet these requirements it is presently necessary that these canopies be constructed of heavy gauge steel, resulting in a canopy which is both bulky and extremely heavy. Because of the bulk and weight of these canopies, structural modifications to each piece of face equipment are necessary before these canopies can be installed.

4. Petitioner has devised the required modifications and has installed or has the capability to install certified canopies on each type of face equipment operated at the subject mines.

5. Petitioner states that in some, but not all, instances the installation of available canopies on the face equipment at Petitioner's mines creates, among others, the following safety hazards:

(a) the field of vision of the equipment is significantly reduced as a result of the close proximity of the canopy top to the operator's compartment.

(b) the operator's arm and leg movements in operating the equipment are more restricted as a result of reduced space in the operator's compartment.

(c) operator fatigue is greatly increased as a result of reduced operator compartment space. The above safety hazards are not present in the operation of all pieces of face equipment on which canopies have been installed in Petitioner's mines. However, the use of canopies on certain types of face equipment in certain locations in Petitioner's mines does create the above safety hazards, thereby reducing the overall safety of the miners.

6. Petitioner states that it is at present unable to construct itself, or to procure from equipment manufacturers, canopies which, if installed on face equipment at Petitioner's mines will both meet the required structural capacity and at all times allow operation of face equipment without creating the safety hazards herein stated. Petitioner further states that there are no new types or designs of face equipment immediately available from equipment manufacturers which eliminate the safety hazards herein stated.

7. Petitioner states that, for the reasons herein set forth, the application of the standard of 30 CFR 75.1710 and 75.1710-1(a) to all face equipment at all locations in Petitioner's mines will in fact result in a diminution of safety to the miners at these mines.

8. Petitioner does not propose herein to eliminate or even delay the installation of certified canopies on face equipment at Petitioner's mines where such installation is presently possible without creating the safety hazards herein set forth. Petitioner does, however, propose to develop, in cooperation with MESA, an orderly plan and/or schedule for the future installation of certified canopies on all electric self-propelled face equipment at Petitioner's mines in those instances where the present installation of said canopies on said equipment will create the safety hazards herein set forth. Said plan may include, among others, the following considerations:

(a) the height of the coalbed and mining conditions at various locations of Petitioner's mines.

(b) the present state and future development and availability of canopies and face equipment.

(c) the overall safety of the miners at Petitioner's mines.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before March 19, 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.

FEBRUARY 9, 1976.

[FR Doc.76-4535 Filed 2-17-76;8:45 am]

National Park Service

GOLDEN GATE NATIONAL RECREATION AREA ADVISORY COMMISSION

Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Golden Gate National Recreation Area Advisory Commission will be held at 9:30 a.m. (PST) on Saturday, March 6, 1976, at Tamalpais High School, Mill Valley, CA.

The Advisory Commission was established by Pub. L. 92-589 to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on problems and programs pertinent to the National Park Service system in Marin and San Francisco counties.

Members of the Advisory Commission are as follows:

Mr. Frank Boerger, Chairman
Ms. Amy Meyer, Secretary
Mr. Ernest Ayala
Mr. Richard Bartke
Mr. Fred Blumberg
Ms. Daphne Greene
Mr. Lambert Lee Choy

Mr. Peter Haas, Sr.
Mr. Joseph Mendoza
Mr. John Mitchell
Mr. Merritt Robinson
Mr. Jack Spring
Mr. William Thomas
Dr. Edgar Wayburn
Mr. Joseph Williams

The major agenda item will be discussion on the Point Reyes Natural Resources Plan.

The meeting will be open to the public. Any member of the public may file with the Commission a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting or who wish to submit written statements may contact William J. Whalen, General Manager, Bay Area National Parks, Fort Mason, San Francisco, CA 94123, telephone 415–556–2920.

Minutes of the meeting will be available for public inspection by April 6, 1976 in the Office of the General Manager, Bay Area National Parks, Fort Mason, San Francisco, CA.

Dated: February 9, 1976.

JOHN H. DAVIS,
Acting Regional Director,
Western Region.

[FR Doc.76–4522 Filed 2–17–76;8:45 am]

Office of the Secretary

PRIVACY ACT OF 1974

Additional Routine Use

Notice is hereby given that, pursuant to 5 U.S.C. 301 and 552a and 43 U.S.C. 1461, the Department of the Interior has under consideration adoption of a statement describing an additional routine use for a record system which it maintains which is subject to section 3 of the Privacy Act of 1974.

By notice published in the FEDERAL REGISTER on September 26, 1975, the Department adopted a system notice describing the Health Unit Medical Records System (Interior/Office of the Secretary—23). The Department has now identified an additional routine use for this system which was not described in the system notice. This routine use is not a new use for the system, but was overlooked in initial preparation of Privacy Act systems notices.

The additional routine use is as follows: (5) Disclosure or transfer to the U.S. Public Health Service.

Adoption of this routine use is necessary to facilitate transfer of medical records to the Public Health Service in a variety of situations, including those in which an employee transfers to a facility at which health services are provided by the Public Health Service and those in which responsibility for providing health services at an Interior facility is transferred to the Public Health Service.

Comments on the proposed routine use statement may be submitted to the Assistant Solicitor, General Legal Services, Office of the Solicitor, U.S. Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240. All comments received on or before February 17, 1976, will be considered. Copies of any comments received may be inspected in Room 6525 at the above address.

RICHARD R. HITE,
Deputy Assistant
Secretary of the Interior.

FEBRUARY 9, 1976.

[FR Doc.76–4655 Filed 2–13–76;10:06 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

GRAIN STANDARDS

Illinois Grain Inspection Point

Notice is hereby given pursuant to section 26.101 of the regulations (7 CFR 26.101) under the U.S. Grain Standards Act (7 U.S.C. 71 et seq.) that the Alton Grain Inspection Department, Alton, Illinois, owned and operated by Raymond S. Russell, has requested that its designation under section 7(f) of the U.S. Grain Standards Act (7 U.S.C. 79 (f) to operate as an official inspection agency at Alton, Illinois, be transferred to Thomas P. Russell without a change in name of the agency, because Raymond S. Russell is preparing to retire from the grain inspection business. Thomas P. Russell has applied for designation (in accordance with § 26.96 of the regulations (7 CFR 26.96) under the U.S. Grain Standards Act) to operate the Alton Grain Inspection Department as an official inspection agency at Alton, Illinois. This application does not preclude other interested persons from making similar applications.

Interested persons are hereby given opportunity to submit written views and comments with respect to the proposed transfer, and to make application for designation to operate as an official inspection agency at Alton, Illinois, pursuant to the requirements set forth in section 26.96 of the regulations (7 CFR 26.96) under the U.S. Grain Standards Act.

NOTE: Section 7(f) of the Act (7 U.S.C. 79 (f)) generally provides that not more than one inspection agency shall be operative at any one time for any one city, town, or other area.

Any interested persons who wish to submit views and comments are requested to include the name of the person or agency which they recommend to be designated to operate as an official inspection agency at Alton, Illinois.

All such views and comments should be submitted in writing to the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250. All materials submitted should be in duplicate and mailed to the Hearing Clerk not later than March 18, 1976. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Hearing Clerk and to all other information available to the U.S. Department of Agriculture before final determination is made with respect to this matter.

Done in Washington, D.C. on February 11, 1976.

DONALD E. WILKINSON,
Administrator,
Agricultural Marketing Service.

[FR Doc.76–4551 Filed 2–17–76;8:45 am]

Cooperative State Research Service

COOPERATIVE FORESTRY RESEARCH ADVISORY BOARD AND ADVISORY COMMITTEE

Meeting

The Cooperative Forestry Research Advisory Board and the Cooperative Forestry Research Advisory Committee will meet March 10–12, 1976, in Fort Collins, Colorado beginning at 8:30 a.m.

The meetings are open to the public and will be held in the Forest Service Rocky Mountain Forest and Range Experiment Station Conference Room and the College of Forestry and Natural Resources, Natural Resources Building Conference Room. The Advisory Board, meeting separately in the Forest Service Conference Room, will consider recommendations for the allocation of research funds.

The Advisory Committee, meeting in the Natural Resources Building, will evaluate forestry research requirements and make suggestions for cooperative research activities.

In joint sessions, held in the Natural Resources Building, the Board and Committee will review McIntire-Stennis research accomplishments and evaluate progress in planning sysitems to achieve coordinated, comprehensive forestry research programs.

The names of Board and Committee members and agenda are available upon request to the recording secretary of the Board, R. L. Lovvorn, USDA, CSRS, Washington, D.C. 20250, or the recording secretary of the Committee, J. D. Sullivan, USDA, CSRS, Washington, D.C. 20250. Written statements may be filed with the Committee before or after the meeting.

R. L. LOVVORN,
Administrator.

[FR Doc.76–4620 Filed 2–17–76;8:45 am]

Forest Service

QUINAULT PLANNING UNIT

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 a land use plan for the Quinault Planning Unit, Olympic National Forest, Washington, USDA–FS–R6–DES(ADM.) 76–2.

The environmental statement concerns the proposed implementation of a comprehensive land use plan for the Quinault Planning Unit. The Unit includes four non-selected roadless areas.

This draft environmental statement was filed with CEQ on February 12, 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. S.W., Washington, D.C. 20250.
USDA, Forest Service, 319 S.W. Pine St., Portland, Oregon 97208.
Olympic National Forest, Federal Building, Olympia, Washington 98501.
Quinault Ranger Station, Quinault, Washington 98575.

A limited number of single copies are available upon request to the Forest Supervisor, Olympic National Forest, P.O. Box 2288, Olympia, Washington 98507.

Copies of the environmental statement have been sent to various Federal, state, and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public, and from state and local agencies which are authoried 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 the Forest Supervisor, Olympic National Forest, P.O. Box 2288, Olympia, Washington 98507. Comments must be received by April 15, 1976, in order to be considered in the preparation of the final environmental statement.

WYNNE M. MAULE,
Forest Supervisor.

FEBRUARY 10, 1976.

[FR Doc.76-4528 Filed 2-17-76;8:45 am]

OTTAWA NATIONAL FOREST, TIMBER MANAGEMENT PLAN

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 on the Timber Management Plan for the Ottawa National Forest, USDA-FS-R9-DES-(ADM)-76-03.

The environmental statement concerns a proposed plan for managing the timber resources on the Ottawa National Forest for the period July 1, 1976 through June 30, 1983. The Ottawa National Forest is located in parts of Gogebic, Ontonagon, Iron, Houghton, and Baraga Counties, Michigan.

This draft environmental statement was transmitted to CEQ on February 10, 1976.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3231, 12th St. & Independence Ave., SW, Washington, D.C. 20250.
USDA, Forest Service, Eastern Region, 633 West Wisconsin Avenue, Milwaukee, Wisconsin 53203.
USDA, Forest Service, Ottawa National Forest, Ironwood, Michigan 49938.

A limited number of single copies are available upon request to Forest Supervisor, Ottawa National Forest, Ironwood, Michigan 49938.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ Guidelines.

Written comments are invited from the public, and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Written comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor, Ottawa National Forest, Ironwood, Michigan 49938. Written comments must be received by April 12, 1976 in order to be considered in the preparation of the final environmental statement.

JAY H. CRAVENS,
Regional Forester.

FEBRUARY 10, 1976.

[FR Doc.76-4556 Filed 2-17-76;8:45 am]

WHITE RIVER NATIONAL FOREST

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 Timber Management Plan for the White River National Forest. The Forest Service report number is USDA-FS-R2-DES(Adm) FY-76-07.

The environmental statement concerns a proposal to revise the 1962 (Rev.) Timber Management Plan for the White River National Forest in northwest Colorado. Such plans are required to regulate the acres of silvicultural treatment on National Forest lands.

This draft environmental statement was transmitted to CEQ on February 10, 1976.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Rm. 3230, 12th St. and Independence Ave. SW., Washington, D.C. 20250.
USDA, Forest Service, 11177 West Eighth Ave., P.O. Box 25127, Denver, Colorado 80225.
USDA, Forest Service, Old Federal Building, P.O. Box 948, Glenwood Springs, Colorado 81601.

A limited number of single copies are available upon request to W. J. Lucas, Regional Forester, USDA Forest Service, 11177 West Eighth Avenue, P.O. Box 25127, Denver, Colorado 80225.

Copies of the environmental statement have been sent to various Federal, state, and local agencies as outlined in CEQ guidelines.

Comments are invited from the public, and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to W. J. Lucas, Regional Forester, USDA Forest Service, 11177 West Eighth Avenue, P.O. Box 25127, Denver, Colorado 80225.

ANTHONY K. QUINKERT,
Acting Director, Multiple Use and Environmental Quality Coordination.

FEBRUARY 10, 1976.

[FR Doc.76-4602 Filed 2-17-76;8:45 am]

Soil Conservation Service

LOWER MEDICINE CREEK WATERSHED PROJECT, NEBRASKA

Notice of Availability of Negative Declaration

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; part 1500.6(e) of the Council on Environmental Quality Guidelines (38 FR 20550) August 1, 1973; and part 650.-8(b)(3) of the Soil Conservation Service Guidelines (39 FR 19651) June 3, 1974; the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Lower Medicine Creek Watershed Project, Frontier and Lincoln Counties, Nebraska.

The environmental assessment of this federal action indicated that the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the project. As a result of these findings, Mr. Wilson J. Parker, State Conservationist, Soil Conservation Service, USDA, Federal Buildinig-U.S. Courthouse, Room 345, Lincoln, Nebraska 68508, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project concerns a plan for watershed protection and flood prevention. The remaining planned works of improvement as described in the negative declaration include conservation land treatment supplemented by two single purpose floodwater retarding structures.

The environmental assessment file is available for inspection during regular working hours at the following location:

Soil Conservation Service, Federal Building-U.S. Courthouse, Room 345, Lincoln, Nebraska 68508.

Single copy requests for the negative declaration should be sent to the above address.

No administrative action on implementation of the proposal will be taken until March 4, 1976.

Dated: February 6, 1976.

JAMES W. MITCHELL,
Acting Deputy Administrator for Water Resources Soil Conservation Service.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

[FR Doc.76-4530 Filed 2-17-76;8:45 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

HOWARD E. WINN

Endangered Species Permit—E8

On October 22, 1975, notice was published in the FEDERAL REGISTER (40 FR 49397) that an application had been filed with the National Marine Fisheries Service by Dr. Howard E. Winn, Graduate School of Oceanography, University of Rhode Island, Kingston, Rhode Island 02881, for a Scientific Purposes Permit to take and/or import certain endangered species of cetaceans for scientific research.

Notice is hereby given that, on February —, 1976, the National Marine Fisheries Service issued a Scientific Purposes Permit, as authorized by the provisions of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), to Dr. Winn, subject to certain conditions set forth therein.

The Permit authorizes Dr. Winn to engage in the following research activities from the date of issuance until September 1, 1980:

1. Conduct surface vessel and aerial observations, as well as underwater sound recordings, of any and all of the eight endangered species of cetaceans (blue whale (*Balaenoptera musculus*), bowhead whale (*Balaena mysticetus*), fin whale (*Balaenoptera physalus*), gray whale (*Eschrichtius robustus*), humpback whale (*Megaptera novaeangliae*), right whale (*Eubalaena australis*), sei whale (*Balaenoptera borealis*), sperm whale (*Physeter catodon*)) encountered during a series of cruises in, and aerial flights over, the Atlantic and Pacific Oceans;

2. Conduct underwater observations, and make underwater movies, of humpback whales (*Megaptera novaeangliae*);

3. Take at sea, by use of a biopsy dart, and import 30 skin and blubber samples from humpback whales (*Megaptera novaeangliae*), for analysis of chromatin material and pesticides;

4. Collect an unspecified number of dead stranded humpback whales (*Megaptera novaeangliae*), found within the jurisdiction of the United States, for anatomical studies;

5. Import 20 skin and blubber samples from humpback whales (*Megaptera novaeangliae*) taken in the humpback whale fishery in Bequia, British West Indies, for analysis of chromatin materials and pesticides; and

6. Import an unspecified number of parts of dead humpback whales (*Megaptera novaeangliae*) from Bequia, British West Indies, for anatomical studies.

The Permit does not authorize the holder to kill, or cause to be killed, any endangered species.

Issuance of this Permit, as required by the Endangered Species Act of 1973, is based on a finding that such Permit: (1) was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which are the subject of the Permit; and (3) will be consistent with the purposes and policies set forth in Section 2 of the Endangered Species Act of 1973. This Permit was also issued in accordance with, and is subject to, Parts 220 and 222 of Title 50 CFR, the National Marine Fisheries Service regulations governing endangered species permits (39 FR 41367, November 27, 1974). A similar permit (40 FR 47816–47817, October 10, 1975) has been issued to Dr. Winn under the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407).

The Scientific Purposes Permit is available for review by interested persons in the Division of Marine Mammals and Endangered Species, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C. 20235, and in the Office of the Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930.

Dated: February 11, 1976.

JACK W. GEHRINGER,
Deputy Director, National Marine Fisheries Service.

[FR Doc.76-4554 Filed 2-17-76;8:45 am]

OFFICE OF RESOURCE RESEARCH

Withdrawal of Permit Applications

On January 23, 1976, notice was published in the FEDERAL REGISTER (41 FR 3496) that applications had been filed with the National Marine Fisheries Service by the Office of Resource Research, National Marine Fisheries Service, Washington, D.C. 20235, for a Scientific Research Permit, as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) and the Regulations Governing the Taking and Importing of Marine Mammals, and a Scientific Purposes Permit, as authorized by the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), and the Regulations Governing Endangered Species, in order to conduct research on cetacean populations in the eastern Indian Ocean.

Notice is hereby given that the Office of Resource Research, National Marine Fisheries Service, has requested to withdraw the applications, and that the request to withdraw was acknowledged and accepted without prejudice by the National Marine Fisheries Service on February 9, 1976.

Dated: February 12, 1976.

JACK W. GEHRINGER,
Deputy Director, National Marine Fisheries Service.

[FR Doc.76-4553 Filed 2-17-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Human Development

LONG-TERM TRAINING IN VOCATIONAL REHABILITATION

Closing Date for Receipt of Applications

Notice is hereby given that pursuant to the authority contained in Section 203 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 763), grants may be made to State vocational rehabilitation agencies and other public or nonprofit agencies and organizations, including institutions of higher education, to assist in increasing the numbers of personnel trained in providing vocational rehabilitation services to handicapped individuals and in performing other functions necessary to the development of such services.

Applications for rehabilitation long-term training projects (except for projects for the in-service training of State vocational rehabilitation agency personnel) must be received by March 26, 1976. Applications for projects for the in-service training of State vocational rehabilitation agency personnel must be received by July 16, 1976.

Regulations governing rehabilitation long-term training were published in the FEDERAL REGISTER in Subpart A and Subpart E of Part 1362 of Chapter XIII of Title 45 of the Code of Federal Regulations (45 CFR, Part 1362), on November 25, 1975.

A. *Purpose.* Long-term training grants in vocational rehabilitation are made for the purpose of paying part of the costs of projects designed to increase the supply of personnel available for employment in public and private agencies involved in the rehabilitation of physically and mentally handicapped individuals, especially those who are the most severely disabled. Long-term training projects include: training projects in established rehabilitation disciplines; experimental and innovative training projects; rehabilitation continuing education programs; and projects for the in-service training of State vocational rehabilitation agency personnel.

B. *Eligible Applicants.* Applications may be submitted by State vocational rehabilitation agencies and other public or nonprofit agencies or organizations, including institutions of higher education.

C. *Available Funds.* $5.55 million has been requested for rehabilitation long-term training in the 1976 Transition Quarter (July–September). The budget request level for FY 1977 beginning October 1, 1976 is $20 million.

D. *Areas of Training.* Grants are made to provide a balanced program of assist-

ance to meet the medical, vocational and other personnel training needs of both public and private rehabilitation programs and institutions. A balanced program of assistance is considered to include the following:

1. Long-Term Training in the Established Rehabilitation Disciplines, including training projects in those areas identified in Section 203 of the Rehabilitation Act of 1973, as amended.

2. Experimental and Innovative Training Projects;

3. Rehabilitation Continuing Education Programs; and

4. State Vocational Rehabilitation Agency In-Service Training.

E. *Program Priorities.* In awarding grants during the 1976 Transition Quarter and FY 1977, priority will be given to the support of ongoing training projects which are eligible for continuation grants and which have been determined to be making satisfactory progress toward achieving established objectives. In addition, special priority will be assigned to training in those professional fields which directly support and enhance the vocational rehabilitation service delivery activities of the State vocational rehabilitation agencies. No Federal financial support will be available to establish any new training project in any area of rehabilitation long-term training during the 1976 Transition Quarter. There is no assurance that funds will be available for the initial support of any new rehabilitation long-term training projects during FY 1977.

F. *Application Review and Evaluation.* Applications for the support of new or competing extension long-term training projects in vocational rehabilitation (except for projects for the in-service training of State vocational rehabilitation personnel) receive a scientific and technical review by qualified experts who are not Federal employees. Applications are evaluated in terms of such factors as:

1. The relevance of the proposed long-term training to the administratively established objectives of the public rehabilitation program and the objectives of the Rehabilitation Act of 1973, as amended;

2. The financial and other resources of the applicant for accomplishing the objectives of the training project, including the qualifications of the instructional staff;

3. The existence of a working relationship with the State vocational rehabilitation agency and other agencies providing vocational rehabilitation services;

4. The reasonableness of the budget in relation to the proposed project;

5. The extent to which the project has previously been demonstrated to be effective and holds promise of increasing the supply or improving the competence of personnel trained to provide vocational rehabilitation services to the physically and mentally handicapped, especially those with the most severe handicaps; and

6. The extent to which the proposal provides for an evaluation methodology, including the manner in which such methodology will be employed to measure the achievement of the objectives of the training program.

G. *Program Information and Application Forms.* Application materials are being mailed to grantees who have been conducting long-term training projects during the 1975–1976 academic year. Other eligible applicants may request application materials for the rehabilitation training program from the appropriate Regional Office of the Rehabilitation Services Administration.

H. *Application Submittal.*

1. *Application sent by mail.*

a. Applications for the support of special long-term training projects of national scope should be addressed as follows: Division of Grants and Contract Management, Office of Human Development, Room 1427, 330 C Street, S.W., Washington, D.C. 20201. Special long-term training projects of national scope are those projects which are designed to (1) have a direct impact on vocational rehabilitation programs throughout the country; (2) have objectives which, if achieved, could result in an improved delivery system for vocational rehabilitation services, especially as it relates to those with the most severe handicaps, and which could affect national policies or standards established for the rehabilitation training program; (3) encompass participants from all sections of the country and not necessarily relate to a single rehabilitation field of practice; and (4) be conducted by an institution, agency or organization with the capacity to offer training in more than one geographical location.

b. Applications for the support of long-term training projects of Regional scope and projects for the in-service training of State vocational rehabilitation personnel should be addressed to the appropriate Director, Office of Rehabilitation Services as follows:

REGION I

Director, Office of Rehabilitation Services, Department of Health, Education, and Welfare, John F. Kennedy Federal Building, Government Center, Boston, Massachusetts 02203

REGION II

Director, Office of Rehabilitation Services, Department of Health, Education, and Welfare, Federal Building, 26 Federal Plaza, New York, New York 10007

REGION III

Director, Office of Rehabilitation Services, Department of Health, Education, and Welfare, 3535 Market Street, Philadelphia, Pennsylvania 19101

REGION IV

Director, Office of Rehabilitation Services, Department of Health, Education, and Welfare, 50–7th Street, NE., Room 737–A, Atlanta, Georgia 30323

REGION V

Director, Office of Rehabilitation Services, Department of Health, Education, and Welfare, 300 South Wacker Drive–30th Floor, Chicago, Illinois 60607

REGION VI

Director, Office of Rehabilitation Services, Department of Health, Education, and Welfare, 1114 Commerce Street—4th Floor, Dallas, Texas 75202

REGION VII

Director, Office of Rehabilitation Services, Department of Health, Education, and Welfare, 601 East 12th Street, Kansas City, Missouri 64106

REGION VIII

Director, Office of Rehabilitation Services, Department of Health, Education, and Welfare, Federal Office Building, Room 9017, 19th and Stout Streets, Denver, Colorado 80202

REGION IX

Director, Office of Rehabilitation Services, Department of Health, Education, and Welfare, Federal Office Building, 50 Fulton Street, San Francisco, California 94102

REGION X

Director, Office of Rehabilitation Services, Department of Health, Education, and Welfare, Arcade Building, 1321 Second Avenue, Seattle, Washington 98101

An application sent by mail will be considered to be received on time if:

(1) The application was sent by registered or certified mail not later than March 26, 1976 as evidenced by the U.S. Postal Service postmark, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date of either the Department of Health, Education, and Welfare or the Office of Human Development mailrooms in Washington, D.C., or as appropriate, a Regional Office mailroom. (In establishing the date of receipt, consideration will be given to the time date stamps of such mailrooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the Office of Human Development.)

2. *Hand delivered applications.* An application to be hand delivered must be taken to the Division of Grants and Contract Management, Office of Human Development, 330 C Street, SW., Washington, D.C. or to the appropriate Regional Office of the Director, Office of Rehabilitation Services. Hand delivered applications will be accepted during normal working hours. Applications will not be accepted after 5:00 p.m., on the closing date.

(Catalog of Federal Domestic Assistance Number 13.629, Rehabilitation Training)

Dated: January 28, 1976.

ANDREW S. ADAMS,
Commissioner, Rehabilitation Services Administration.

[FR Doc. 76-4545 Filed 2-17-76;8:45 am]

Office of Education

NATIONAL ADVISORY COUNCIL ON EDUCATION PROFESSIONS DEVELOPMENT

Meeting

Notice is hereby given, pursuant to Section 10(a)(2), Public Law 92-463, that the next meeting of the National Advisory Council on Education Professions Development will be held on Wednesday, March 3, 1976, 9 a.m. to 5 p.m., Thursday, March 4, 1976, 9 a.m. to 5 p.m., and Friday, March 5, 1976,

9 a.m. to 12 noon, local time, at the Statler Hilton Hotel, Washington, D.C.

The National Advisory Council on Education Professions Development is established under Section 502 of the Education Professions Development Act (Pub. L. 90–35). The Council is charged with the review of the Education Professions Development Act and of all other Federally supported programs for the training and development of educational personnel.

The meeting of the Council is open to the public. The proposed agenda includes discussion of the Federal role and legislative proposals concerning education professions development, and progress reports on Competency-Based Teacher Education, and on Mainstreaming.

Since the meeting on Friday, March 5, 1976 involves a site visit to the Kendall Demonstration Elementary School for the deaf at Gallaudet College, members of the public planning to attend must provide their own transportation and should give advance notice of their intention to attend the meeting by calling the Council (202–382–8712) or by mail no later than Monday, March 1, 1976.

A meeting of the Council's Executive Committee will also be held at the Statler Hilton Hotel, beginning at 8:00 p.m., on Tuesday evening, March 2, 1976.

Records are kept of all Council proceedings and are available for public inspection at the Council offices, located at 1111 20th Street, NW., Suite 306, Washington, D.C. 20036.

Signed at Washington, D.C. on February 9, 1976.

GEORGE E. ARNSTEIN,
Executive Director.

[FR Doc.76–4537 Filed 2–17–76;8:45 am]

RIGHT TO READ SPECIAL EMPHASIS PROGRAM

Cutoff Date for Receipt of SEA Approval of Applications

Pursuant to the authority contained in section 721 of Pub. L. 93–380 (20 U.S.C. 1961), notice was published in the FEDERAL REGISTER on December 16, 1975 (40 FR 58339) establishing a closing date of February 27, 1976 for the receipt of applications for Special Emphasis Program contracts under section 721 of Title VII (the National Reading Improvement Program) of Public Law 93–380.

Under proposed regulations for the program, 45 CFR 162.39(a) (40 FR 56685, December 4, 1975), and the December 16, 1975 notice of closing date, applicants for these section 721 contracts must file their applications directly with the Commissioner of Education by the February 27, 1976 closing date. Applicants must also provide a copy of their application to the State educational agency (SEA) of the State in which they are located concurrently with the submission of the application to the Commissioner.

The purpose of this notice is to establish a cutoff date for the receipt by the Commissioner of written approval of applications by the SEAs under the Special Emphasis Program. Under section 721 (b)(2) of Pub. L. 93–380 and proposed 45 CFR 162.39, the Commissioner will not approve a Special Emphasis project under section 721 of Title VII of Pub. L. 93–380 unless the State educational agency has approved the project. Proposed 45 CFR 162.39(a) provides that failure by the SEA to indicate its approval in writing to the Commissioner within a period specified by the Commissioner shall be deemed a disapproval of the application by the SEA, and the application will not be considered for funding by the Commissioner.

The cutoff date hereby established for receipt by the Commissioner of written approval by the SEAs of applications within their States is March 19, 1976. Written approvals should be addressed to the Director, Right to Read Program, U.S. Office of Education, Room 2134, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

(20 U.S.C. 1961)

Dated: February 11, 1976.

(Catalog of Federal Domestic Assistance Number 13.533, Right to Read—Elimination of Illiteracy)

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

[FR Doc.76–4613 Filed 2–17–76;8:45 am]

National Institutes of Health

DIGESTIVE DISEASES ADVISORY COUNCIL

Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Arthritis, Metabolism, and Digestive Diseases Advisory Council and its subcommittees on March 10–12, 1976 in Conference Room 10, Building 31, National Institutes of Health, Bethesda, Maryland. This meeting will be open to the public from 8:30 a.m. to 10:30 a.m. on March 10 and from 8:30 a.m. to 12:30 p.m. on March 11 to discuss adminstrative reports. Attendance by the public will be limited to space available.

In addition, the below listed subcommittees of the above Council will have meetings from 10:45 a.m. to 5 p.m. on March 10, 1976: the Digestive Diseases Subcommittee will be held in Room 9A51, Building 31, NIH; the Arthritis, Bone, and Skin Diseases Subcommittee will be held in Room 9A52, Building 31, NIH; the Diabetes, Endocrine, and Metabolic Diseases Subcommittee will be held in Conference Room 10, Building 31, NIH; the Kidney, Urologic and Blood Diseases Subcommittee will be held in Room 7A24, Building 31, NIH.

In accordance with the provisions set forth in sections 552(b)(4), 552(b)(5) and 552(b)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting of the Council and its subcommittees will be closed to the public on March 10, 1976, from 10:45 a.m. to 5 p.m., on March 11, 1976, from 1:30 p.m. to 5 p.m., and on March 12, 1976, from 8:30 a.m. to 12:30 p.m., for the review, discussion and evaluation of individual initial pending, supplemental and renewal grant applications. The closed portions of the meetings 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.

Messrs. James N. Fordham or Leo E. Treacy, Office of Scientific and Technical Reports, NIAMDD, National Institutes of Health, Building 31, Room 9A04, Bethesda, Maryland 20014, (301) 496–3583, will provide summaries of the meeting and rosters of the committee members.

(Catalog of Federal Domestic Assistance Program No. 13.309, National Institutes of Health)

Dated: February 12, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc.76–4612 Filed 2–17–76;8:45 am]

Office of the Assistant Secretary of Health

PRESIDENT'S BIOMEDICAL RESEARCH PANEL

Amended Notice of Meeting

The time of the meeting of the President's Biomedical Research Panel as announced in 41 FR 4956, Tuesday, February 3, 1976, has been changed. The meeting, originally scheduled from 9:00 a.m. to 5:00 p.m. on February 23 and from 9:00 a.m. to 3:00 p.m. on February 24, is now scheduled from 1:00 p.m. to 5:00 p.m. on February 23 (although the Chairman may wish to continue the meeting after the dinner hour and from 9:00 a.m. to 4:00 p.m. on February 24.

Dated: February 11, 1976.

CHARLES U. LOWE,
Executive Director.

[FR Doc.76–4559 Filed 2–17–76;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Interstate Land Sales Registration

[Docket No. N–76–488]

DAYTON LAKE ESTATES

Hearing

In the matter of Dayton Lake Estates, OILSR No. 0–3060–49–332, Doc. No. ED–76–3.

Pursuant to 15 U.S.C. 1706(e) and 24 CFR 1720.155(b).

Notice is hereby given that:

1. Trinity River Properties, Inc., Dayton Lake Estates, its officers and agents, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90–448) (15 U.S.C. 1701 et seq.), received a Suspension Notice dated January 26, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(b) and 24 CFR 1710.45(a) informing the developer that the amendment to its

Statement of Record submitted October 2, 1975 and December 29, 1975, for Dayton Lake Estates, located in Texas, was not effective pursuant to the Act, and the regulations contained in 24 CFR Part 1710.

2. The Respondent filed an Answer received February 3, 1976, in response to the Suspension Notice.

3. In said Answer the Respondent requested a hearing on the Suspension Notice.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(e) and 24 CFR 1720.155 (b): *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the propriety of the Suspension Notice will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, S.W., Washington, D.C., on February 19, 1976, at 2:00 p.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before February 17, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default, and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and the Suspension Notice and related Order of Suspension shall be continued in effect.

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: February 9, 1976.

By the Secretary.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-4634 Filed 2-17-76;8:45 am]

[Docket No. N-76-486]

MEADVIEW

Hearing

In the matter of Meadview Subdivision, OILSR No. 0-0301-02-50(A-G), Doc. Nos. ED-76-2-IS(a), 75-327-IS (b-3).

Pursuant to 15 U.S.C. 1706(e) and 24 CFR 1720.165(b).

Notice is hereby given that:

1. Landex Corporation, Meadview Subdivision, its officers and agents, hereinafter referred to as "Respondents," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-488) (15 U.S.C. 1701 et seq.), received a Suspension Notice dated December 29, 1975, which was sent to the developer pursuant to 15 U.S.C. 1706(b) and 24 CFR 1710.45(a) informing the developer that the amendment to its Statement of Record submitted December 3, 1975, for Meadview Subdivision, located in Mohave County, Nevada, was not effective pursuant to the Act, and the regulations contained in 24 CFR Part 1710.

2. The Respondent filed an Answer received January 27, 1976, in response to the Suspension Notice.

3. In said Answer the Respondent requested a hearing on the Suspension Notice.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(e) and 24 CFR 1720.165(b): *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the propriety of the Suspension Notice will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, S.W., Washington, D.C., on February 13, 1976, at 2:00 p.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C. 20410 on or before February 11, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default, and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and the Suspension Notice and related Order of Suspension shall be continued in effect.

This notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: February 5, 1976.

By the Secretary.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-4635 Filed 2-17-76;8:45 am]

[Docket No. N-76-489]

PRESIDENTIAL LAKES

Hearing

In the matter of Presidential Lakes, OILSR No. 0-1645-54-73, Doc. No. 75-279-IS.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d).

Notice is hereby given that:

1. Presidential Lakes Development Corporation, Inc., William E. Ryan, President, its officers and agents, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1701 et seq.), received a Notice of Proceedings and Opportunity for Hearing issued November 25, 1975, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Presidential Lakes, located in King George, Virginia, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received December 17, 1975, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d): *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street SW., Washington, D.C., on March 23, 1976.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C. 20410 on or before March 9, 1975.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: January 8, 1976.

By the Secretary.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-4636 Filed 2-17-76;8:45 am]

[Docket No. N-76-487]

ROYAL FOREST

Hearing

In the Matter of Royal Forest, OILSR No. 0-2790-49-251(A) Docket Nos. ED-76-1-IS, 75-328-IS(b3).

Pursuant to 15 U.S.C. 1706(e) and 24 CFR 1720.165(b).

Notice is hereby given that:

1. Village Developers, Inc., Royal Forest, its officers and agents, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1701, et seq.), received a Suspension Notice dated December 29, 1975, which was sent to the developer pursuant to 15 U.S.C. 1706(b) and 24 CFR 1710.45(a) informing the developer that the amendment to its Statement of Record submitted December 4, 1975, for Royal Forest Subdivision, located in Texas, was not effective pursuant to the Act, and the regulations contained in 24 CFR Part 1710.

2. The Respondent filed an Answer received January 27, 1976, in response to the Suspension Notice.

3. In said Answer the Respondent requested a hearing on the Suspension Notice.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(e) and 24 CFR 1720.165(b): *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the propriety of the Suspension Notice will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C., on February 13, 1976 at 10:00 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C. 20410 on or before February 11, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default, and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and the Suspension Notice and related Order of Suspension shall be continued in effect.

This notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: February 5, 1976.

By the Secretary.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-4638 Filed 2-17-76;8:45 am]

[Docket No. N-76-485]

ROLLING HILLS ESTATES

Hearing

In the matter of Rolling Hills Estates, No. 2 and No. 3, OILSR No. 0-0594-02-88, Doc. No. 75-286-IS.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d).

Notice is hereby given that:

1. Sierra Land and Development Corporation, Walter E. Arnold, President its officers and agents, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1701 et seq.), received a notice of Proceedings and Opportunity for Hearing issued December 3, 1975, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Rolling Hills Estates, located in Coconino County, Arizona, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received December 15, 1975, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d). *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, S.W., Washington, D.C., on March 9, 1976 at 10:00 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C. 20410 on or before February 24, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: January 15, 1976.

By the Secretary.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-4637 Filed 2-17-76;8:45 am]

ADVISORY COUNCIL ON HISTORIC PRESERVATION

PUBLIC INFORMATION MEETING

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92-463) and § 800.5(c) of the Advisory Council's "Procedures for the Protection of Historic and Cultural Properties" (36 CFR Part 800) that on March 1, 1976, at 7:00 p.m., a public information meeting will be held at the Civic Room, Georgia Railroad Bank Building, Augusta, Georgia, so that representatives of national, State and local units of government, representatives of public and private organizations and interested citizens can receive information and express their views on the effects of the proposed extension of the John C. Calhoun Expressway (Georgia Project M-7004), Richmond County, Georgia, upon the Augusta Canal, Sacred Heart Catholic Church, the Greene Street Historic District, the Blanche Mill, and the Enterprise Mill, properties included in or determined eligible for inclusion in the National Register of Historic Places.

A summary of the agenda of the public information meeting follows:

I. Explanation of the procedures and purpose of the meeting by a representative of the Executive Director of the Advisory Council.

II. Statement by the Georgia State Historic Preservation Officer on the preservation of the properties and the effects of the undertaking.

III. A description of the undertaking and an evaluation of its effects on properties by the Federal Highway Administration and the Georgia Department of Transportation.

IV. Statements from local officials, organizations, and the public on the effects of the undertaking upon properties.

V. A general question period.

Speakers should limit their statements to approximately 10 minutes. Written statements in furtherance of oral remarks will be accepted by the Council at the time of the meeting. Additional information regarding the meeting is available from the Executive Director, Advisory Council on Historic Preservation, 1522 K Street, NW., Washington, D.C. 20005 (202-254-3380).

JOHN D. MCDERMOTT,
Acting Executive Director.

[FR Doc.76-4600 Filed 2-17-76;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 27813; Order 76-2-35]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Passenger Fares

Issued under delegated authority February 11, 1976.

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 carriers mebodied in the resolutions of the Traffic Conferences of the International Air Transport Association (IATA). The agreement, adopted at the October/November 1975 Composite Passenger Traffic Conference at Cannes, has been assigned the above C.A.B. agreement number.

Insofar as the agreement would apply in air transportation as defined by the Act, it establishes a new "long-haul" (U.S.-South/Central America) fare structure for effect April 1, 1976 through March 31, 1977. The agreement proposes increases, exclusive of the 3 percent fuel-related increase pending before the Board, of 3 to 6 percent, effective April 1, 1976, and 2 to 6 percent, effective September 1, 1976, in U.S.-South American fares, and similar two stage increases, inclusive of the pending 3 percent fuel-related increase, of 5-10 percent and 3 percent in U.S.-Central America fares. Additionally, the agreement proposes three new roundtrip fares for application in U.S. long-haul markets: (1) A 10/30 day excursion fare for travel from U.S. points to points in Central America set at different levels for midweek and weekend travel and blacked out during certain periods of the year; (2) a 10/30 day group excursion fare for travel from points in Brazil to points in the U.S. for minimum size groups of 40, available only for midweek travel with no stopover permitted, and blacked out during certain periods of the year; and (3) a 10/30 day group inclusive tour fare for travel from U.S. points to points in Brazil for minimum groups of 40 and available all year with no stopovers permitted and with a minimum tour price of $10 daily. Finally, the agreement proposes various amendments and changes to existing resolutions including limiting stopovers on general-use long-haul excursion and affinity/group fares to two each way, permitting the in-flight sales of three additional items, rather than the one presently allowed, under resolutions governing first and economy class conditions of

service, and reducing the minimum group size on U.S.-Columbia group inclusive tour fares from ten to five persons.

The purposes of this order is to establish dates for submission of carrier justification in support of the agreement and comments from interested persons. The carriers' justification should set out in the tabular format suggested in Order 75–7–88, July 17, 1975, historical data as reported to the Board in Form 41 reports by functional account for total Western Hemisphere services for the year ended December 31, 1975, adjusted to exclude operations in market areas not covered by the agreement (e.g., U.S.-Mexico and U.S.-Caribbean) and all scheduled cargo and charter operations pertaining to the long-haul market area so as to establish the present economic status of passenger services in the long-haul market area covered by the subject agreement. The carriers will also be expected to include a forecast for the year ending March 31, 1977 both including and excluding the increased fares for which approval is sought. Lastly, we expect the carriers to allocate costs between the passenger and cargo compartments on scheduled passenger aircraft by the "space method" stipulated by the Board in its April 2, 1970 decision in Docket 18381, Nonpriority Mail Rates (Order 70–4–9 and 70–4–10).[1]

Accordingly, it is ordered, That:

1. All United States air carrier members of the International Air Transport Association providing service within the affected area shall file within 15 calendar days after the date of service of the order, full documentation and economic justification for the fares and related conditions embodied in the subject agreement;

2. Comments and objections from interested persons and parties shall be submitted within 15 calendar days after the date of service of this order;

3. Replies to submissions received in response to ordering paragraph 1 above and replies to comments received pursuant to ordering paragraph 2 above shall be submitted within 25 calendar days after the date of service of this order; and

4. Insofar as air transportation as defined by the Act is concerned, tariffs implementing the subject agreement shall not be filed in advance of Board approval of the subject agreement.

This order will be published in the FEDERAL REGISTER.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.76–4603 Filed 2–17–76;8:45 am]

[1] In furnishing the data requested each carrier should provide complete explanatory notes and supporting detail, including statistical data, to describe the methods used in making the allocations.

[Docket No. 28655; Order 76–2–44]

SEATTLE/PORTLAND-JAPAN SERVICE

Order Regarding Investigation

Adopted by the Civil Aeronautics Board, at its office in Washington, D.C., on the 12th day of February 1976.

By Order 75–12–84, served December 18, 1975, the Board instituted the Seattle Gateway-Japan Service Investigation, Docket 28655, to determine whether additional U.S.-flag service should be authorized between the coterminal point Seattle, Washington, and points in Japan and if so, which air carrier(s) should be authorized to engage in such service and what terms, conditions, and limitations, if any, should be placed on the authorizations of such carrier(s). The order provided that applications, motions to consolidate, and petitions for reconsideration should be filed within 30 days of the order, and answers thereto within 15 days thereafter.

Seven air carriers have filed applications and motions to consolidate. Petitions for reconsideration were filed by Western, Portland, Northwest, Dallas/Fort Worth, Trans International, Las Vegas and St. Louis (jointly), TWA, and the Guam Chamber of Commerce. Answers to the motions to consolidate and petitions for reconsideration were filed by Continental, Flying Tiger, BOR, United, Braniff, the State of Alaska and the Alaska Transportation Commission, the Greater Anchorage Chamber of Commerce, TWA, Northwest, the Washington Parties, Pan American, the Pittsburgh Airport Advisory Committee, and the Municipality of Anchorage.[1] Numerous petitions to intervene and answers in response thereto have been filed and will be acted upon by the Judge under delegation of authority. Northwest also filed a motion to defer all further procedural steps until after the Board has established rules and policies required by the Energy Conservation Act which became effective in December 1975.[2]

The petitions for reconsideration generally fall into the following categories: (1) Designation of additional coterminal points, (2) imposition of pretrial restrictions, (3) limitation or deletion of charter rights, and (4) expansion of the area to be served in the Pacific. After careful review of the petitions for reconsideration and answers thereto, we have concluded that except for Portland,[3] the petitions should be denied. The petitions are for the most part repetitive of matters which were before or known to the Board at the time it entered its prior order and they do not establish error in the Board's previous determinations. Several matters do, however, warrant comment.

In denying coterminal status to interior U.S. points, our previous order pointed out that the issues in this case will allow all interested carrier and civic parties ample opportunity to present evidence demonstrating the need for single-plane service to the Orient from interior U.S. cities by means of tacking a Seattle-Japan route onto the route system of any applicant carrier. Portland's petition for reconsideration properly points out that the concept of tacking cannot improve Portland's service to Japan as no traveler is going to proceed to Portland, change flights and continue on to Seattle, and then change again in Seattle when he could have proceeded directly to Seattle in the first place and thus eliminated a stop and/or change of planes. Portland has usually been considered as a traditional coterminal point with Seattle and we have concluded that it should be designated as a coterminal point in this proceeding.

The fact that Anchorage would be served as a point between Seattle and Tokyo rather than as an originating point does not warrant its inculsion in this case. Moreover, the Anchorage-Japan market already receives competitive service by at least two carriers. Nor is there any justification for the inclusion of Guam. Approval of Guam's petition for reconsideration would greatly broaden the geographical scope of the case and would not address Guam's basic request for improved service between Guam and Honolulu.

Northwest urges the Board to terminate the investigation or, in the alternative, either (1) impose pretrial restrictions prohibiting service to Japan from Los Angeles, San Francisco, New York or Chicago, or (2) expand the issues to consider the removal of Northwest's California-Tokyo restriction. Northwest has not advanced any valid reasons why this proceeding should be terminated or why it should be expanded to consider direct service to Japan from the California gateway. As for the imposition of restrictions, Northwest is free to present evidence on this issue and to argue that restrictions should be imposed to protect Northwest from diversion. This will give Northwest a full opportunity to present its case and the Board will retain flexibility to make whatever decision is required on the basis of the evidentiary record.

TIA has requested the Board to clarify Order 75–12–84 so as to remove any ambiguity that additional charter rights are not in issue and that any carrier receiving Seattle-Japan scheduled route authority will be restricted against op-

[1] On February 6, 1976, TIA filed a motion for leave to file a reply to the answers of BOR, TWA, United, and the Washington Parties. We will grant the motion of TIA and have considered its reply in reaching our determination herein.

[2] Northwest's motion was denied by the Judge on January 29, 1976.

[3] The Portland parties include the State of Oregon, acting by its Department of Transportation and the Public Utility Commissioner, the City of Portland, the Port of Portland, the Portland Chamber of Commerce and the Portland Freight Traffic Association.

erating charter flights (both on-route and off-route) from any U.S. point to a point in Japan. Alternatively, TIA wants the Board to specifically place in issue a prohibition against charters between the U.S. and Japan.

We can find no ambiguity whatsoever in our order instituting this investigation. Pursuant to section 401(e)(6) and Part 207 of the Board's Economic Regulations, any carrier authorized to operate a Seattle-Japan route will receive unlimited on-route charter authority and off-route charter authority subject to the limitations set forth in Part 207. The Board's policy has been to treat charter authority of route carriers as an adjunct to their scheduled route authority. TIA has submitted no justification why this long-standing policy should be abandoned here.

On the basis of the foregoing and upon consideration of all the relevant facts, the petition for reconsideration filed by Portland will be granted. All other petitions for reconsideration and/or clarification of Order 75-12-84 will be denied. The following applications, to the extent they conform to the scope of this proceeding, will be consolidated: Braniff, Docket 26520; United, Docket 28762; Western, Docket 28763; Continental, Docket 28764; and TWA, Docket 28768.

The applications of Northwest in Docket 28765 and Pan American in Docket 26212 (amendment No. 1) involve issues beyond the scope of the investigation and will not be consolidated. Since Pan American may have intended to seek authority for a route between Seattle and Japan, we will allow Pan American 5 days from the date of service of this order to file an application for service between Seattle/Portland and Japan. We will also grant Braniff, United, Western, Continental, and TWA 5 days to amend their applications to include Portland if they so desire.

Accordingly, it is ordered:

1. That the petition for reconsideration filed by the Portland Parties be and it hereby is granted;

2. That the petitions for reconsideration and/or clarification of Western Air Lines, Inc.; Northwest Airlines, Inc.; the Dallas/Fort Worth Parties; Trans International Airlines, Inc.; the Las Vegas and St. Louis Parties; Trans World Airlines, Inc.; and the Guam Chamber of Commerce be and they hereby are denied;

3. That the following applications, to the extent that they conform to the scope of the issues, are hereby consolidated into this proceeding: Braniff Airways, Inc., Docket 26520; United Air Lines, Inc., Docket 28762; Western Air Lines, Inc., Docket 28763; Continental Air Lines, Inc., Docket 28764; and Trans-World Airlines, Inc., Docket 28768;

4. That the motions to consolidate Northwest Airlines, Inc., Docket 28765 and Pan American World Airways, Inc., Docket 26212 (amendment No. 1) be and they hereby are denied and the underlying applications of Northwest and Pan American be and they hereby are dismissed without prejudice pursuant to Rules 12(e) of the Board's rule of practice;

5. That to the extent the applications listed in paragraph 3 hereof do not conform to the scope of the proceeding, the nonconforming portions thereof be and they hereby are dismissed without prejudice;

6. That this proceeding shall hereinafter be known as the Seattle Portland-Japan Service Investigation, Docket 28655;

7. That, except to the extent granted herein, all motions, petitions, and requests for relief be and they hereby are denied; and

8. That this order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.76-4604 Filed 2-17-76;8:45 am]

CIVIL RIGHTS COMMISSION

CONNECTICUT ADVISORY COMMITTEE

Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Connecticut Advisory Committee (SAC) to this Commission will convene at 7:00 p.m. and end at 11:00 p.m. on March 25, 1976, at Gloria Busch's House, 5 Long Lane, Middleton, Connecticut 06457.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, Room 1639, 26 Federal Plaza, New York, New York 10007.

The purpose of this meeting is to discuss Commission's school desegregation project.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., February 12, 1976.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.76-4607 Filed 2-17-76;8:45 am]

MARYLAND ADVISORY COMMITTEE

Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Maryland Advisory Committee (SAC) to this Commission will convene at 8:00 p.m. to 11:00 p.m. on March 4, 1976, at the Social Security Building, Room G20, Security Blvd., Baltimore, Maryland.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, Room 510, 2120 L Street, NW., Washington, D.C., 20037.

The purpose of this meeting is that the Committee will hear reports from the Employment, Housing and Education subcommittees. Members will discuss the SAC participation in the School Desegregation project.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., February 12, 1976.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.76-4608 Filed 2-17-76;8:45 am]

PENNSYLVANIA AND DELAWARE ADVISORY COMMITTEES

Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Pennsylvania and Delaware Advisory Committees (SAC) to this Commission will convene at 10:00 a.m. and end at 12:00 noon on March 25, 1976, at 600 Arch Street, Philadelphia, Pennsylvania.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, Room 510, 2120 L Street, NW., Washington, D.C. 20037.

The purpose of this meeting is to discuss followup to the Pennsylvania and Delaware Advisory Committees' study on conditions affecting mushroom workers in Chester County, Pennsylvania and New Castle County, Delaware.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., February 12, 1976.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.76-4609 Filed 2-17-76;8:45 am]

NEW JERSEY ADVISORY COMMITTEE

Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the New Jersey Advisory Committee (SAC) to this Commission will convene at 7:30 p.m. and end at 11:00 p.m. on March 9, 1976, at the Ramada Inn of New Jersey, New Brunswick, New Jersey.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, Room 1639, 26 Federal Plaza, New York, New York 10007.

The purpose of this meeting is to discuss current SAC projects.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., February 12, 1976.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.76-4610 Filed 2-17-76;8:45 am]

WEST VIRGINIA ADVISORY COMMITTEE

Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the West Virginia Advisory Committee (SAC) to this Commission will convene at 2:00 p.m. and end at 4:00 p.m. on March 18, 1976, at 416 South Fayette Street, Beckley, West Virginia 25801.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, Room 510, 2120 L Street, N.W., Washington, D.C. 20037.

The purpose of this meeting is to discuss the West Virginia Advisory Committee's study on school desegregation in Raleigh County, West Virginia.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., February 12, 1976.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.76-4611 Filed 2-17-76;8:45 am]

CONSUMER PRODUCT SAFETY COMMISSION

[Petition No. CP 76-1]

ELECTRIC FAN BLADE EXPOSURE

Denial of Petition

The purpose of this notice is to announce that the Consumer Product Safety Commission has denied a petition to develop a consumer product safety standard applicable to electric fan blades.

On July 16, 1975 the Missouri Public Interest Research Group (MOPIRG) petitioned the Consumer Product Safety Commission to initiate a proceeding under section 7 of the Consumer Product Safety Act (CPSA) (15 U.S.C. Section 2056) for the development of a consumer product safety standard applicable to electric fan blades. The petition alleged a risk of injury to the hands or fingers of adults and children from the accidental insertion of hands or fingers into the path of the revolving fan blades.

Section 10 of the Consumer Product Safety Act (15 U.S.C. 2059) provides that any interested person may petition the Consumer Product Safety Commission to commence a proceeding for the issuance of a consumer product safety rule. Section 10 also provides that if the Commission denies a petition, it shall publish in the FEDERAL REGISTER its reasons for such denial.

After having considered available injury data and statistics, as well as a voluntary standard published by Underwriters' Laboratories, the Commission has found that, based on information available to the Commission at the present time, there is no unreasonable risk of injury associated with electric fan blades due to the accidental exposure of the hands or fingers of consumers to revolving electric fan blades. Available injury data and statistics indicate that injuries associated with electric fan blades are minor in severity, occur infrequently, and are associated with older models of fans. In addition, a voluntary standard published by Underwriters' Laboratories, UL-507, the first commercial standard for electric fans addressing accidental exposure to fan blades, became effective on July 15, 1974. Analysis of this voluntary standard indicates that the guard is likely to provide consumers with substantial protection against injury from the accidental insertion of hands or fingers into the path of the revolving fan blades. Information available to the Commission also indicates that there is a high degree of compliance with the voluntary standard. Since the Commission has found that, based on presently available information, there is no unreasonable risks of injury associated with electric fan blades due to the accidental exposure of the hands or fingers of consumers to revolving electric fan blades, the Commission concludes that it is unnecessary at this time to institute a proceeding for the development of a standard concerning this alleged risk of injury. Therefore, the Commission has denied the petition submitted by the Missouri Public Interest Research Group.

Dated: February 12, 1976.

SADYE E. DUNN,
Secretary Consumer Product Safety Commission.

[FR Doc.76-4606 Filed 2-17-76;8:45 am]

CHEMICAL MONOGRAPH REFERRAL CENTER (CHEMRiC)

Establishment

Correction

In FR Doc. 76-4051 appearing at page 6121 in the issue of Wednesday, February 11, 1976, the fourth paragraph is corrected to read as follows:

"CHEMRiC does not maintain a library of the complete texts of monographs, nor does it provide publication or evaluation services."

COMMODITY FUTURES TRADING COMMISSION

DELIVERY OF COMMODITY FUTURES CONTRACTS

Change in Hearing Time

Notice is hereby given of a change in the time of the Commodity Futures Trading Commission's public hearing concerning the establishment of delivery points on commodity futures contracts.

The hearing will commence at 9:30 a.m. on both Thursday, February 19 and Friday, February 20, 1976 at the Plaza Inn (Regency West Ballroom), 45th and Main Streets, Kansas City, Missouri, rather than commencing at 10:00 a.m. each day, as previously stated in the FEDERAL REGISTER of January 22, 1976 (41 FR 3338).

Dated: February 13, 1976.

WILLIAM T. BAGLEY,
Chairman, Commodity Futures Trading Commission.

[FR Doc. 76-4731 Filed 2-17-76;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 490-7, OPP-50059]

ELANCO PRODUCTS CO.

Issuance of Experimental Use

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, Division of Eli Lilly & 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-42) allows the use of 300 pounds of the herbicide trifluralin (α,α,α-trifluoro-2,6-dinitro-*N*, *N*-dipropyl-*p*-toludine) on asparagus. A total of 80 acres is involved; the program is authorized only in the States of California and Washington. The experimental use permit is effective from January 13, 1976, to January 13, 1977. A temporary tolerance has been established for residues of the active ingredient in or on the raw agricultural commodity to be treated.

Interested parties wishing to review the experimental use permit are referred to Room E-315, Registration Division (WM-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: February 11, 1976.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

[FR Doc.76-4652 Filed 2-17-76;8:45 am]

[FRL 490-5]

MUNICIPAL SEWAGE SLUDGE INCINERATORS

Evaluation of Opacity Standards of Performance for New Sources

Under section 111 of the Clean Air Act, as amended, standards of performance for municipal sewage treatment plants were promulgated on March 8, 1974 (39 FR 9308). The standards include two limits on the emissions from sewage sludge incinerators: (1) The opacity of the emissions, and (2) the mass of the emissions (the amount of emission per unit of dry sludge input). The opacity standards have been evaluated by the Agency in light of revisions to Reference Method 9 for determining opacity of emissions promulgated on November 12, 1974 (39 FR 39872). As a result of the evaluation, it has been determined that there is no need to revise the opacity standards. A report has been prepared on this evaluation, a copy of which is available for inspection at the Public Information Reference Unit (EPA Library), Room 2922 West Tower, 401 M Street, SW., Washington, D.C. Copies may be obtained upon written request from the EPA Public Information Center (PM-215), 401 M Street, SW., Washington, D.C. 20460 (specify: Evaluation of Standards of Performance for Opacity at Sewage Sludge Incinerators, November 1975).

Dated: February 11, 1976.

ROGER STRELOW,
Assistant Administrator for Air and Waste Management.

[FR Doc.76-4650 Filed 2-17-76;8:45 am]

[FRL 490-6; OPP-33000/365]

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 (Pub. 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, SW., 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, 401 M Street, 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 April 19, 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 within 30 days subsequent to publication of this notice.

Dated: February 10, 1976.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

APPLICATIONS RECEIVED (OPP-33000/365)

EPA File Symbol 11515-AG. ABC Chemical Corp., 14288 Meyers Rd., Detroit MI 48227. DELUXE WINTER GREEN. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 2.25%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 2.25%; Isopropanol 35.00%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Formula change. PM31

EPA File Symbol 264-EOT. Anchem Products, Inc., Brookside Ave., Ambler PA 19002. IMPROVED ORNAMENTAL WEEDER PRE-EMERGENCE HERBICIDE. Active Ingredients: Butralin [4-(1,1-dimethylethyl)-N-(1-methylpropyl) - 2,6 - dinitrobenzenamine] 47.4%. Method of Support: Application proceeds under 2(b) of interim policy. PM23

EPA File Symbol 8879-E. American Candle Co., Inc., 63 4th Ave., Haskell NJ 07420. OIL OF CITRONELLA CEYLON. Active Ingredients: Oil of Citronella 100%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA File Symbol 12466-U. Aqua Labs., Inc., 36 High St., Amesbury MA 01913. AQUACIDE 350 B. Active Ingredients: Disodium cyanodithioimidocarbonate 4.23%; Ethylenediamine 1.60%; Potassium N-methyldithiocarbamate 5.83%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM33

EPA Reg. No. 10932-5. Aqua-Serv Engineers, Inc., 2431 E 56th St., Los Angeles CA 90058. A-105 MICROBIOCIDE. Active Ingredients: N-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) Dimethyl Benzyl Ammonium Chlorides 6.25%; N-Alkyl (50% C12, 30% C14, 17% C16, 3% C18) Dimethyl ethylbenzyl ammonium chloride 6.25%; bis (Tributyltin) oxide 2.375%. Method of Support: Application proceeds under 2(c) of interim policy. PM33

EPA File Symbol 10088-LA. Athea Labs., Inc., 4180 N. 1st St., Milwaukee WI 53212. EMULSIFIABLE INSECTICIDE CONCENTRATE MA. Active Ingredients: Malathion 57%; Methylated Naphthalenes 34%. Method of Support: Application proceeds under 2(c) of interim policy. PM16

EPA File Symbol 36999-RG. B & M International, Inc., PO Box 1116, Thibodaux LA 70301. MICRO-ORANGE 22 DETERGENT-DISINFECTANT. Active Ingredients: Alkyl (C14 58%, C16 28%, C12 14%) dimethyl benzyl ammonium chloride 2.5%; Isopropanol 2.0%; Essential oils 0.5%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM31

EPA File Symbol 5185-RAI. Bio-Lab, Inc., PO Box 1489, Decatur GA 30031. BIO-GUARD CWT-100 ALGICIDE. Active Ingredients: Alkyl (C12 61%, C14 23%, C16 11%, C8 and C10 2.5%, C18 2.5%) dimethyl benzyl ammonium chloride 9.0%; Tributyltin neodecanoate 5.0%; Alkyl (C14 58%, C16 28%, C12 14%) dimethyl benzyl ammonium chloride 4.5%; Alkyl (C14 90%, C16 5%, C12 5%) dimethyl ethyl ammonium bromide 1.5%. Method of Support: Application proceeds under 2(c) of interim policy. PM33

EPA File Symbol 179-IA. The R. H. Bogle Co., PO Box 588, Alexandria VA 22313. BO-RID B-10 BROMACIL WEED KILLER. Active

Ingredients: Bromacil (5-bromo-3-sec-butyl-6-methyluracil) 1.2%. Method of Support: Application proceeds under 2(c) of interim policy. PM25

EPA Reg. No. 5719-36. Chacon Chemical Corp., 2600 Yates Ave., Commerce CA 90040. SEVIN GARDEN DUST. Active Ingredients: Carbaryl (1-naphthyl N-methylcarbamate) 5.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM12

EPA File Symbol 29211-G. Chemifax, 800 Firestone Blvd., La Mirada CA 90638. WHIRLPOOL EMULSION BOWL CLEANER AND DISINFECTANT. Active Ingredients: Hydrogen Chloride 21.8%; Isopropyl Alcohol 4.0%; Oxalic Acid 1.2%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM32

EPA File Symbol 11600-G. Conklin Co., Inc., Highway 101 and Valley Park Drive, Shakopee MN 55379. DAIROX. Active Ingredients: n-Alkyl (60% C14, 30% C15, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5.0%; n-Alkyl (68% C12, 32% C14) dimethyl ethyl benzyl ammonium chlorides 5.0%; Phosphoric acid 30.0%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to PAY statement submitted. PM32

EPA File Symbol 5749-UO. Conwood Corp., Household Products Div., 813 Ridge Lake Blvd., PO Box 171417, Memphis TN 38101. HOT SHOT HIT ROACH & ANT KILLER. Active Ingredients: Pyrethrins 0.050%; Technical Piperonyl Butoxide 0.075%; N-Octyl Bicycloheptene Dicarboximide 0.125%; 2-(1-Methylethoxy) phenol methylcarbamate 1.000%; Petroleum Distillates 82.750%. Method of Support: Application proceeds under 2(c) of interim policy statement. PM12

EPA File Symbol 1203-LU. Delta Foremost Chem. Corp., 3915 Air Park St., Memphis TN 38113. DELTA FOREMOST SOFTEE FABRIC SOFTENER. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 0.8%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 0.8%. Method of Support: Application proceeds under 2(b) of interim policy statement. Republished: Revised offer to pay statement submitted. PM31

EPA File Symbol 6621-AU. Eagle Chemical Co., 2819 W. Lake St., Chicago IL 60612. HIQUAT. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 2.25%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 2.25%; Sodium Carbonate 3.00%; Tetrasodium ethylenediamine tetraacetate 1.00%. Method of Support: Application proceeds under 2 (b) of interim policy statement. Republished: Revised offer to pay statement submitted. PM31

EPA File Symbol 6621-AG. Eagle Chemical Co., 2819 W. Lake St., Chicago IL 60612. MISTICIED DISINFECTANT. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 5%. Method of Support: Application proceeds under 2(c) of interim policy statement. Republished: Revised offer to pay statement submitted. PM31

EPA Reg. No. 1471-35. Elanco Products Co., Div. of Eli Lilly & Co., PO Box 1750, Indianapolis IN 46206. TREFLAN. Active Ingredients: Trifluralin (α,α,α-trifluro-2,6-dinitro - N,N - dipropyl-p-toluidine) 44.5%. Method of Support: Application proceeds under 2(c) of interim policy statement. Republished: Revised offer to pay statement submitted. PM23

EPA File ymbol 10337-T. Fairmount Chem. Co., Inc., 117 Blanchard St., Newark NJ 07105. FST-7. Active Ingredients: n-Decanol 38.3%; Potassium salt of 1,2-Dihydro-3,6-pyriadazinedione 11.1%. Method of Support: Application proceeds under 2(b) of interim policy. PM25

EPA File Symbol 303-RNE. Huntington Labs., Inc., 968 E. Tipton St., Huntington IN 46750. MATAR GERMICIDAL DETERGENT. Active Ingredients: o-benzyl-p-chlorophenol 9.50%; o-phenylphenol 6.00%; isopropyl alcohol 3.16%; p-tertiary-amylphenol 3.0%; sodium carbonate 1.9%. Method of Support: Application proceeds under 2(a) of interim policy. PM32

EPA File Symbol 34860-E. HVAC Services, Inc., PO Box 112, Timonium, Maryland 21093. HVAC SLIMICIDE NO. 101. Active Ingredients: Disodium cyanodithiomidocarbonate 3.68%; Potassium N-methyldithiocarbamate 5.07%; Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM33

EPA File Symbol 777-LG. Lehn & Fink Prod. Div. of Sterling Drug Inc., 225 Summit Ave., Montvale NJ 07645. LYSOL DISINFECTANT SPRAY. Active Ingredients: o-Phenylphenol 0.1%; N-Alkyl (C18 92%; C16 8%)-N-Ethyl Morphlinium Ethylsulfates 0.035%; Alcohol 76.0%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement. PM32

EPA File Symbol 777-LU. Lehn & Fink Prod. Div. of Sterling Drug Inc. LYSOL SPRAY DISINFECTANT TYPE C. Active Ingredients: o-Phenylphenol 0.1%; N-Alkyl (C18 92%; C16 8%)-N-Ethyl Morpholinium Ethylsulfates 0.035%; Alcohol 79.0%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM32

EPA File Symbol 777-LL. Lehn & Fink Prod. Div. of Sterling Drug Inc. LYSOL PUMP SPRAY DISINFECTANT. Active Ingredients: o-Phenylphenol 0.1%; N-Alkyl (C18 92%; C16 8%)-N-Ethyl Morpholinium Ethylsulfates 0.035%; Alcohol 79.0%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Change in formulation, additional claims, new offer to pay statement submitted. PM32

EPA File Symbol 3125-GRE. Chemagro Agr. Div., Mobay Chem. Corp., PO Box 4913, Kansas City MO 64120. METASYSTOX-R 4 EMULSIFIABLE SYSTEMIC INSECTICIDE. Active Ingredients: *S*-[2-(Ethylsulfinyl) ethyl] 0,0-dimethyl phosphorothioate 45%; Aromatic Petroleum Distillate 28%. Method of Support: Application proceeds under 2(b) of interim policy. PM16

EPA Reg. No. 3125-121. Chemagro Ag., Corp., Mobay Chem. Corp., PO Box 4913, Kansas City MO 64120. BAYGON 2% BAIT INSECTICIDE. Active Ingredients: 2-(1-Methylethoxy phenol methylcarbamate) 2%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Added uses. PM12

EPA File Symbol 6020-RT. MOM Chemical Co., Inc., 7775 N.W. 66th ST., Miami FL 33166. WHISP DISINFECTANT-DEODORIZER-MILDEWCIDE. Active Ingredients: Alkyl (C14 90%, C12 5%, C16 5%) Dimethyl 3,4-Dichlorobenzyl Ammonium Chloride 1.250%; Alkyl (C14 58%; C16 28%; C12 14%) Dimethyl Benzyl Ammonium Chloride 0.625%; Alkyl (C14 90%, C12 5%, C16 5%) Dimethyl Ethyl Ammonium Bromide 0.625%; Sodium Carbonate 0.500%; Ethylenediamine-tetraacetic Acid, Tetrasodium Salt 0.190%; Essential Oils 0.250%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM31

EPA File Symbol 1706-RUI. Nalco Chemical Co., 2901 Butterfield Rd., Oakbrook IL 60521. NALCO 2524. Active Ingredients: n-alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 5%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 1706-RUT. Nalco Chemical Co., 2901 Butterfield Rd., Oak Brook IL 60521. NALCO 5WH502 MICROORGANISM. Active Ingredients: n-alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5%; n-alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 5%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA Reg. No. 11525-30. Peterson/Puritan, Inc., Hegeler Lane, Danville IL 61832. P/P DISINFECTANT DEODORANT SPRAY "G". Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 0.072%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 0.072%; Ethanol 53.088%; n-Alkyl (C18 92%, C16 8%) n-Ethyl morpholinium ethylsulfate 0.114%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM31

EPA File Symbol 9605-L. Philadelphia Quartz Co., PO Box 840, Valley Forge PA 19482. FABRI-STAPH II. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 11.2%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 11.2%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay submitted. PM31

EPA File Symbol 37296-E. PRODUCTS-SOL, Inc., 2010 Cole, Birmingham MI 48008. BIODERM 400. Active Ingredients: 2,2-Dibromo-3-netriloproprionamide 10%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM34

EPA Reg. No. 37296-5. PRODUCTS-SOL, Inc., 2010 Cole, Birmingham MI 48008. BIODERM 300. Active Ingredients: 1-(3-chloroallyl)-3,5,7-triaza - 1 - azoniaadamatine chloride 67.50%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM34

EPA File Symbol 36341-R. Red Top Products, Inc., Seguin St., La Vernia TX 78121. 444Q DISINFECTANT-SANITIZER DEODORIZER. Active Ingredients: Alkyl (C14 50%; C12 40%, C16 10%) Dimethyl benzyl ammonium Chloride 10.0%; Ethanol 2.0%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM31

EPA File Symbol 34779-E. Repel Products, 38295 Pineridge, Mt. Clements MI 48043. "REPEL INSECT REPELLANT CLOTH. Active Ingredients: 2 Ethyl-1,3-Hexanediol 67%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA File Symbol 14961-A. Rex Chemical Corp., 2300 NW 23 St., Miami FL 33142. INSECTICIDE PAIFER. Active Ingredients: Propoxur 2-(1-Methylethoxy)phenol methyl carbamate 1.0%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM12

EPA Reg. No. 9779-5. Riverside Chemical Co., 855 Ridge Lake Blvd., Memphis TN 38117.

RIVERSIDE MALATHION 5. Active Ingredients: Malathion (O,O-dimethyl phosphorodithioate of diethyl mercaptosuccinate) 56.8%; Aromatic Petroleum Solvent 36.2%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM16

EPA File Symbol 11547-GU. Share Corp., PO Box 9, Brookfield WI 53005. MOSQUITO AND FLY CONTROL AND LARVICIDE. Active Ingredients: Heavy Aromatic Naphtha 85.91%; Methoxychlor, Technical 4.69%; Malathion 3.14%; 2,2-dichlorovinyl dimethyl phosphate 1.17%. Method of Support: Application proceeds under 2(c) of interim policy. PM13

EPA File Symbol 476-ERIN. Stauffer Chemical Co., 1200 S. 47th St., Richmond CA 94804. SUTAN + ENCAPSULATED. Active Ingredients: S-ethyl Diisobutylthiocarbamate 48.2%. Method of Support: Application proceeds under 2(b) of interim policy. PM25

EPA File Symbol 10392-G. Sterwin Labs., Inc., PO Box 537, Millsboro DE 19966. FORMULA 101 PUMP DISINFECTANT. Active Ingredients: o-Phenylphenol 0.11%; N-Alkyl (C18 92%, C16 8%)-N-Ethyl Morpholinium Ethylsulfates 0.038%; Alcohol 84.68%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM32

EPA File Symbol 9619-T. Synthetic Labs., PO Box 131, Dracut MA 01826. GC SUPER 10 DISINFECTANT-SANITIZER-FUNGICIDE-DEODORIZER. Active Ingredients: Alkyl (C14 60%, C16 30%, C12 5%, C18 5%) dimethyl benzyl ammonium chlorides 5.0%; Alkyl (C12 68%, C14 32%) dimethyl ethylbenzyl ammonium chlorides 5.0%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM31

EPA File Symbol 9619-U. Synthetic Labs., Inc., Victory Lane, Dracut MA 01826. GC 20. Active Ingredients: Octyl Decyl Dimethyl Ammonium Chloride 4.50% Dioctyl Dimethyl Ammonium Chloride 2.25%; Didecyl Dimethyl Ammonium Chloride 2.25%; Tetrasodium Ethylenediamine Tetraacetate 2.40%; Isopropyl Alcohol 3.60%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM31

EPA Reg. No. 33722-4. Tex-Ag Co., PO Box 633, Mission TX 78522. ETHYL PARATHION 4 E.C. Active Ingredients: Parathion (O,O-diethyl O-p-nitrophenyl thiophosphate) 46.59%; Xylene 47.70%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM12

EPA File Symbol 9279-0. Santimine Div., Texas Gulf Indus., 2912 Polaski Hwy., Baltimore MD 21224. DETEX. Active Ingredients: Octyl Decyl Dimethyl Ammonium Chloride 4.50%; Dioctyl Dimethyl Ammonium Chloride 2.25%; Didecyl Dimethyl Ammonium Chloride 2.25%; Tetrasodium Ethylene diamine Tetraacetate 2.40%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM31

EPA Reg. No. 1187-30. Virginia Chemicals, Inc., 3340 W. Norfolk Rd., Portsmouth VA 23703. TWENT-THREE AEROSOL INSECTICIDE. Active Ingredients: Pyrethrins 0.5%; Technical piperonyl butoxide 1.0%; N-Octyl bicycloheptene dicarboximide 1.0%; Petroleum distillates 12.5%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Add uses & revised offer to pay statement submitted. PM17

EPA Reg. No. 1187-68. Virginia Chemicals, Inc., 3340 W. Norfolk Rd., Portsmouth VA 23703. PRO-CIDE. Active Ingredients: Pyrethrins 0.5%; Technical piperonyl butoxide 4.0%; Petroleum hydrocarbon oil base 12.5%; Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use & revised offer to pay statement submitted. PM17

EPA Reg. No. 1187-70. Virginia Chemicals, Inc., 3340 W. Norfolk Rd., Portsmouth VA 23703. SPRAYRITE. Active Ingredients: Pyrethrins 0.5%; Technical piperonyl butoxide 1.0%; N-Octyl bicycloheptene dicarboximide 1.0% Petroleum distillates 12.5%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use & revised offer to pay statement submitted. PM17

EPA Reg. No. 1187-47. Virginia Chemicals, Inc., 3340 W. Norfolk Rd., Portsmouth VA 23703. VIRCHEM ONE SHOT AEROSOL INSECTICIDE. Active Ingredients: Pyrethrins 0.5%; Technical Piperonyl Butoxide 4.0%; Petroleum distillate 12.5%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use & revised offer to pay statement submitted. PM17

EPA Reg. No. 1187-35. Virginia Chemicals, Inc., 3340 West Norfolk Rd., Portsmouth VA 23703. VIRCHEM ONE AEROSOL INSECTICIDE. Active Ingredients: Pyrethrins 0.5%; Technical piperonyl butoxide 1.0%; N-octyl-bicycloheptene dicarboximide 1.0%; Petroleum distillates 12.5%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use & revised offer to pay statement submitted. PM17

EPA File Symbol 7401-ETA. Voluntary Purchasing Groups, Inc., PO Box 460, Bonham TX 73418. HI-YIELD LIVESTOCK SPRAY No. 2. Active Ingredients: Toxaphene (Technical Chlorinated Camphene containing 67-69% Chlorine) 43.2%; Malathion (O,O-dimethyl dithiophosphate of diethyl mercaptosuccinate) 4.3%; Petroleum Distillate 24.0%; Aromatic Petroleum Derivative Solvent 19.5%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM16

EPA File Symbol 7401-EAT. Voluntary Purchasing Groups, Inc., PO Box 460, Bonham TX 75418. HI-YIELD 5% MALATHION DUST. Active Ingredients: Malathion (O,O-dimethyl dithiophosphate of diethyl mercaptosuccinate) 5%. Method of Support: Appliaction proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM16.

EPA File Symbol 11659-0. Walling Chemical Co., PO Box 408, Sioux Falls SD 57101. A-160. Active Ingredients: Dioctyl dimethyl ammomium chloride 50% Ethyl alcohol 10%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM33

[FR Doc.76-4651 Filed 2-17-76;8:45 am]

[FRL 489-7; OPP-42009A]

WASHINGTON

Approval of State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides

Section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), and the implementing regulations of 40 CFR Part 171 require each State desiring to certify applicators to submit a plan for its certification program. Any State certification program under this section shall be maintained in accordance with the State plan approved under this section.

On November 26, 1975, notice was published in the FEDERAL REGISTER (40 FR 54860) of the intent of the Regional Administrator, EPA Region X, to approve, on a contingency basis, the Washington Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides (Washington State Plan). Contingency approval was requested by the State of Washington pending promulgation of implementing regulations. Complete copies of the Washington plan were made available for public inspection at the Washington Department of Agriculture, Olympia, Washington; EPA Region X office, Seattle, Washington; and the Office of Pesticide Programs, EPA, Washington, D.C.

No comments were received; therefore, the plan as appeared in the FEDERAL REGISTER November 26, 1975 will go unchanged.

It has been determined that the Washington plan will satisfy the requirements of section 4(a)(2) of the amended FIFRA and of 40 CFR Part 171, if the regulations described in the plan, which are necessary for its implementation, are promulgated by the Washington Department of Agriculture. Accordingly the Washington plan is approved contingent upon promulgation of implementing regulations in accordance with and as prescribed in the State plan.

This contingency approval shall expire fifteen (15) months from its effective date, if these terms and conditions are not satisfied by that time. On or before the expiration of the period of contingency approval, a notice shall be published in the FEDERAL REGISTER concerning the extent to which these terms and conditions have been satisfied, and the approval status of the Washington plan as a result thereof.

Effective date. Pursuant to section 4(d) of the Administrative Procedures Act, 5 U.S.C. 553(d), the Agency finds that there is good cause for providing that the fifteen months contingency approval granted herein to the Washington plan shall be effective immediately. Neither the Washington plan itself nor this Agency's contingency approval of the plan create any direct or immediate obligations on pesticide applicators or other persons in the State of Washington. Delays in starting the work necessary to implement the plan, such as may be occasioned by providing some later effective date for this contingency approval, are inconsistent with the public interest. Accordingly, this contingent approval shall become effective immediately.

Dated: January 7, 1976.

CLIFFORD V. SMITH, Jr.,
Regional Administrator, U.S. Environmental Protection Agency, Region X.

[FR Doc.76-4647 Filed 2-17-76;8:45 am]

[FRL 490-3]

AMBIENT AIR MONITORING REFERENCE AND EQUIVALENT METHODS

Reference Method Designation

Notice is hereby given that the EPA, in accordance with 40 CFR Part 53 (40 FR 7044, February 18, 1975), has designated a reference method for the measurement of ambient concentrations of carbon monoxide. This reference method is an automated method (analyzer) which utilizes the measurement principle (non-dispersive infrared spectrometry) and the calibration procedure specified in Appendix C of 40 CFR Part 50, as amended on February 18, 1975 (40 FR 7042). The method is:

RFCA-0276-008—"Bendix Model 8501-5CA Infrared CO Analyzer," operated on the 0-50 ppm range and with a time constant setting between 5 and 16 seconds, with or without any of the following options:

A—Rack mounting with chassis slides.
B—Rack mounting without chassis slides.
C—External sample pump.

This method is available from the Bendix Corporation, Process Instruments Division, Post Office Box 831, Lewisburg, West Virginia 24901.

A test analyzer representative of this method has been tested by its manufacturer, in accordance with the test procedures specified in 40 CFR Part 53. After reviewing the results of these tests and other information submitted by the applicant, EPA has determined, in accordance with Part 53, that this method should be designated as a reference method. The information submitted by the applicant will be kept on file at the address shown below and will be available for inspection to the extent consistent with 40 CFR Part 2 (EPA's regulations implementing the Freedom of Information Act).

As a reference method, this method is acceptable for use by States and other control agencies for purposes of § 51.17 (a) of 40 CFR Part 51 ("Requirements for Preparation, Adoption, and Submittal of Implementation Plans") as amended on February 18, 1975 (40 FR 7042). For such use, the method must be used in strict accordance with the operation or instruction manual provided with the method and subject to any limitations (e.g., operating range) specified in the applicable designation (see description of method above). Vendor modifications of a designated method used for purposes of § 51.17(a) are permitted only with prior approval of EPA, as provided in Part 53. Provisions concerning modification of such methods by users were proposed on February 18, 1975 (40 FR 7064) and are expected to be promulgated shortly.

In general, the designation applies to any analyzer which is identical to the analyzer described in the designation. In many cases, similar analyzers manufactured prior to the designation may be upgraded (e.g., by minor modification or by substitution of a new operation or instruction manual) so as to be identical to the designated method and thus achieve designated status at modest cost. The manufacturer should be consulted to determine the feasibility of such upgrading.

Part 53 requires that sellers of designated methods comply with certain conditions. These conditions are: (1) A copy of the approved-operation or instruction manual must accompany the analyzer when it is delivered to the ultimate purchaser, (2) the analyzer must generate no unreasonable hazard to operators or to the environment, and (3) the analyzer must function within the limits of the performance specifications given in Table B-1 of Part 53 for at least 1 year after delivery when maintained and operated in accordance with the operation or instruction manual. Certain additional conditions of designation were proposed on February 18, 1975 (40 FR 7064), and are expected to be promulgated shortly. Aside from occasional breakdowns or malfunctions, consistent or repeated noncompliance with any of these conditions should be reported to: Director, Environmental Monitoring and Support Laboratory, Department E (MD-76), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

Designation of this reference method will provide assistance to the States in establishing and operating their air quality surveillance systems under 40 CFR 51.17(a). Additional information concerning this section may be obtained by writing to the address given above.

WILSON K. TALLEY,
Assistant Administrator for Research and Development.

FEBRUARY 11, 1976.

[FR Doc.76-4648 Filed 2-17-76;8:45 am]

[FRL 490-4]

STACK HEIGHT INCREASE GUIDELINE

Air Quality Standards

During the last two years, three United States circuit courts of appeals have addressed the question of when, if at all, tall stacks and other methods of dispersion technology may be utilized as a means of attaining and maintaining national ambient air quality standards. See NRDC et al v. EPA, 489 F.2d 390 (CA5, 1974); Big Rivers et al v. EPA, 523 F.2d 16 (CA6, 1975); and Kennecott Copper v. EPA, CA9, No. 75-1335 (decided November 28, 1975).

In each case the court in question interpreted section 110(a)(2)(B) of the Clean Air Act as requiring the use of constant emission limitations (as opposed to dispersion dependent technology such as tall stacks) as the primary means for achieving ambient air quality standards. However, following the lead of the Fifth Circuit—the first court to address the issue—each of the courts also recognized that, where constant emission limitations were employed to the maximum extent achievable, it would then be appropriate to permit the use of dispersion techniques where necessary to achieve ambient standards. Finally, the last court to address the question—the Ninth Circuit—held that where constant emission limiting techniques were available in a technological sense but under circumstances where the installation of such technology by a given source would be economically unreasonable, the Agency could permit the use of dispersion techniques as an interim measure provided that certain specified steps were taken by the source of provide for the eventual satisfactory control technology.

To implement the principles established by the above-cited cases in a uniform and consistent manner, the Agency has prepared for use in its regional offices the document which follows. This document, which contains both a legal analysis of the cited cases as well as a guidelines for implementing the principles established by the cases, is effective as of January 13, 1976. It will be used by the regional offices in reviewing future Plan revisions and in re-evaluating existing State Implementation Plans to determine whether any such Plans have the potential for, or explicitly permit, the use of dispersion-dependent technology as a means of achieving ambient air quality standards. The principles set forth in the document will also be used in reviewing State new source construction permits.

This document is being published in the FEDERAL REGISTER to insure that it is available to persons who intend to undertake construction projects. The public will have an opportunity to comment on any proposed corrective action undertaken by the Agency with respect to Plan provisions that are deemed to be defective because of their actual or potential reliance on dispersion-dependent techniques.

LEGAL INTERPRETATION AND GUIDELINE TO IMPLEMENTATION OF RECENT COURT DECISIONS ON THE SUBJECT OF STACK HEIGHT INCREASE AS A MEANS OF MEETING FEDERAL AMBIENT AIR QUALITY STANDARDS

I. INTRODUCTION

Section 110(a)(2)(B) of the Clean Air Act requires that emission limitations must be used in State implementation plans although "other measures as necessary" may be used to supplement emission limitations in order to attain the national standards. This section directs the Administrator to approve a State implementation plan if:

it includes emission limitations, schedules, and timetables for compliance with such limitations, and such other measures as may be necessary to insure attainment and maintenance of such primary and secondary standard, including but not limited to, land use and transportation controls.

While at one time, the meaning of the above language may have been subject to doubt, the decisions of the courts (as discussed below) now make it unmistakably clear that, in legislating 110(a)(2)(B), Congress intended that State plans would have to rely on emission limitations to the extent possible, and that strategies which merely redistributed pollution, e.g., SCS and stack height increases, were to be used only as a supplement to emission limitations. Specifically, as construed by the courts, it is clear that Congress did not intend increased stack height and SCS to be used as a means of attaining national ambient air quality

standards where constant emission reduction controls were available. Thus, it is only when constant controls are not available that "other measures as may be necessary" may be turned to in order to insure the attainment and maintenance of the national standards.

So that State environmental protection agencies and polluters subject to State implementation plans (SIPs) may conduct their activities with certainty, EPA deems it desirable to publish an interpretative guideline setting forth (i) the Agency's understanding of the Courts' decisions, and (ii) the manner in which the Agency intends to implement the decisions. In sum, the sections which follow indicate when, if ever, techniques which merely redistribute or disperse pollution may be used as a means of achieving Federal ambient air quality standards.

II. JUDICIAL DECISIONS

The first decision to interpret section 110 (a) (2) (B) was that of the Fifth Circuit Court of Appeals, on February 8, 1974. In that case, NRDC et al. v. EPA (489 F.2d 390), one question before the Court involved the use of tall stacks as a control strategy technique in the State of Georgia. In addressing this issue, the Court held that a tall stack strategy, i.e., one which establishes emission control requirements as a function of stack height, or otherwise permits dispersion of pollutants through increased stack height as a means of attaining or maintaining ambient air quality standards, could only be employed under two circumstances: (1) Where the constant emission control requirements of the control strategy are, of themselves, sufficient to attain the standards; or (2) where the constant control requirements of the control strategy (as expressed in either emission limitations or fuel specifications) reflect the "maximum degree of emission limitation achievable" and that, notwithstanding such requirements, other measures—such as SCS or tall stacks—are necessary if the national standards are to be attained.

The decision of the Fifth Circuit was recently followed by the Sixth Circuit in Big Rivers et al. v. EPA, 523 F. 2d 16, (CA6, 1975), and by the Ninth Circuit in Kennecott Copper Corp. v. EPA, decided on November 26, 1975. In the latter case, EPA invoked the teaching of the Fifth Circuit and argued that the use of SCS as a permanent means of meeting ambient air quality standards was impermissible under the Clear Air Act. However, in making this argument, the Agency acknowledged that, in some instances, there might be situations in which the installation of best available control technology (hereinafter BACT) would be economically unreasonable or ill-advised for engineering or siting reasons. Under such circumstances, it was asserted that a fair interpretation of section 110(a) (2) (B) would permit the following regulatory scheme: First, the source in question would be required to install reasonably available (as opposed to "best available" or "maximum achievable") constant controls. Second, if the installation of reasonably available control technology (hereinafter RACT) was insufficient to achieve ambient air quality standards, tall stacks and/or SCS would be permissible as an interim means of achieving the standards. Finally, the source in question would be required to conduct research for the purpose of developing (and, ultimately, installing) new forms of constant control techniques sufficient to achieve ambient standards at a cost more reasonable than that of presently available BACT.

The regulation that was the subject of the Ninth Circuit litigation followed the pattern described above. In upholding the regulation, the Court indicated its agreement with the result reached by the Fifth Circuit in the *NRDC* case and with the Fifth Circuit's analysis of the pertinent legislative history. The Ninth Circuit also stated that, similar to the conclusion reached by the Sixth Circuit in the *Big Rivers* case, it (the Ninth Circuit) believed that a recent decision of the United States Supreme Court involving section 110 of the Clean Air Act (*Train v. NRDC et al.*, 421 U.S. 60, 7 ERC 1735 (1975)) added "significant support" to "EPA's interpretation of 1857c–5(a) (2) (B) [i.e., § 110 (a) (2) (B)] as expressing a preference for emission limitations." (*Kennecott Copper Corporation v. EPA*, Slip opinion at page 6).

III. IMPLEMENTATION OF THE JUDICIAL DECISIONS

A. *Overview.* The guideline which follows reflects EPA's understanding of the Court decisions discussed in section II of this notice, as well as the manner in which the decisions will be implemented by the Agency. The elements of the guideline will be applied to every State implementation plan. The guideline discusses when stack height increases, including stack height increases used in conjunction with supplementary control systems (SCS), will be accepted by EPA as a means of meeting ambient air quality standards.

The general philosophy expressed in the guideline is that, consistent with the decisions of the courts, stack height increases and/or SCS are acceptable control strategy measures only after the application of available control measures and are never permitted as a means of allowing the increase of emissions at any source.

Finally, although none of the decisions specifically addressed the question of how the Clean Air Act's preference for constant controls would be applied to new sources (for purposes of (i) State new source review, and (ii) control strategy demonstrations associated with later SIP revisions), the guideline does specifically address this question in a manner which EPA believes is consistent with the decisions of the Courts.

B. *Sources in Existence Prior to January 31, 1972 (the latest date by which SIPs were to be submitted to EPA).*

Scope: This section addresses the manner in which stack height will be considered with respect to sources in existence on January 31, 1972. In other words, it applies only to sources which are considered (either explicitly or implicitly) in current SIP control strategies; it does not necessarily apply to sources being subjected to new source review.

The section sets forth not only the basis for approval of SIPs, but also provides guidance with respect to revisions of SIPs.

Implementation: In determining the control required of an existing source for attainment and maintenance of the national standards, a State may not take into account the dispersive effects of an increased stack height for which construction commenced after January 31, 1972 except in the following circumstances:

(1) If the source initiated construction of the stack height increase by grading and pouring of concrete prior to February 8, 1974 (the date of the Fifth Circuit Court's decision regarding the use of increased stack heights), with the approval of the State (or authorized governmental subdivision), permanent credit in the SIP control strategy demonstration may be taken for any increase up to 2½ times the height of the facility serviced by the stack.

(2) If the source applies best available control technology (BACT), an unlimited stack height increase may be credited in a control strategy demonstration for attaining and maintaining ambient air quality standards.

(3) If the source cannot apply BACT, but applies reasonably available control technology (RACT), an unlimited stack height increase may be credited in a control strategy demonstration as a temporary measure for attaining and maintaining ambient air quality standards.

C. *New Sources, i.e., Sources Receiving Construction Permits After February 8, 1974.*

Scope: This section addresses the manner in which stack height is considered for sources which received construction permits after February 8, 1974, the date of the Fifth Circuit's decision in *NRDC et al v. EPA*. As such, it applies to sources which have already been or will be subjected to new source review, and also applies to future control strategy demonstrations which consider those sources. The general philosophy of the guideline is that, with the arrival of the Fifth Circuit *NRDC* decision on February 8, 1974, both persons seeking to build new sources and State new source review boards were on notice that any attempt to meet new source review requirements through the use of tall stacks might well conflict with §§ 110(a) (2) (B) and (D) of the Clean Air Act.[1] Accordingly, while the guideline which follows does not attempt to overturn or vitiate already-issued, post-*NRDC v. EPA* construction permits that were predicated upon tall stacks, the guideline does limit the amount of stack height credit that may be assigned to such sources for purposes of later control strategy demonstrations.

By contrast, construction permits issued after the release of this guideline may not be based upon stack height except as indicated below. Nor, except as indicated below, may stack height credit be assigned to such sources for purposes of later control strategy demonstrations.

Implementation: 1. *Sources Receiving Construction permits after February 8, 1974, (the date of the Fifth Circuit decision) and prior to the release of this guideline.*

For purposes of EPA evaluation of state-issued construction and/or operating permits, the source will be credited with whatever stack height it committed to at the time it submitted its construction permit application (as approved) to the State.

For purposes of EPA review of control strategy demonstrations accompanying later Plan revisions:

(1) If the source applied the best available control technology (BACT), there is no restriction on stack height. BACT is as defined in Paragraph III(D) of this guideline.

(2) If the source did not apply BACT, it may be given credit only for a stack height which does not exceed two and one-half times the height of the facility it serves.

(3) If the source cannot apply BACT, but applies reasonable available control technology (RACT), an unlimited stack height increase may be credited in a control strategy demonstration as a temporary measure for attaining and maintaining air quality standards.

2. *Sources Receiving Construction Permits after the release of this notice.*

For purposes of (i) EPA evaluation of State-issued construction and/or operating permits, as well as (ii) EPA review of control strategy demonstrations accompanying later Plan revisions:

(1) If a source applies the best available control technology (BACT), there is no restriction on stack height. BACT is as defined in paragraph III(D) of this guideline.

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[1] Such knowledge can not be imputed to sources not part of the original SIP control strategy and receiving construction permits prior to February 8, 1974. Accordingly, such sources (for all purposes) will be credited with whatever stack height was committed to at the time of State new source review.

(2) If a source does not apply BACT, it may be given credit only for a stack height which does not exceed two and one-half times the height of the facility it serves.

D. *Determination of Best Available Control Technology (BACT)*

For purposes of this guideline, BACT is as defined in 40 CFR 52.01. For source categories subject to New Source Performance Standards (NSPS) as set forth in 40 CFR Part 60, BACT is generally defined to be the same as NSPS. For those sources not subject to NSPS, BACT must be determined on a case-by-case basis and the following must be taken into consideration:

(1) The process, fuels, and raw materials available and to be employed in the facility involved,

(2) The engineering aspects of the application of various types of control techniques which have been adequately demonstrated,

(3) Process and fuel changes,

(4) The respective costs of the application of all such control techniques, process changes, alternative fuels, etc.,

(5) Any applicable State and local emission limitations, and

(6) Locational and siting considerations.

E. *Rationale for Use for Reasonably Available Control Technology (RACT) as a Temporary Measure*

In given instances, the technology envisioned by the BACT concept may be available in a state-of-the-art sense; however, its retrofit onto a specific *existing* source may be extremely onerous for economic reasons or ill-advised for engineering or siting reasons. It is expected that such instances will occur only in the case of a few smelters and some power plants. Nevertheless, where they do occur, particularly where a source is threatened with shutdown, the Agency believes that administrative relief is appropriate. Furthermore, it is the view of the Agency that, if handled responsibly and if restricted to only the most compelling circumstances, a willingness to deal fairly with in-being, unavoidable problems, tends to strengthen, rather than weaken, legal principles such as those expressed by the cases cited above. This is especially true where, as here, the long term goal of the relief measures employed is geared to realization of the principles laid down by the cases.

Accordingly, where a source demonstrates to the State (and the State thereafter demonstrates to EPA) that, as applied to the source, BACT is economically unreasonable or technologically unsound, EPA will approve a control strategy demonstration which, for that source, is based upon reasonably available (as opposed to best available) control technology coupled with unlimited stack height. However, such a control strategy will only be approved as a temporary measure for attaining and maintaining ambient air quality standards and, where appropriate, will be conditioned on the source undertaking a research program to develop new and more economical forms of BACT-caliber technology. As noted in section II, this approach was specifically approved by the Ninth Circuit in *Kennecott Copper Corporation* v. *EPA*.

F. *Determination of Reasonably Available Control Technology*

For the purposes of this guideline, RACT is not necessarily equivalent to the 40 CFR 51, Appendix B definition. RACT becomes a factor only after it has been determined, on a case-by-case basis, that retrofit of BACT on the existing source would be unreasonable. This requires that RACT be determined by considering the processes, fuels, and raw materials to be employed; the engineering aspects of the application of various types of control techniques, process and fuel changes; the cost of employing the available techniques; and the cost of certain control techniques due to plant location, configuration, basic process design and expected remaining life. It is expected that only some smelters and a limited number of coal fired power plants will be able to justify application of RACT in lieu of BACT.

A review of costs of installing flue gas desulfurization (FGD) at existing coal-fired power plants revealed that the remaining life and capacity are major factors determining the reasonableness of an FGD installation. For existing power plants, the following should be considered in determining reasonableness:

(1) If a plant has ten to fifteen years remaining life or less, and is projected to operate at an annual average of no more than 25% capacity, FGD installation might be considered unreasonable.

In such instances, the source owner should provide the anticipated shutdown date, and that date must be included in the compliance schedule.

(2) FGD may be unreasonable due to space limitations.

In the event that it is determined on a case-by-case basis that FGD is not reasonable for a specific power plant, alternate control measures must still be considered. The use of low sulfur coal and coal washing, either separately or in combination, might be appropriate options and acceptable in meeting RACT criteria. The capital as well as operating costs of applying these control techniques are to be taken into account in making the case-by-case determination and, when the cost of using low sulfur coal is not significantly less than the cost of FGD, coal washing alone might be considered RACT. Only after application of whatever measures are determined to be RACT, would the source be able to take any credit for stack height increase.

In the case of existing smelters, BACT will, in most cases, be economically unreasonable and could, in some cases, result in shutdown. Under such circumstances, RACT will usually equate to control of all strong gas streams though properly operated and maintained double contact acid plants (or single contact acid plans where single contact acid plants are already on line). Where increased acid plant capacity is required to treat presently untreated strong gas streams, RACT for such gas streams must be double contact acid plants.

Since RACT involves a decision that is based principally upon economic and engineering considerations, the definition of RACT should be subject to future re-evaluation to determine if more effective control measures would be applicable due to technological advancements or changes in economic conditions. Where the use of RACT has been approved by the State (and EPA), credit for stack height increases associated with RACT would only be permitted as a temporary measure.

G. *Relationship to SCS*

As recognized by all three circuit court decisions discussed above, supplementary control systems, like tall stacks, utilize the dispersive characteristics of the atmosphere to reduce ground level pollutant concentrations. Moreover, since the use of SCS as a means of meeting ambient standards was the specific issue addressed by two of the courts (the Sixth Circuit in *Big Rivers* and the Ninth Circuit in *Kennecott*), the Agency deems it important to include in this notice a guideline specifying when, and the degree to which, SCS may be used as a means of meeting federal ambient standards.

Because of the difficulties associated with enforcement of an SCS program, before granting a source the right to use SCS, the source must agree to assume liability for violations of the national standards in the vicinity of the source. Consequently, SCS will be generally effective only for isolated sources. Moreover, while the implementation of SCS is different from conventional control measures or the use of taller stacks after the application of RACT, it is clear that a stack height increase can be a desirable addition to an approved, temporary SCS especially where the frequency of curtailments could be decreased by use of a taller stack.

There are generally three situations—limited to SO_2 emissions—which permit the application of SCS:

(1) Oil to coal conversions ordered by FEA under the Energy Supply and Environmental Coordination Act—Power plants required to convert to coal are given up to 1979 to install control equipment and/or use fuel which would comply with the SIP. In the interim, ESECA requires that the primary standards be met and an enforceable and reliable SCS can be used to achieve that purpose.

(2) Enforcement Orders—When EPA issues an enforcement order to a source to come into compliance with the SIP, it may be necessary to require the source to apply an SCS for the interim period in order to protect the ambient standards. There would be no precondition that RACT be applied. However, in this case, the source is not relieved from liability under section 304 of the Act, (i.e., would gain no immunity from citizen suit), even if there are no violations of the national standards.

(3) SIP Revision—Under this mechanism, a source can not operate an approved SCS unless a number of conditions are met including installation of RACT.[2]

The stack height provisions in this guideline closely parallel the circumstances in which SCS may be permissible as an SIP revision. Both require, as a minimum, the application of RACT and neither can be used to allow emission increases at a source (except where oil to coal conversion is ordered under ESECA). Each has distinct advantages which would make one or the other, or some combination, the preferred measure in specific situations. The main advantage of employing SCS is that this system forces the source owner to assume liability for any ambient standard violations in a given area surrounding the source. However, for the legal reasons stated above, SCS would always be a temporary solution for existing sources and will not be allowed for new sources.

The restrictions on stack height apply solely to the credit which can be given in assessing the impact of a source on ambient standards. So long as stack height is not used *in lieu of* emission reduction, the Agency encourages tall stacks as a means of further minimizing the effects of emissions on ground level concentrations.

Dated: February 11, 1976.

ROGER STRELOW,
Assistant Administrator
for Air and Waste Management.

[FR Doc.76-4649 Filed 2-17-76;8:45 am]

[2] An example of the conditions to be met may be found in the regulations promulgated for a smelter in Nevada (the smelter that was the subject of the Ninth Circuit's decision in the *Kennecott* case). See 40 FR 5508, February 6, 1975.

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20694, etc.; FCC 76-71]

AMERICAN TELEPHONE AND TELEGRAPH CO. ET AL.

Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

In the matter of American Telephone and Telegraph Co., Hawaiian Telephone Co., ITT World Communications Inc., RCA Global Communications, Inc., Western Union International, Inc., Docket No. 20694, File Nos. P-C-8241, P-C-8241-A, T-C-2441; T-C-2441-A, T-C-2437; T-C-2437-A, T-C-2436; T-C-2436-A; Applications for authority to participate in the construction and operation of an 845 circuit SF submarine cable system between the United States Mainland and Hawaii, American Telephone and Telegraph Co., Hawaiian Telephone Co., ITT World Communication Inc., RCA Global Communications, Inc., Western Union International, Inc., P-C-8479, P-C-8426, T-C-2533, T-C-2530, T-C-2532, Applications for authority to participate in the construction and operation of an 845 circuit SF submarine cable system between Hawaii and Okinawa, via Guam and for authority to acquire on an indefeasible right of user basis, and to operate for a limited period, interest in a Commonwealth TASI-B system between Sydney, Australia and Vancouver, Canada.

1. The Commission is herein considering: (A) A Petition to Defer filed on March 13, 1975 by the American Telephone and Telegraph Company (AT&T) requesting deferral of certain conditions of the Commission's Memorandum Opinion Order and Certificate, released June 15, 1973;[1]

(B) A Motion for Stay filed on March 13, 1975, by AT&T requesting that the Commission stay the effectiveness of certain provisions in its Transpac-2 Order, pending Commission determination of (A) above;

(C) A Petition for Waiver filed by the Hawaiian Telephone Company (HTC) requesting that the Commission waive certain provisions of its Transpac-2 Order;

(D) Letters filed on April 11, and May 23, 1975, by RCA Global Communications, Inc. (RCAGC) requesting a deferment until August 1, 1975, of certain provisions of the Transpac-2 Order.

(E) A joint application filed on March 3, 1975, by the Americam Telephone and Telegraph Company (AT&T), the Hawaiian Telephone Company (HTC), ITT World Communications, Inc. (ITTWC), RCA Global Communications, Inc. (RCAGC) and Western Union International, Inc. (WUI), requesting authority, pursuant to ordering paragraph 14 of the Commission's Transpac-2 Order to expend and invest an additional $39 million in connection with construction of the Hawaii-3/Transpac-2 Cable System.

(F) Temporary authority, granted May 1, 1975, for AT&T, HTC, ITTWC, RCAGC and WUI (the joint applicants) to spend an additional $39 million, upon condition that such expenditure be at the carriers' own risk and is not to be included in any carrier's rate base, pending further Commission Order.

(G) Additional information submitted by AT&T on June 4, October 6, and October 28, 1975.

Background and Pleadings

2. On June 14, 1973, the Commission authorized AT&T, HTC, RCAGC, ITT World Communications, Inc. (ITTWC) and Western Union International, Inc. (WUI) to construct and operate, in conjunction with Kokusai Denshin Denwa Co. Ltd. (KDD) and Overseas Telecommunications Commission (Australia) (OTCA), an 845 circuit SF submarine cable system between California, Hawaii, Guam and Okinawa. Among the principle considerations which warranted the Commission's finding that the public interest, convenience and necessity required the construction of the cable system was the "rate reductions which will be made available to the public upon authorization and installation of these facilities."[2] These expected rate reductions were based upon claims which the carriers made in their applications and associated filings that construction and operation of the cable would result in lower overall revenue requirements for the Pacific basin. Specifically, in a letter addressed to the Secretary of the Commission on November 10, 1972,[3] AT&T stated that:

> Upon approval of the cable project and subject to Commission review and approval of our rate proposals, we will use our best efforts to negotiate rate adjustments which, based on existing call volumes and durations, will result in overall reduction in charges to customers of over 20%.

3. The *AT&T letter* further stated:

> With authority to proceed with the cable project, we will immediately attempt to finalize negotiations with each of our correspondents for reductions effective at the earliest mutually agreeable date. From preliminary discussions we believe agreement could be reached with correspondents that account for at least ⅓ of our traffic beyond Hawaii with resulting reductions effective during 1973. We will continue to negotiate with the balance of the correspondents for these reductions with the objective of implementing them between 1973 and the cable opening.

In order to assure that the representations made by AT&T would come to fruition in the form of rate reductions, the Commission, in Paragraph 50, specifically conditioned its authorization of the cable system on requirements that AT&T:

> (1) File monthly reports on the progress of its negotiations for the estimated rate reductions;
>
> (2) File tariffs implementing such reductions as they were negotiated;
>
> (3) Submit, at least 120 days prior to the date service over the cable is proposed to be instituted to points other than Hawaii, tariff schedules which would implement the aforementioned 20% reduction to all points to which they had not been implemented at an earlier date.

4. None of the rate reductions which AT&T said were attainable has been made. The Commission has received monthly letters from AT&T since September 13, 1973, reporting that no definitive progress has been made on rate reduction negotiations. In its Petition to Defer AT&T now maintains that because of unprecedented inflationary levels its foreign correspondents refuse to accept any rate reductions at this time. Further, AT&T argues that an unilateral reduction is not a viable alternative, since this would produce inefficient traffic handling procedures and potentially double the impact of any reduction on AT&T's revenues.[4] Accordingly, AT&T urges the Commission to defer the effective date of its rate requirement "until such time as economic conditions permit AT&T to negotiate reasonable rate adjustments with its foreign correspondents."[5]

5. HTC, in its Petition for Waiver, requested that the Commission waive its requirement, found in Paragraph 53(a) of the Transpac-2 Order, that HTC file proposed rates for message telephone traffic between Hawaii and foreign points in the Pacific "which are no higher than those filed by carriers providing for like communications services between the Mainland and such other points or file a detailed statement justifying on an actual cost of facilities basis the reasons for proposing higher rates and charges." Like AT&T, HTC bases its request on inflationary impact and the refusal of its correspondents to make a rate reduction.

6. The Transpac-2 Order also required that RCAGC, which provides overseas message telephone service for Guam, comply with the provisions of Paragraph 53. In its letters, RCAGC notes that negotiations with its foreign correspondents looking toward rate reductions have not been fruitful. Furthermore, discussions with AT&T and HTC respecting Guam-Mainland and Guam-Hawaii rates, have been affected by certain uncertainties, specifically the pendency of Commission action on AT&T's and HTC's Petitions.

7. Pursuant to the Ninth Ordering Paragraph of the Transpac-2 Order, the

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[1] 43 FCC 2d 505, hereinafter Transpac-2 Order.

[2] Transpac-2 Order, paragraph 47.

[3] Hereinafter, AT&T letter.

[4] The mismatch between east and westbound rates might encourage customers to place operator-assisted credit card or collect calls from Pacific points to U.S. points and to the extent that westbound calls exceed eastbound calls and westbound revenues exceed eastbound revenues, the impact of a unilateral reduction on AT&T would be magnified.

[5] The Motion for Stay filed by AT&T, requesting a stay of the effectiveness of the Paragraph 50 rate reduction requirement pending Commission determination of the Petition to Defer, is effectively mooted by the Decision herein.

applicants are required to make a showing that they are in compliance with the terms and conditions of the Order before implementing service. Accordingly, we have not authorized activation of circuits in the Transpac-2 Cable, pending determination of the Petitions before us.

8. On October 6, 1975, AT&T submitted additional information which had been requested by Commission letter of September 9, 1975.[6] In that submission, AT&T argues that an unilateral rate reduction would disrupt presently existing service arrangements between AT&T and its foreign correspondents, which are "unique among the nations of the world". Most other nations operate among themselves on a basis of "sender take all", whereas AT&T's service arrangements with its foreign correspondents (with some exceptions) involve a 50–50 division of revenues between AT&T and the foreign correspondent using approximately the same rates in either direction. An unilateral reduction would, according to AT&T, tend to result in widely different rates for eastbound and westbound service; the parties would lose billing and joint engineering advantages; AT&T would violate the service agreements with its correspondents; Americans abroad would complain; dollar outflow would be encouraged; and, service patterns might be disrupted.

9. AT&T also submitted a Long Run Incremental Cost (LRIC) Study for Message Telecommunications Service (MTS) in the Pacific for 1976. This study compares revenues and costs, to determine the effect of rate reductions in the Pacific, and concludes that, if a 20% unilateral reduction were made, costs (including a 12% return) would exceed revenues by $9.1 million in 1976. Without any rate reduction, AT&T concludes that revenues will exceed costs (including a 12% return) in 1976 by $3.2 million.

10. We are also herein considering a related matter. The Commission's Transpac-2 Order authorized, consistent with representations made in the applications for authority to construct that system, the expenditure of $180 million and ordered that the joint applicants not expend sums in excess of that amount without authorization from the Commission. In their application for such authorization the joint applicants estimate that the total cost of the construction of the cable system will be $219 million. However, the joint applicants cannot preclude the possibility that a rate of inflation even higher than presently projected will require further expenditures. Accordingly, they request that the Commission authorize an expenditure of $219 million, plus a "reasonable margin" above that amount. The applicants believe that a variation of 5% over the $39 million (or $1.95 million) would be appropriate.

[6] This submission was amended by letter of October 28, 1975, to reflect some corrections.

DISCUSSION

11. When carriers apply to us for authorization, pursuant to Section 214 of the Communications Act, to construct and operate additional facilities, they are required by Section 63.01 of our Rules and Regulations to provide us with information upon which we can base our determination of whether these additional facilities will be in the public interest. We must rely on those representations in making facilities grants. In the instant case, we were assured that construction and operation of the Transpac-2 Cable System would result in economies which could be reflected in rate reductions to foreign points in the Pacific. AT&T informs us that since its November, 1972 letter, unforeseen circumstances have intervened to make rate reductions impossible to achieve. These unforeseen circumstances include "inflation, the world-wide economic recession, the reduction of United States military presence in the Far-East, the failure of United States-China commerce to materialize as promptly as seemed likely in 1972, the lower rate of forecasted growth resulting from these factors, and the refusal of most of AT&T's foreign correspondents — including Australia and Japan—to make any reductions".[7]

12. In essence, those circumstances according to AT&T are two: the failure of traffic to grow at the rate anticipated by AT&T and the refusal of AT&T's foreign correspondents to make any reductions, both caused, at least in part, by world-wide inflation and economic woes. With regard to AT&T's traffic forecasts, the Commission staff prepared forecasts that were considerably more conservative and, ultimately, more realistic. In fact, we addressed the specific issue of the reasonableness of AT&T's forecast in Paragram 40 of the Transpac-2 Order, in which we said:

> * * * it does appear to us that at least in the 1973–1975 time frame, applicants' estimates are, to say the least, on the high side.

It seems that the failure of traffic to materialize at the rate anticipated by AT&T may be less the result of "unforeseen circumstances" than the result of unfounded optimism or miscalculation, particularly for the 1973–1975 time frame. In any event the rate reductions proposed by AT&T in its November 10, 1972, letter and as required in our Transpac-2 Order were based on the then existing call volumes and durations and not on traffic projections. In fact, AT&T anticipated that reductions would become effective with some of its correspondents in 1973 while others would occur between 1973 and the cable opening. As our Order reflects, we expected that the rate reductions would become effective before the cable opening and would not depend upon whether the staff projection or those of AT&T would ultimately prove more realistic.

[7] AT&T October 6, 1975, submission.

13. With regard to the second of these "unforeseen circumstances", the refusal of AT&T's foreign correspondents to make rate reductions, we cannot as a matter of law accept the implicit assumption that our jurisdiction over a carrier's charges for international services is somehow dependent upon the agreement of its foreign correspondents. Sections 201–205 of the Communications Act require that all charges of United States carriers for international services shall be just and reasonable. Our authority to prescribe just and reasonable charges for international services within our jurisdiction is not circumscribed by the fact that foreign entities not subject to our jurisdiction may continue to have different charges. We cannot permit U.S. carriers to have rates which are not cost justified or which are otherwise contrary to valid Commission orders even in those circumstances where the U.S. carriers' foreign correspondents choose not to adjust their charges for reasons of their own. It was our expectation, based on AT&T's representations, that the required rate reduction would be bilateral. We would hope that AT&T will continue to make every effort to negotiate bilateral reductions and that these negotiations will be successful.[8] *But we do not consider* agreement on bilateral rate reductions to be an essential prerequisite to rate reductions to which U.S. rate payers are entitled.

14. AT&T maintains that the institution of an unilateral rate reduction made necessary by the refusal of its foreign correspondents to effect a bilateral rate reduction, is inappropriate for policy reasons. In addition, AT&T claims in its LRIC study that if the required 20 percent reduction were made, rate levels in the Pacific Basin would be noncompensatory. With regard to the first argument, we are not convinced that there are sufficiently strong policy considerations which would militate against an unilateral reduction. AT&T argues that an unilateral rate reduction could lead to an abandonment of the Service Agreement approach and development of a "sender-take-all" settlement. AT&T contends that the Service Agreement arrangement has permitted it to have a "major influence" on the rate level for overseas service in both directions. In the instant case, however, we fail to see evidence of such influence. To the contrary, AT&T sems to have been unsuccessful in influencing its correspondents to institute the rate reductions to which AT&T committed itself and about which it expressed confidence as to its correspondent's acquiescene. AT&T's argument that the parties would tend to lose the advantages of joint engineering and planning efforts is not persuasive since AT&T has not shown how those efforts

[8] In the case of Korea and Singapore AT&T has succeeded in negotiating bilateral reductions, however it does not appear that a 20% reduction in rates will result as required by our Order.

would be affected by an unilateral rate reduction. With regard to AT&T's argument that an unilateral reduction may cause some inconvenience to Americans abroad (e.g. correspondent's refusal to handle collect or credit card calls), we believe that any such inconvenience would be more than offset by the advantages of lower rates to the many more Americans at home.

15. AT&T further argues that an unilateral rate reduction may mean that AT&T must accept less than half the revenues for providing half the service.[9] While this would be an undersirable occurance, the disadvantages accuring therefrom appear to be outweighed by the advantages of a rate reduction. AT&T's contention that an unilateral rate reduction would tend to encourage dollar outflow from the United States does not present an overriding policy consideration since it has not been shown that the amounts involved would have any measurable impact on U.S. balance of payments. Moreover, we are not convinced that it would be necessarily contrary to the public interest if AT&T were to change from its unique arrangements to the "sender-take-all" approach followed by the foreign correspondents among themselves. In summary, we are not persuaded by AT&T's arguments that there are sufficient policy reasons, based upon the disadvantages of a unilateral rate reduction, to warrant a waiver of the rate conditions in our Transpac-2 Order.

16. AT&T contends that the economic aspect of its two-fold argument, that rate levels in the Pacific would be noncompensatory if a 20% rate reduction were instituted, is supported by its Long Run Incremental Cost Study. However, we are not persuaded on the basis of the LRIC Study that the rate reduction would be necessarily inappropriate. First, we note that the study is based on assumptions which are speculative or subject to uncertainties. For instance, AT&T's estimated costs, and hence, revenues were based, in part, on the prevailing monthly lease costs for satellite circuits. However, our recently released decision in the Comsat Rate Case will have the effect of significantly lowering the lease costs of satellite circuits.[10] Another questionable assumption made by AT&T is the use of a 12 percent return factor. At present AT&T is allowed an overall 9.5–10 percent rate of return. The LRIC Study does not support or explain the choice of a 12 percent return in the Pacific Basin. Moreover, the LRIC Study presents a cost/revenue comparison limited to one year—1976.[11] AT&T did not submit a fully-allocated cost of service study indicating either prospectively or retrospectively the earnings level experienced in the past or projected for the future. A longer range analysis would have considered the effect a rate reduction may have on traffic volumes or revenues in future years. The year 1976 may not be representative since the LRIC Study shows that a major portion of annual costs for that year is attributable to the recently completed cable system (Hawaii-3 and Transpac-2). A prospective analysis, taking into consideration increasing traffic volumes, should improve AT&T's cost/revenue comparison. Further, the LRIC Study attempts to substantiate AT&T's Petition to Defer by showing that a 10% or 20% reduction would result in a negative contribution (to costs) of $1.4 and $9.1 million respectively in 1976. However, the questionable 12% return is included in the annual costs before making the cost/revenue comparison to determine contribution. Therefore, the study also shows, that, without any rate reduction, AT&T's Pacific Basin services will make a contribution to other services of $3.2 million above the 12% return included in its annual costs. Without specifically questioning the costs attributed to the Domestic Switched Network and Traffic Operations, we do not find that the study shows that any loss of revenue to AT&T resulting from the required rate reduction would be of sufficient magnitude to adversely affect its overall revenue requirements.

17. In sum, we do not find AT&T's two fold argument regarding policy considerations and Pacific rate levels sufficiently persuasive to warrant a grant of its Petition. The Petition of HTC relies upon that of AT&T for its justification and is therefore also not persuasive. However, we do recognize that there are significant uncertainties presently inherent in the question of Pacific rates, for example, the effect of our Decision in the Comsat Rate Case. It seems to us that the most appropriate course would be to institute an investigation on the issue of just and reasonable rates in the Pacific area. Such an investigation is precipitated by the Petitions before us and would result in their final determination. We shall therefore set the Petitions and the issues raised therein for hearing. Pending the outcome of that hearing, we shall permit the current rates to remain in effect. However, we are concerned that the benefits of any rate reductions made as a result of our Transpac-2 Order and this hearing inure to the rate payer. Therefore, we shall waive the requirements of the Ninth Ordering Paragraph of our Transpac-2 Order to the extent necessary to grant authority to activate this Cable System only upon condition that AT&T and HTC keep account of all revenues derived from their applicable Pacific services and segregate those revenues in a separate account for possible refund as determined at the outcome of the hearing, and that they file informational tariffs which would, if adopted, implement a 20% rate reduction.

18. With specific regard to the question of telephone and record rates for Guam, the Commission's Transpac-2 Order requires the submission of new tariffs for service between Guam and foreign points in the Pacific. RCAGC has not submitted such tariffs, because of the "negative reaction" of its foreign correspondents. As pointed out above, we do not consider the agreement of foreign correspondents an essential prerequisite to rate reductions. However, we shall include the issue of the just and reasonable rates for service between Guam and foreign points in the investigation instituted herein. With regard to telephone rates between Mainland and Guam, which are completely under the control of U.S. carriers, the arguments regarding the policy reasons against an unilateral rate reduction do not apply. Also, neither AT&T nor RCAGC have requested specific relief regarding the Mainland-Guam rate reductions required by our Transpac-2 Order. We will therefore require that appropriate tariffs reflecting the required rate reductions for message telephone service between the Mainland and Guam become effective before the activation of any circuitry for Mainland-Guam use. Our Transpac-2 Order did not require a specific level of rate reductions in Guam-Hawaii telephone and record rates or Mainland-Guam record rates, however we believe that the issue of whether the existing rates are just and reasonable, in light of the new cable, is properly includible in the hearing we are instituting herein.

19. In part the "unforeseen circumstances" which AT&T argues have intervened to make the 20 percent reduction impossible to achieve include the recent high inflation rate. We have before us the related matter of the request, by the Cable System owners, to spend an additional $39 million (plus a "reasonable margin") on construction. This request is also based on the recent high inflation rate. While we take official notice of recent inflationary trends, we also note that overruns are not unusual in con-

[9] AT&T states that an unilateral rate reduction of 20% would change the Service Agreement settlement arrangements from 50/50 to 56/44, assuming eastbound and westbound revenues were the same.

[10] Decision, Docket 16070, released December 4, 1975, FCC 75–1304.

[11] See table below:

Pacific—Revenue—Cost Comparison—Year 1976 (millions)

	Assumed rate change		
	Zero	−10 percent	−20 percent
Estimated revenues	$90.5	$88.0	$81.7
Estimated annual costs	87.3	89.4	90.8
Contribution	3.2	(1.4)	(9.1)

struction projects of the magnitude of the Hawaii-3/Transpac-2 Cable System. Without a formal proceeding to determine whether the $39 million overrun could have been foreseen we are reluctant to allow the owners of the system to include that amount in their respective rate bases.[13] Therefore, we shall include that issue in the proceeding which we are instituting herein.

20. Accordingly, in view of the foregoing: *It is hereby ordered,* Pursuant to sections 4(i), 201, 205(a), 214, and 403 of the Communications Act of 1934, that

(A) The Petitions and requests for deferment filed by the American Telephone and Telegraph Company, the Hawaiian Telephone Company and RCA Global Communications, Inc. and the joint application for authority to expend and invest an additional $39 million in the Transpac-2 Cable System filed by AT&T, HTC, RCAGC, ITT World Communications Inc., and Western Union International, are designated for hearing at the offices of the Commission in Washington, D.C., for the purpose of determining:

(1) What are the just and reasonable rates to be charged for telecommunications services between United States points in the Pacific (excluding Mainland-Hawaii) and between United States points and foreign Pacific points?

(2) Whether an additional $39 million expenditure in the construction of the Transpac-2 Cable System was reasonable and whether that additonal expenditure is includible in the owners rate bases.

21. *It is further ordered,* That other issues and procedures to be followed will be delineated by further order of the Commission.

22. *It is further ordered,* That service may be implemented over the Transpac-2 Cable pursuant to subsequent Commission Orders, which orders shall require that AT&T and HTC keep accurate account of all amounts received from their applicable message telephone service from the Mainland to foreign Pacific points and from Hawaii to foreign Pacific points respectively, and shall segregate such amounts. AT&T and HTC shall file informational tariffs which, if adopted, would implement a 20% rate reduction. At the completion of the hearing ordered herein the Commission may by further order, require those carriers to refund, with interest, such portion of any amounts found not justified.

23. *It is further ordered,* That the carriers shall comply with the requirements of Paragraph 18 herein.

Adopted: January 28, 1976.

Released: February 9, 1976.

FEDERAL COMMUNICATIONS COMMISSION,[14]

[SEAL] VINCENT J. MULLINS, *Secretary.*

[FR Doc.76-4567 Filed 2-17-76;8:45 am]

[13] By temporary authority of May 1, 1975, we authorized the owners to expend that amount in order to complete construction of the system, however we did not allow the owners to include that amount in their rate bases pending further Commission Order.

[14] Commissioner Washburn issuing a separate statement, which is filed as part of the original document.

BADLANDS BROADCASTING CO. AND ROUGHRIDER BROADCASTING CO.

[Docket Nos. 20691; 20692; File No. BP-19545; BP-19735; FCC 76-63]

Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

In re Applications of Badlands Broadcasting Company, Dickinson, North Dakota; Requests: 1460 kHz, 5 kW, DA-N, U. Roughrider Broadcasting Co., Dickinson, North Dakota; Requests: 1460 kHz, 5 kW, DA-N, U. For Construction Permits.

1. The Commission has for consideration the above-captioned and described mutually exclusive applications; a petition to deny the application of Badlands Broadcasting Company [Badlands] filed by the Dickinson Broadcasting Corporation [KDIX], licensee of stations KDIX (AM) and KDIX-TV, Dickinson, North Dakota; the applicant's opposition and supplement; and KDIX's reply.

2. KDIX claims standing as a party in interest to request the denial of the Badlands application as the licensee of the existing standard broadcast station in Dickinson, citing Federal Communications Commission v. Sanders Brothers Radio Station, 309 U.S. 470, 9 RR 2008 (1940). Badlands argues that KDIX has not alleged or claimed economic injury and that the Commission should deny standing where the only local station seeks to preserve a monopoly. It is a well settled principal beyond any serious dispute that an existing station is a party in interest with standing to oppose the application of a prospective competitor proposing a new standard broadcast station. Cf. Marvin C. Hanz, 17 RR 2d 853, 857 (1969). (Not reported in FCC Reports.) Accordingly, the Commission finds that KDIX has standing to oppose Badlands' application.

3. KDIX contends, in substance, that Badlands' ascertainment of community problems was not in accordance with the Commission's requirements,[1] that Badlands is not financially qualified; that the proposed staff is inadequate; that there was no reasonable assurance that the transmitter site first proposed was available; and that the grounds advanced in support of Badlands' request for waiver of § 73.24(g) of the rules [2] do not justify a waiver.

4. In criticizing Badlands' ascertainment of community problems KDIX alleges that Badlands' showing with respect to the composition of the community was inadequate and that particular groups and interests were ignored in that Badlands failed to consult leaders of significant community groups. KDIX also charges that interviews with some of the leaders contacted by Badlands were deficient and that some claimed contacts did not occur.

5. Since the filing of the KDIX petition, Badlands has submitted a number of amendments which provide evidence that Badlands has informed itself of the composition of Dickinson and other portions of its proposed service area, has conducted interviews with a cross section of community leaders and members of the general public and has proposed various program features which will be responsive to the community problems as ascertained.

6. Examination of the KDIX charges concerning certain interviews claimed to have been conducted by Badlands and the applicant's response discloses a now familiar pattern. Applicants for broadcast authorization are required, in the preparation of an application, to conduct interviews for the purpose of ascertaining community problems. Primer, note 1, supra. An applicant is required to include in its application a list of the persons interviewed. As is not infrequently the case, a licensee of an existing station will secure a list of the names which an applicant has filed with the Commission. The licensee will then, in an apparent effort to forestall competition, retrace some of the applicant's steps in the apparent hope to secure statements from some of those interviewed that might reflect adversely on the applicant. This procedure appears to have been followed in Dickinson. KDIX secured statements from several individuals who either claimed they did not recall having been interviewed or that they were not interviewed. Others made statements which appeared to indicate that they had been interviewed but that, to use KDIX's description, the interviews were "grossly deficient."

7. To respond to the KDIX charges, Courtney L. Flatau, Barlands' president, again called on all but one of those individuals who, after being queried by KDIX, had stated that they did not recall an interview, or that they had not been interviewed, or that the interviews conducted were "deficient." The person whom Mr. Flatau was not able to recontact was a former U.S. Navy Recruiter in Dickinson, Myron Hovland. Mr. Hovland did not sign a statement for KDIX but stated to a KDIX principal that someone whom Hovland did not know had asked how serious the drug problem was in Dickinson. Before KDIX reduced Hovland's statement to writing for his signature, Mr. Hovland was transferred to sea duty in the Pacific. Thereafter, Mr. Flatau was unable to meet with Hovland, but the discussion between Flatau and Hovland took place in the presence of a Mr. Donald E. Heffner, the U.S. Army Recruiter in Dickinson. Mr. Heffner signed a statement indicating that the discussion between Flatau and Hovland considered the local drug problem at some length.

8. In conducting his survey, Mr. Flatau followed a practice which proved to be fortunate for Badlands. Mr. Flatau used what he describes as interview forms. Near the top of each form is the fol-

[1] *Primer on Ascertainment of Community Problems by Broadcast Applicants,* 36 FR 4092, 27 FCC 2d 650, 21 RR 2d 1507 (1971).

[2] Section 73.24(g) requires a satisfactory showing that the population within the 1 V/m contour does not exceed 1.0 percent of the population within the 25 mV/m contour. Alternatively, if the number of persons within the 1 V/m contour is 300 or less, the one-percent provision is not applicable.

lowing: "Question: What is the most important or pressing problem in the community today?" At the bottom of the form are blanks for the name of the person interviewed, organizations with which the person is affiliated and the person's address. Between the top and bottom of the form is ample space in which Mr. Flatau made notes of the interviews. When Mr. Flatau completed each discussion, he requested the person with whom he had spoken to sign the form. Following KDIX's charges, Mr. Flatau reinterviewed all but one of those individuals as indicated above and ascertained that those persons recalled that they had been interviewed and acknowledged their signatures. Mr. Flatau also supplied evidence that the interviews had not been very brief or "grossly inadequate" as alleged by KDIX but had been adequate for Mr. Flatau's purpose. In its reply KDIX concedes that the persons in question have apparently recalled either some contact by Badlands and certain substantive elements of the interviews. The Commission finds that Mr. Flatau's description of his efforts resolves the charges made by KDIX.

9. With respect to the allegations concerning the adequacy of Badlands' proposed staff, KDIX concedes that, in light of Badlands opposition and related amendments, the question can be decided on the basis of the pleadings and data now on file. Badlands proposes a staff of six fulltime and one parttime employees. In addition, services as needed will be provided by Badlands' president and another principal. Badlands has provided descriptions of the duties of each proposed employee which adequately support Badlands' representations that the proposed station can be operated as proposed. In any event, Badlands' staffing plans are not, on their face, incapable of effectuation. Therefore, no question of the adequacy of its staff arises. United Broadcast Industries, Inc., 49 FCC 2d 313, 31 RR 2d 958 (1974).

10. In its petition, KDIX criticizes Badlands' financial proposal in some detail. In the KDIX reply following Badlands' opposition and an amendment, KDIX continues to press various contentions which, according to KDIX, demonstrate that Badlands is not financially qualified. KDIX claims that Mrs. Margurite E. Kleven, originally proposed as a 50-percent stockholder and Mr. Leslie J. Kleven, her husband, who is not proposed as a Badlands principal, did not answer a question previously raised by KDIX as to whether Mr. and Mrs. Kleven had sufficient income to assure that the proceeds from a mortgage loan to Mr. Kleven were available to meet Mrs. Kleven's commitment to Badlands. KDIX also continues to press the question of the effect to Mr. Kleven's financial commitments in connection with applications for a new standard broadcast station in Milbank, South Dakota, and television stations in Rapid City and Lead, South Dakota.

11. Since KDIX filed its reply, the Badlands application has been amended to show that Mrs. Kleven no longer proposes to become a 50-percent stockholder. The interest she now proposes to acquire is only 20 percent. For the purpose of meeting Mrs. Kleven's commitment, there is evidence of the availability of a loan from a banking institution. With respect to Mr. Kleven's commitment in connection with applications for construction permits for television broadcast stations in Rapid City and Lead, South Dakota, those applications have been dismissed. Therefore, Mr. Kleven's commitments for those proposals are no longer relevant. With respect to Mr. Kleven's commitment in connection with an application for a new standard broadcast station in Milbank, South Dakota, that application was granted on July 25, 1974. The station has been constructed, call letters KMSD have been assigned, and the station is now in operation. There is no evidence that Mr. Kleven's commitment in connection with KMSD has any relation to Mrs. Kleven's commitment to the proposed Dickinson station.

12. A single aspect of Badlands' financial showing appears to require some clarification. KDIX draws attention to an offer of an equipment supplier dated October 5, 1973, to lease equipment to Badlands for a period of five years. The total amount for the lease is said to be $75,000. However, the offer also states that 60 monthly payments will be required, and the total amount of these monthly payments is in excess of $126,000. KDIX concedes that the first-year equipment payments will total $27,490 as reflected in an amendment filed by Badlands. According to the Commission's calculation, first-year payment will be nearer $30,000 since, in addition to the monthly payments, the first and last payments will come due during the first year. It may be that the funds available in the total amount in excess of $140,000 will be sufficient to cover approximately $138,000 for construction and initial operating costs, but, in view of the fact that the lease offer is over two years old and its terms are not entirely clear, there appears to be no alternative but to specify a limited issue to permit Badlands to clarify its financial proposal.

13. In a footnote in its petition, KDIX contends that it would appear that the present and prospective holdings of Mr. Kleven in broadcast stations present a threshold question of undue concentration of control of broadcast facilities in the Western Dakotas. As previously indicated, Mr. Kleven is not a Badlands principal. As also previously noted, Mr. Kleven's proposals to acquire interests in television stations in Rapid City and Lead have been dismissed. Mr. Kleven has a 72.91-percent interest in KBHB (AM) and KBHB–FM in Sturgis, South Dakota. Mrs. Kleven also has an interest in the Sturgis stations of 19.7 percent. There is no area common to the KBHB service area and the service area of the proposed Dickinson station. In fact, the two cities are approximately 170 miles apart. The Commission perceives no undue concentration under these circumstances.

14. The question of the availability of the original site proposed involved a dispute over the possibility of Badlands securing a conditional use permit to construct at that site. Badlands originally requested a waiver of § 73.24(g) (note 2 supra) essentially on the basis of the contention that there was no other site available. In arguing that other sites were available, KDIX submitted evidence that there are other possible sites. Apparently, Badlands secured one of the sites suggested by KDIX and has amended its application to specify a site other than the one originally proposed. There appears to be no question of the availability of the site now proposed, and that site does not require a waiver of § 73.24(g).

15. Examination of the application of the Roughrider Broadcasting Co., indicates that, in the exhibits describing its efforts to ascertain community problems, the applicant has not included an adequate description of the composition of the community and has failed to submit data to indicate the minority, racial or ethnic breakdown of the community. Therefore, Roughrider's showing is not in accordance with the Commission's requirements. See Primer, note 1, supra, Questions and Answers 4 and 10. Accordingly, an appropriate issue will be specified.

16. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

17. *Accordingly, it is ordered,* That the petition to deny the application of the Badlands Broadcasting Company filed by the Dickinson Broadcasting Corporation is granted to the extent indicated and is denied in all other respects, and that, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications of the Badlands Broadcasting Company and the Roughrider Broadcasting Co., are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the precise terms of the equipment lease proposal and, in the light thereof, whether the Badlands Broadcasting Company has available funds to construct and operate the proposed station for the first year.

2. To determine the efforts made by the Roughrider Broadcasting Co., to ascertain the community problems of the area to be served and the means by which the applicant proposes to meet those problems.

3. To determine which of the proposals would better serve the public interest.

4. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which, if either, of the applications should be granted.

18. *It is further ordered,* That the Dickinson Broadcasting Corporation, licensee of stations KDIX(AM) and KDIX–TV, is made a party to the proceeding.

19. *It is further ordered,* That, to avail themselves of the opportunity to be

heard, the applicants and party respondent herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

20. *It is further ordered*, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: January 27, 1976.

Released: February 6, 1976.

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

[FR Doc.76-4573 Filed 2-17-76;8:45 am]

[Report No. 792]

COMMON CARRIER SERVICES INFORMATION

Applications Accepted for Filing

FEBRUARY 9, 1976.

The applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications, if upon further examination, it is determined they are defective and not in conformance with the Commission's rules and regulations or its policies.

Final action will not be taken on any of these applications earlier than 31 days following the date of this notice, except for radio applications not requiring a 30 day notice period (see § 309(c) of the Communications Act of 1934) or as otherwise noted. Unless specified to the contrary, comments or petitions may be filed concerning any of these applications within 30 days of the date of this notice.

In order for an application filed under Part 21 of the Commission's Rules (Domestic Public Radio Services) to be considered mutually exclusive with any other such application appearing herein, it must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which the subsequent application is in conflict) as having been accepted for filing. In common carrier radio services other than those listed under Part 21, the cut-off date for filing a mutually exclusive application is the close of business one business day preceding the day on which the previously filed application is designated for hearing. With limited exceptions, an application which is subsequently amended by a major change will be considered as a newly filed application for purposes of the cut-off rule. (See § 1.227(b)(3) and 21.30(b) of the Commission's Rules.)

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

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

21303-CD-P-76, Mobilphone-Paging Radio Corporation (KRS653). C.P. for additional facilities to operate on 75., 86 MHz, control, at Loc. #1: Falmouth Street, 300 yds from Ashby Street, Johnston, Rhode Island.

21304-CD-P-76, KanOkla Telephone Association, Inc. (New). C.P. for a new station to operate on 152.57 MHz to be located 1585 feet South of Hwy. 11 & 200 feet West of N-S township road running through center of Capron, Oklahoma.

21305-CD-P-76, KanOkla Telephone Association, Inc. (New). C.P. for a new station to operate on 152.69 MHz to be located ½ distance between Manchester, Oklahoma, and Spring, Kansas, within the state of Kansas.

21306-CD-P-76, Empire Paging Corporation (New). C.P. for a new 1-way developmental station to operate on 459.675 MHz to be located at World Trade Center, New York, New York.

21307-CD-P-(3)-76, James D. & Lawrence D. Garvey dba Radiofone (KLF616). C.P. for additional facilities to operate on 152.24 MHz at (3) new sites described as: Loc. #3: NE corner of St. Landry Street & Lowe Davis Road, Covington, Louisiana; Loc. #4: North side State Highway #44, Dutch Bayou, Louisiana; and Loc. #5: 52 Rigolets Road, Slidell, Louisiana.

21308-CD-P-76, Radio Broadcasting Company (New). C.P. for a new 1-way station to operate on 158.70 MHz to be located 4 miles NW of Malvern, Bacton Hill, Pennsylvania.

21309-CD-P-76, Radio Broadcasting Company (New). C.P. for a new 1-way station to operate on 158.70 MHz to be located at 95 Broad Street, Doylestown, Pennsylvania.

21310-CD-AP-76, Harry L. Brock, Jr. and Francis I. Lambert dba Advanced Communications Company. Consent to Assignment of CP from Advanced Communications Company, Assignor, to Advanced Radio Communications Company, Assignee. Station: KUO649, Washington, D.C., and Alexandria, Virginia.

Major Amendments

20011-CD-P-(7)-76, Imperial Communications Corporation, San Diego, California, has amended their microwave control frequency at San Miguel Mountain to 2120.3 MHz. All other particulars to remain as reported on PN #762 dated July 14, 1975.

20015-CD-P-(6)-76, Imperial Communications Corporation, to show the use of 2120.3 MHz as the control frequency at Loc. #2, San Miguel Mountain, San Diego, California. All other particulars to remain as reported on PN #762 dated July 14, 1975.

20081-CD-P-(8)-76, Imperial Communications Corporation, to show the use of 2170.6 MHz as the repeater frequency at Loc. #4, Mt. Woodson, San Diego, California. All other particulars to remain as reported on PN #763 dated July 21, 1975.

Corrections

21211-CD-AP/AL-(5)-76, W. L. & R. L. Meadow dba Jacksonville Radio Dispatch Service. Correct entry to include Station KTS2 253, Jacksonville, Florida. All other particulars to remain as reported on PN #789 dated January 26, 1976.

21268-CD-MP-76, Gulf Mobilphone Alabama, Inc. (KWH322). Correct file number to read 21268-CD-MP-(2)-76 and entry to include modification of CP to relocate facilities operating on 454.225 MHz at Loc. #2: Winona Road, 1 mile South of Graysville, Alabama. All other particulars to remain as reported on PN #791 dated February 2, 1975.

21271-CD-P-76, Radio Enterprises of Ohio, Inc. Correct call sign to read KUS280 instead of KUS288 and include: change antenna system operating on 35.22 MHz at Loc. #2: 84 North State Street, Painesville, Ohio. All other particulars to remain as reported on PN # 791 dated February 2, 1976.

60265-CR-P-76, Southwestern Bell Telephone Company (New). C.P. for a new rural subscribed station to operate on 157.98 MHz to be located 55 miles NW of Laredo, Texas.

60266-CR-P-76, The Mountain States Telephone & Telegraph Company (KOQ76). C.P. to replace transmitter, change antenna system, and change frequency from 152.81 MHz to 454.500 MHz located 1 mile SE of Prescott, Arizona.

60267-CR-P-76, The Mountain States Telephone & Telegraph Company (KPY76). C.P. to replace transmitter, change antenna system and change frequency from 158.07 MHz to 459.500 MHz located at Spider Ranch 20.3 miles NW of Prescott, Arizona.

POINT-TO-POINT MICROWAVE RADIO SERVICE:

1671-CF-P-76, Southwestern Bell Telephone Company, (WOF69), 4.75 miles NE of Florence, Texas. Lat. 30°52'44" N., Long. 97°43'27" W. C.P. to add a point of communication on frequency 4190H MHz toward Moody, Texas on azimuth 38.5°.

1672-CF-P-76, Same, (KLU96), 2.5 miles NE of Moody, Texas. Lat. 31°19'08" N., Long. 97°19'00" W. C.P. to add a point of communication on frequency 4198H MHz toward Florence, Texas on azimuth 218.7°.

1686-CF-P-76, Wisconsin Telephone Company (WDE40), 122 West Main Street, Madison, Wisconsin. Lat. 43°04'22" N., Long. 89°23'05" W. C.P. to add frequencies 11015V 10855V MHz toward Waunakee, Wisconsin on azimuth 351.8°.

1687-CF-P-76, Same (WDE41), 4 miles NNE of Waunakee, Wisconsin. Lat. 43°15'20" N., Long. 89°25'14" W. C.P. to add frequencies 11625V 11465V MHz toward Madison, Wisconsin on azimuth 171.8°, and 11625V 11465V MHz toward Poynette, Wisconsin on azimuth 17.5°.

1688-CF-P-76, Same (WSL73), 1.5 miles east of Poynette, Wisconsin. Lat. 43°23'13" N., Long. 89°21'49" W. C.P. to add frequencies 11015V 10855V MHz toward Waunakee, Wisconsin on azimuth 197.6°, and 10735V 10895V MHz toward a new station at Owens Park, Wisconsin on azimuth 293.5°.

1689-CF-P-76, Same. (New), Owens Park, 7 miles East of Baraboo, Wisconsin. Lat. 43°27'16" N., Long. 89°34'39" W. C.P. for a new station on frequencies 11425V 11585V MHz toward Poynette, Wisconsin on azimuth 113.3°, and 11425V 11585V MHz toward a new station at V/O Baraboo, Wisconsin on azimuth 288.0°.

1690-CF-P-76, Same, (New), V/O Baraboo, 3 miles NW of Baraboo, Wisconsin. Lat. 43°30'44" N., Long. 89°49'21" W. C.P. for a new station on frequencies 10735V 10895V MHz toward a new station at Owens Park, Wisconsin on azimuth 107.9°, and 11015V

10855V MHz toward a new station at Seamans, Wisconsin on azimuth 315.2°.

1691–CF–P–76, Same, (New), Seamans, Cth K, 7 miles North of Reedsburg, Wisconsin. Lat. 43°38'36" N., Long. 90°00'07" W. C.P. for a new station on frequencies 11625V 11465V MHz toward a new station at V/O Baraboo, Wisconsin on azimuth 135.1°, and 11625V 11465V MHz toward a new station at V/O Mauston, Wisconsin on azimuth 320.9°.

1692–CF–P–76, Same, (New), V/O Mauston, 3.9 miles West of Mauston, Wisconsin. Lat. 43°46'50" N., Long. 90°09'22" W. C.P. for a new station on frequencies 11015V 10855V MHz toward a new station at Seamans, Wisconsin on azimuth 140.8°, and 10735V 10895V toward a new station at Camp Douglas, Wisconsin on azimuth 324.3°.

1693–CF–P–76, Same, (New), 1 mile SW of Camp Douglas, Wisconsin. Lat. 43°54'42" N., Long. 90°17'11" W. C.P. for a new station on frequencies 11425V 11585V MHz toward a new station at V/O Mauston, Wisconsin on azimuth 144.2°, and 11425V 11585V MHz toward a new station at V/O Tomah, Wisconsin on azimuth 315.3°.

1694–CF–P–76, Wisconsin Telephone Company, (New), V/O Tomah, 3.5 miles NE of Tomah, Wisconsin. Lat. 44°01'46" N., Long. 90°26'53" W. C.P. for a new station on frequencies 10735V 10895V MHz toward a new station at Camp Douglas, Wisconsin on azimuth 135.2°, and 11015V 10855V MHz toward a new station at Paradise, Wisconsin on azimuth 311.4°.

1695–CF–P–76, Same, (New), Paradise, 4 miles West of Warrens, Wisconsin. Lat. 44°06'55" N., Long. 90°34'59" W. C.P. for a new station on frequencies 11625V 11465V MHz toward a new station at V/O Tomah, Wisconsin on azimuth 131.4°, and 11625V 11465V MHz toward a new station at Shamrock, Wisconsin on azimuth 290.8°.

1696–CF–P–76, Same, (New), 1.3 miles NW of Shamrock, Wisconsin. Lat. 44°10'49" N., Long. 90°49'20" W. C.P. for a new station on frequencies 11015V 10855V MHz toward a new station at Paradise, Wisconsin on azimuth 10.6°, and 10735V 10895V MHz toward a new station at Rose Hill, Wisconsin on azimuth 314.9°.

1697–CF–P–76, Same, (New), Rose Hill, 4.8 miles South of Hixton, Wisconsin. Lat. 44°18'35" N., Long. 91°00'11" W. C.P. for a new station at Shamrock, Wisconsin on azimuth 134.8°, and 11425V 11585V MHz toward Pigeon Falls, Wisconsin on azimuth 310.2°.

1698–CF–P–76, Same, (KSP20), 1.1 miles ESE of Pigeon Falls, Wisconsin. Lat. 44°25'21" N., Long. 90°11'22" W. C.P. to add frequencies 10735V 10895V MHz toward a new station at Rose Hill, Wisconsin on azimuth 130.1°; change frequencies 10755V 10995H MHz to 11015V 10855V MHz toward Strum, Wisconsin on azimuth 308.1°, replace transmitters and increase power ouput, modify and replace antennas.

1699–CF–P–76, Same, (KSO99), 1.5 miles South of Strum, Wisconsin. Lat. 44°31'47" N., Long. 91°22'50" W. C.P. to change frequencies 11445H 11685V MHz to 11385V 11545V MHz toward Pigeon Falls, Wisconsin on azimuth 128.0°; change 11405V 11645H MHz to 11385V 11545V MHz toward Cleghorn, Wisconsin on azimuth 384.4°; modify antennas, replace transmitters and increase power output on these frequencies.

1700–CF–P–76, Same, (KS098), 0.75 mile North of Cleghorn, Wisconsin. Lat. 44°41' 37" N., Long. 91°25'40" W. C.P. to change frequencies 10715H 10955V MHz to 11015V 10855V MHz toward Strum, Wisconsin on azimuth 168.3°; change 10755H 10995V MHz to 10735V 10895V MHz toward Eau Claire, Wisconsin on azimuth 337.3°; modify antennas, replace transmitters and increase power output on these frequencies.

1701–CF–P–76, Same, (KS097), 304 South Dewey Street, Eau Claire, Wisconsin. Lat. 44°48'41" N., Long. 91°29'49" W. C.P. to change frequencies 11445V 11685H MHz to 11425V 11585V MHz toward Cleghorn, Wisconsin on azimuth 157.3°; modify antennas, replace transmitters and increase power output for these frequencies.

1637–CF–P–76, United Telephone Company of the West, (KAB87), 2802 Avenue "D", Scottsbluff, Nebraska. Lat. 41°52'27" N., Long. 103°40'50" W. C.P. to replace transmitters and increase power output for frequencies 6182.4V 6301.0V MHz toward Mitchell, Nebraska on azimuth 302.8°.

1638–CF–P–76, Same, (KZS49), 1369 Center Avenue, Mitchell, Nebraska. Lat. 41°56'28" N., Long. 103°48'29" W. C.P. to replace transmitters and increase power output for frequencies 5930.4V 6049.0V MHz toward Scottsbluff, Nebraska on azimuth 122.7°.

1718–CF–P–76, General Telephone Company of Pennsylvania, (New), 131 West North Street, Erie, Pennsylvania. Lat. 42°07'31" N., Long. 80°05'10" W. C.P. for a new station on frequency 11665V MHz toward a new sttaion at McKean, Pennsylvania on azimuth 5.0°.

1719–CF–P–76, Same, (New), 2 miles East of McKean, Pennsylvania. Lat. 41°59'39" N., Long. 80°06'07" W. C.P. for a new station on frequencies 10775V MHz toward a new station at Erie, Pennsylvania on azimuth 185.0°, and 10775V MHz toward a new station at Girard, Pennsylvania on azimuth 92.7°.

1720–CF–P–76, Same, (New), 31 South Park Row, Girard, Pennsylvania. Lat. 41°59'59" N., Long. 80°19'00" W. C.P. for a new station on frequency 11665V MHz toward a new station at McKean, Pennsylvania on azimuth 272.9°.

1702–CF–P–76, Pacific Northwest Bell Telephone Company, (KPZ38), 5.5 miles WNW of Wymer, Washington. Lat. 46°51'01" N., Long. 120°34'32" W. C.P. to add a point of communication on frequencies 10855H 10935H MHz toward Wymer passive reflector on azimuth 107.4°, and from passive reflector to a new station at Ellensburg, Washington on azimuth 355.9°.

1726–CF–P–76, The Mountain States Telephone and Telegraph Company, (WBO99), 3.4 miles East of Greenhorn, Colorado. Lat. 37°54'14" N., Long. 104°47'33" W. C.P. to add a point of communication on frequency 2178.0V MHz toward Colorado City passive reflector on azimuth 299.5°, and from passive reflector toward a new station at Colorado City, Colorado on azimuth 86.1°.

1729–CF–P–76, Commonwealth Telephone Company, (New), 17 Main Street, Towanda, Pennsylvnaia. Lat. 41°47'13" N., Long. 76°-26'34" W. C.P. for a new station on freqency 11075V MHz toward Towanda passive reflector on azimuth 27.7°, and from passive reflector to Wyalusing, Pennsylvania on azimuth 126.3°.

1730–CF–P–76, Same, (New), 1.6 miles NW of Wyalusing, Pennsylvania. Lat. 41°41'21" N., Long. 76°16'12" W. C.P. for a new station on frequencies 11605V MHz toward Towanda passive reflector on azimuth 306.4°, and from passive reflector toward a new station at Towanda, Pennsylvania on azimuth 207.8°; 11605V MHz toward a new station at Mehoopany, Pennsylvania on azimuth 120.4°.

1731–CF–P–76, Same, (New), Mehoopany, 1.7 miles South of Meshoppen, Pennsylvania. Lat. 41°35'26" N., Long. 76°02'48" W. C.P. for a new station on frequencies 11075V MHz toward a new station at Wyalusing, Pennsylvania on azimuth 300.6°, and 11075V MHz toward a new station at Tunkhannock, Pennsylvania on azimuth 119.7°.

1608–CF–P–76, Eastern Microwave, Inc. (KCK70), Mt. Greylock #1, 2.0 miles NW of Adams, Massachusetts, Lat. 42°38'07" N., Long. 73°09'57" W. C.P. to add 6049.0V MHz and 6167.6V MHz, via power split, toward Amherst, Mass.

1609–CF–P–76, Same, (WBA815), Amherst, Massachusetts. Lat. 42°23'23" N., Long. 72°24'21" W. C.P. to add 6375.2H MHz and 6404.8V MHz toward West Springfield, Massachusetts.

1610–CF–P–76, Same, (New), West Springfield, Massachusetts. Lat. 42°09'16" N., Long. 72°41'06" W. C.P. for a new station on 6093.5H MHz and 6152.8H MHz toward Chicopee, Massachusetts, on azimuth 64.0 degrees.

1628–CF–P–76, American Television Relay. (KOU61), Hutch Mtn., 4.0 miles NE of Happy Jack, Arizona. Lat. 34°48'20" N., Long. 111°23'45" W. C.P. to add 6375.0H MHz toward Porter Mtn., Arizona, on azimuth 116.1 degrees.

1629–CF–P–76, Same, (KPN92), Porter Mtn., Arizona. Lat. 34°12'21" N., Long. 109°56'-32" W. C.P. to add 6405.0H MHz toward Snowflake, Showlow and Pinetop, all in Arizona, on azimuths 338.5, 302.9 and 176.1° respectively.

1630–CF–P–76, Tower Communications Systems Corp. (WKS45), 3.2 miles SSE of Newark, Ohio. Lat. 40°00'52" N., Long. 82°-22'41" W. C.P. to add 11545.0H MHz and 11625.0H MHz toward Lancaster, Ohio on azimuth 210°38'.

1631–CF–P–76, Same, (WBA744), 1.5 miles NE of Lancaster, Ohio. Lat. 39°43'53" N., Long. 82°35'42" W. C.P. to add 11425.0H MHz and 11345.0H MHz toward Stoutsville, Ohio, on azimuth 229°50'.

1632–CF–P–76, Same, (WPF49), 3.2 miles ENE of Stoutsville, Ohio. Lat. 39°36'56" N., Long. 82°46'20" W. C.P. to add 11095.0V MHz and 10855.0V MHz toward Columbus, Ohio on azimuth 346°32'. (Note: Special Temporary Authority requested).

1707–CF–P–76, American Television Relay Inc., (KPV76), White Tank, 10.5 miles NNW of Perryville, Arizona. Lat. 33°34'10" N., Long. 112°33'33" W. C.P. to add 11285H MHz and 11525H MHz toward Tempe, Arizona on azimuth 107.0°.

1724–CF–P–76, Eastern Microwave, Inc., (WDD71), Pulpit Rock, 3.9 miles NE of Hamburg, Pennsylvania. Lat. 40°35'50" N., Long. 75°56'04" W. C.P. to add 11175.0H MHz, via power split, toward Emmaus, Pennsylvania on azimuth 101.6°.

1725–CF–P–75, Eastern Microwave, Inc., (KFN21), New York City, New York. Lat. 40°46'09" N., Long. 73°58'55" W. C.P. to change frequencies to 6197.2V MHz and 6315.9V MHz toward West Milford, New Jersey, on azimuth 310.7°. (Note: Waiver of 21.701(1) requested by Eastern Microwave, Inc.).

[FR Doc.76-4568 Filed 2-17-76;8:45 am]

[Docket Nos. 20699, 20700; File Nos. 570-C2-P-(3)-71; 1877-C2-P-(3)-76; FCC 76-85]

EMPIRE MOBILCOMM SYSTEMS INC. AND CASCADE MOBILE SERVICE, INC.

Applications for Construction; Memorandum Opinion and Order

By the Commission:

1. Under consideration are the above captioned mutually exclusive applications for facilities to be granted in the Domestic Public Land Mobile Radio Service (DPLMRS). The applications of Empire Mobilcomm Systems, Inc., Eugene, Oregon (Empire) and Cascade Mobile Service, Inc., Klamath Falls, Oregon (Cascade) are for new facilities to oper-

ate on the frequency of 152.12 MHz primarily to provide two-way radio services and secondarily a one-way paging service.

2. Both applicants appear to be legally, technically, and financially qualified, and otherwise qualified to construct and operate the proposed facilities. Since these applicants propose to use the same frequencies in the same general area, their applications are electrically mutually exclusive. Therefore, the applicants must be designated for a comparative hearing to determine which is best qualified to operate the proposed facilities in the public interest. Ashbacker Radio Corp. v. F.C.C., 326 U.S. 327 (1945).

3. The proposed service area of the applicants is free of any co-channel interference from other radio signals from nearby stations. The area to be served is sparsely settled, rugged and in most parts mountainous, with a few small settlements, other than Klamath Falls, which are separated by great distances. The applicants state that this mobile service can only be rendered from a base station with an antenna having an effective height above average terrain and an effective radiated power which exceeds the limits prescribed by §§ 21.505 and 21.506 of the rules.[1] We are unpersuaded on the basis of these proposals that a sufficient need exists in the service area to grant the waiver request absent a further evidentiary showing. Accordingly, the applicants should address our concern in this regard to the evidence to be adduced under issue 2, infra. by showing a need for these services to the extended area contemplated in their respective waiver requests.

4. In view of the foregoing: *It is ordered*, That pursuant to sections 309(d) and (e) of the Communications Act of 1934, as amended, (47 U.S.C. 309(d) and (e)), that the captioned applications of Empire Mobilcomm Systems, Inc. and Cascade Mobile Service, Inc. are designated for hearing in a consolidated proceeding upon the following issues:

(1) To determine on a comparative basis the nature and extent of the services proposed by each applicant.[2]

(2) To determine the total area and population to be served by the applicants within the 37 dbu contour of their proposed stations based upon the standards set forth in § 21.504 of the rules, to determine whether §§ 21.505 and 21.506 of the rules should be waived, and to determine on a comparative basis the need for the service in the proposed service areas.

(3) To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the above captioned applications would best serve the public interest, convenience and necessity.

5. *It is further ordered*, That the hearing shall be held at a place and time to be specified in a subsequent order of the Chief Administrative Law Judge.

6. *It is further ordered*, That the Chief, Common Carrier Bureau is made a party to the proceeding.

7. *It is further ordered*, That applicants may avail themselves of an opportunity to be heard by filing with the Commission pursuant to § 1.221(c) within (20) days of the release date thereof, a written notice stating an intention to appear on the date set for hearing and present evidence on the issues specified in this Memorandum Opinion and Order.

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

[FR Doc.76-4564 Filed 2-17-76;8:45 am]

[1] Both applicants propose the use of an existing antenna site located at Swan Lake Point, Oregon having an effective height above average terrain of approximately 2300 ft. Empire proposes effective radiated power of from 82 watts to 366 watts and cascade proposes from 14 watts to 345 watts. The maximum ERP for the proposed station computed from Section 21.505 is approximately 14 watts.

[2] For the scope of this issue, see Vegas Instant Page, 50 F.C.C. 2d 1161 (1975); and the significance of local management RAM Broadcasting of Florida, 50 F.C.C. 2d 1136 (1975).

[Docket No. 20589; File No. BAPCT-457; FCC 76R-46]

GROSS BROADCASTING COMPANY (ASSIGNOR) AND UNIVERSITY TELEVISION, INC. (ASSIGNEE)

Assignment of Construction Permit

1. This proceeding involves an application for assignment of construction permit for Station KJOG-TV, San Diego, from Jack O. Gross t/a Gross Broadcasting Company to University Television, Inc. (UTI). The application was designated for hearing by Order, 40 FR 44611, published September 29, 1975, upon the following issues:

(1) To determine the funds required to acquire, construct and operate Station KJOG-TV, as such requirements are set forth in Ultravision Broadcasting Co., et al., 1 FCC 2d 544 (1965).

(2) To determine, in light of the information adduced in Issue (1), whether sufficient funds are available to the assignee to meet these expenses.

(3) To determine whether United States International University is experiencing financial instability of a sufficient magnitude to affect adversely the ability of its wholly owned subsidiary, University Television, Inc., to operate Station KJOG-TV in the public interest.

(4) To determine whether, in light of the evidence adduced pursuant to the foregoing Issues, grant of the above-captioned application for assignment of construction permit would serve the public interest, convenience and necessity.

Presently before the Review Board is a petition to delete issue, filed October 10, 1975, by UTI seeking the deletion or modification of Issue (3) above.[1]

[1] Also before the Board are the following related pleadings: (a) Opposition, filed October 31, 1975, by the Broadcast Bureau; and (b) reply, filed November 12, 1975, by UTI.

2. In support of its deletion request, UTI asserts that Issue (3) is either redundant or irrelevant. Thus, petitioner contends, an inquiry into the financial stability of United States International University (USIU),[2] will be conducted under Issue (1) if it chooses to rely upon this institution as a source of funds for its operation and will be unnecessary in the event that it secures the necessary funds from other sources. Therefore Issue (3) is not required, petitioner concludes. Moreover, UTI continues, Issue (3) as presently worded assumes that USIU is financially unstable, and, given the fact that this assumption is not supported by sworn evidence,[3] such a prejudgment concerning USIU's financial condition is improper and inappropriate. Therefore, petitioner maintains, if Issue (3) is retained in this proceeding it should be modified to eliminate any presumptions as to USIU's financial position.

3. The Bureau, in its opposition, supports modication of Issue (3) but opposes deletion. The Commission in its designation Order concluded that the accounts of USIU's financial status then before it raised questions of fact best resolved via an evidentiary hearing, the Bureau contends,[4] and the Board is foreclosed from substituting its judgment for that of the Commission. Atlantic Broadcasting Company (WUST), 5 FCC 2d 717, 8 RR 2d 991 (1966). Further, the Bureau argues, UTI is a newly formed corporate subsidiary of USIU and the financial difficulties of the parent corporation may well affect the ownership, control, or operation of this wholly-owned subsidiary. Thus, the Bureau asserts, inquiry into the financial status of USIU is necessary regardless of the funding sources relied upon by UTI. The Bureau agrees, however, that the issue should be reworded to avoid any suggestion that the Commission already has determined that USIU is experiencing financial instability. In reply, UTI maintains that no precedent exists for the Bureau's proposition that the financial status of a parent corporation should be reviewed. Rather, UTI asserts, the only showing which can be required is that the parent

[2] UTI is a recently organized wholly owned subsidiary of USIU to which USIU has assigned all of its interest in the instant application.

[3] In this regard, petitioner notes that the Commission's designation Order cites numerous newspaper clippings indicating that USIU is in "dire financial straights" as raising questions concerning the University's fiscal viability. Petitioner maintains, however, that these clippings are either erroneous or misleading, and offers in support of this claim the affidavit of William C. Rust, USIU's president, discussing the circumstances surrounding the events in question.

[4] The Bureau notes in this regard that the Commission's designation Order acknowledges that the newspaper accounts of USIU's financial difficulties cannot be regarded as factual, but concludes that they nonetheless raise questions concerning the institution's financial viability.

can meet commitments relied upon by the subsidiary.

4. The Review Board does not ordinarily delete issues designated by the Commission absent a showing of unusual or compelling circumstances, and in our view no such showing has been made here. Thus, while petitioner would have us eliminate the inquiry into USIU's financial status which the Commission expressly found necessary in this proceeding, it has neither demonstrated that the Commission acted without knowledge of all pertinent data nor offered any new evidence compelling a different conclusion now.[5] Accordingly, the petition to delete Issue (3) must be denied. See Post-Newsweek Stations Florida, Inc., (WJXT-TV), 52 FCC 2d 883, 33 RR 2d 891 (1975). We are, however, persuaded by the arguments of counsel for both UTI and the Bureau that Issue (3) should be reworded to preclude any suggestion that USIU has already been proven financially unstable. We will also, on our own motion, modify Issue (1) in this proceeding to reflect the fact that UTI will be obligated to construct as well as operate Station KJOG-TV if its application is granted.[6]

5. *Accordingly, it is ordered,* That the petition to delete issue, filed October 10, 1975, by University Television, Inc., is granted to the extent indicated herein, and is denied in all other respects; and

6. *It is further ordered,* That Issues (1) and (3) of the Commission's designation Order, are modified as follows:

(1) To determine the funds required to acquire, construct and operate Station KJOG-TV, as such requirements are set forth in Ultravision Broadcasting Co., et al., 1 FCC 2d 544 (1965).

(3) To determine the financial status of United States International University and the effect thereof on the ability of its wholly owned subsidiary, University Television, Inc., to construct and operate Station KJOG-TV in the public interest.

Adopted: February 6, 1976.

Released: February 12, 1976.

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

[FR Doc.76-4565 Filed 2-17-76;8:45 am]

[5] The Rust affiravit attached to UTI's petition was signed on November 22, 1974, and was submitted to the Commission on December 19, 1974. Thus this document was before the Commission at the time of designation. Moreover, the affidavit and its supporting documents do not resolve the problems raised by the Commission, but instead offer a different interpretation of the events in question. As we have frequently held in the past, disputes involving questions of fact should be resolved at hearing rather than on the basis of post-designation pleadings. See RKO General, Inc., (WOR-TV), 47 FCC 2d 941 (1974).

[6] While the designation Order states that UTI estimates that it will require $908,890 to construct and operate its proposed station, Issue (1) as presently worded authorizes an inquiry only into the funds necessary to acquire and operate the station.

FEDERAL ENERGY ADMINISTRATION

OLD OIL ALLOCATION PROGRAM

Entitlement Notice for December 1975

In accordance with the provisions of 10 CFR § 211.67 relating to FEA's old oil allocation program, the monthly notice specified in § 211.67(i) is hereby published.

Based on reports submitted to FEA by refiners as to crude oil receipts and crude oil runs to stills for December 1975, an application of the entitlement adjustment for small refiners provided in 10 CFR § 211.67(e), and an application of Special Rule No. 6, the adjusted national old oil supply ratio for December 1975 is calculated to be .363020387018.

The issuance of entitlements for the month of December 1975 to refiners and to one other firm (pursuant to a Decision and Order issued by FEA's Office of Exceptions and Appeals) is set forth in the Appendix to this notice. The Appendix lists the name of each refiner and other firm to which entitlement have been issued, the number of entitlements issued to each such refiner or other firm, and the number of barrels of old oil included in each such refiner's adjusted crude oil receipts.

Pursuant to 10 CFR § 211.67(i)(4), FEA hereby fixes the price at which entitlements shall be sold and purchased for the month of December 1975 at $8.55, which is the exact differential as reported for the month of December between the weighted average costs to refiners of old oil and of new, released, stripper well and imported crude oil.

In accordance with 10 CFR § 211.67 (b), each refiner that has been issued fewer entitlements for the month of December 1975 than the number of barrels of old oil included in its adjusted crude oil receipts is required to purchase a number of entitlements for the month of December 1975 equal to the difference between the number of barrels of old oil included in those receipts and the number of entitlements issued to and retained by that refiner. Refiners which have been issued a number of entitlements for the month of December 1975 in excess of the number of barrels of old oil included in their adjusted crude oil receipts for December 1975 and other firms issued entitlements shall sell such entitlements to refiners required to purchase entitlements. In addition, certain refiners are required to purchase or sell entitlements to effect corrections for reporting errors for September, October and November 1975 pursuant to 10 CFR § 211.67(i)(5). No corrections for reporting errors for months prior to September 1975 are reflected in the listing as FEA intends to effect these corrections through modifications to the program to be issued in the near future.

The listing contained in the Appendix specifies a negative volume of old oil receipts as to one refiner due to a corrective adjustment. The total number of entitlements issued to this refiner under the listing includes the number specified in the "issued" column, as well as a number of entitlements equal to the number of barrels of old oil shown as the negative volume.

The listing of refiners' old oil receipts contained in the Appendix reflects any adjustments made by FEA pursuant to § 211.67(h).

The listing contained in the Appendix gives effect to Special Rule No. 6, and all refiners totally exempted under the Special Rule are shown in the listing with a zero purchase and sale obligation. The following refiners received a partial entitlement purchase exemption under the Special Rule: Charter, Oil-Shale, and Texas City.

Three refiners (Mohawk, West Coast and Wickett) are fully exempted from purchase obligations by Special Rule No. 6 but are listed as having to purchase specified numbers of entitlements pursuant to decisions and orders issued by FEA's Office of Exceptions and Appeals. These entitlement purchases are required to offset revenues received by these firms from sales of October 1975 entitlements resulting from the award of partial exception relief for October where the intent was only to exempt each of the firms to a specified extent from entitlement purchase obligations.

The total number of entitlements required to be purchased and sold under this notice is 13,001,010.

Payment for entitlements required to be purchased under 10 CFR § 211.67(b) for December 1975 must be made by February 29, 1976.

On or prior to March 10, 1976, each firm which is required to purchase or sell entitlements for the month of December shall file with FEA the monthly transaction report specified in 10 CFR § 211.66(i) certifying its purchases and sales of entitlements for the month of December. FEA will mail the monthly transaction report forms for the month of December to reporting firms in February 1976. FEA requests that firms which have been unable to locate other firms for required entitlement transactions by February 29, 1976 contact FEA at 202-254-6296 to expedite consummation of these transactions. For firms that have failed to consummate required entitlement transactions on or prior to February 29, 1976, FEA may direct sales and purchases of entitlements pursuant to the provisions of 10 CFR § 211.67(j).

This notice is issued pursuant to Subpart G of FEA's regulations governing its administrative procedures and sanctions, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with FEA's Office of Exceptions and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before March 19, 1976.

Issued in Washington, D.C., on February 12, 1976.

MICHAEL F. BUTLER,
General Counsel.

APPENDIX

ENTITLEMENTS FOR ALLOCATION OF OLD OIL

REPORTING FIRM SHORT NAME	OLD OIL ADJUSTED RECEIPTS	*******ENTITLEMENT POSITION******** ISSUED	REQUIRED TO BUY	REQUIRED TO SELL
A-JOHNSON	0	5,343	0	5,343
ALLIED	74,738	74,738	0	0
AMER-PETROFINA	1,640,231	1,744,047	0	103,816
AMERADA-HESS	3,692,932	3,993,885	0	300,953
AMOCO	11,878,645	10,295,564	1,583,081	0
APCO	400,414	634,121	0	233,707
ARCO	7,121,670	7,412,390	0	290,720
ARIZONA	32,381	32,381	0	0
ASAMERA	4,147	17,554	0	13,407
ASHLAND	2,500,576	3,689,901	0	1,189,325
BAYOU	41,204	41,204	0	0
BEACON	295,682	295,682	0	0
C&H	4	630	0	626
CALUMET	0	34,171	0	34,171
CANAL	69,682	69,682	0	0
CARIBOU	122,287	122,287	0	0
CHAMPLIN	2,079,683	1,628,910	450,773	0
CHARTER	1,247,465	1,136,287	111,178	0
CITGO	4,191,152	3,076,875	1,114,277	0
CLAIBORNE	5,631	14,828	0	9,197
CLARK	585,578	1,210,744	0	625,166
COASTAL	588,657	949,854	0	361,197
CONOCO	4,433,166	3,675,790	757,376	0
CORCO	0	1,207,950	0	1,207,950
CRA-FARMLAND	659,817	754,878	0	95,061
CROSS	5,550	40,665	0	35,115
CROWN	554,076	830,105	0	276,029
CRYSTAL-OIL	195,329	195,329	0	0
CRYSTAL-REF	11,724	36,568	0	24,844
DELTA	605,257	605,257	0	0
DIAMOND	589,427	609,195	0	19,768
DORCHESTER	8,832	14,370	0	5,538
DOW	40,347	147,322	0	106,975
EDDY	39,006	39,456	0	450

REPORTING FIRM SHORT NAME	OLD OIL ADJUSTED RECEIPTS	********ENTITLEMENT POSITION******** ISSUED	REQUIRED TO BUY	REQUIRED TO SELL
EDGINGTON-OIL	542,888	542,888	0	0
EDGINGTON-OXN	-20,999*	12,115**	0	33,114
EVANGELINE	57,358	57,358	0	0
EXXON	13,093,883	13,512,386	0	418,503
FAMARISS	345,982	345,982	0	0
FARMERS-UN	310,911	326,207	0	15,296
FLETCHER	299,383	299,383	0	0
FLINT	13,183	13,183	0	0
GARY	3,960	86,162	0	82,202
GETTY	583,665	942,932	0	359,267
GIANT	13,063	26,540	0	13,477
GLADIEUX	157,135	157,135	0	0
GOLDEN-EAGLE	152,087	152,087	0	0
GOOD-HOPE	345,364	345,364	0	0
GUAM	0	372,044	0	372,044
GULF	11,792,523	9,324,461	2,468,062	0
GULF-STS	12,984	45,767	0	32,783
HIRI	0	622,008	0	622,008
HOWELL	814,815	814,815	0	0
HUNT	461,850	461,850	0	0
HUSKY	606,589	606,589	0	0
INDIANA-FARM	96,178	258,188	0	162,010
J&W	48,497	48,497	0	0
KENTUCKY	1,699	7,013	0	5,314
KERR-MCGEE	2,065,073	1,789,639	275,434	0
KOCH	416,736	1,266,636	0	849,900
LAGLORIA	543,771	543,771	0	0
LAKESIDE	83,854	83,854	0	0
LAKETON	134,896	134,896	0	0
LITTLE-AMER	272,828	272,828	0	0
LOUISIANA-LAND	13,180	60,458	0	47,278
MACMILLAN	107,456	186,133	0	78,677

REPORTING FIRM SHORT NAME	OLD OIL ADJUSTED RECEIPTS	********ENTITLEMENT POSITION******** ISSUED	REQUIRED TO BUY	REQUIRED TO SELL
MARATHON	3,836,652	3,460,410	376,242	0
MARION	89,091	168,605	0	79,514
MID-AMER	2,500	44,414	0	41,914
MIDLAND	234,648	234,648	0	0
MOBIL	8,707,473	8,184,516	522,957	0
MOHAWK	463,549	447,112	16,437	0
MONSANTO	180,680	397,275	0	216,595
MORRISON	7,270	7,270	0	0
MOUNTAINEER	2,931	3,356	0	425
MURPHY	1,052,787	1,001,183	51,604	0
N-AMER-PETRO	144,578	144,578	0	0
NATL-COOP	485,098	585,833	0	100,735
NAVAJO	370,056	372,886	0	2,830
NEW-ENGL-PETRO	0	586,640	0	586,640
NEWHALL	204,064	204,064	0	0
NORTHLAND	0	598	0	598
OIL-SHALE	1,572,947	1,343,700	229,247	0
OKC	404,147	404,147	0	0
PASCO	1,061,809	1,061,809	0	0
PENNZOIL	519,877	558,275	0	38,398
PHILLIPS	3,939,203	3,960,361	0	21,158
PIONEER	13,248	30,471	0	17,223
PLACID	286,538	290,018	0	3,480
PLATEAU	101,270	130,594	0	29,324
POWERINE	641,650	641,650	0	0
PRIDE	176,898	313,554	0	136,656
QUAKER-ST	7,035	230,338	0	223,303
ROAD-OIL	0	919	0	919
ROCK-ISLAND	531,609	531,609	0	0
SABER-TEX	94,072	103,037	0	8,965
SABRE-CAL	1,649	16,831	0	15,182
SAGE-CREEK	1,048	3,323	0	2,275

REPORTING FIRM SHORT NAME	OLD OIL ADJUSTED RECEIPTS	********ENTITLEMENT POSITION******** ISSUED	REQUIRED TO BUY	REQUIRED TO SELL
SAN-JOAQUIN	291,361	291,361	0	0
SEMINOLE	0	40,359	0	40,359
SHELL	13,511,715	10,600,091	2,911,624	0
SIGMOR	12,057	12,057	0	0
SKELLY	902,120	904,647	0	2,527
SO-HAMPTON	85,197	105,402	0	20,205
SOCAL	10,710,641	11,053,245	0	342,604
SOHIO	2,564,389	3,980,410	0	1,416,021
SOMERSET	17,443	42,802	0	25,359
SOUTHLAND	318,361	318,361	0	0
SOUTHWESTERN	3,570	3,570	0	0
SUNLAND	89,710	100,725	0	11,015
SUNOCO	5,768,249	5,504,565	263,684	0
TENNECO	737,367	1,059,163	0	321,796
TESORO	542,511	740,480	0	197,969
TEXACO	13,042,782	12,090,247	952,535	0
TEXAS-ASPH	2,189	2,189	0	0
TEXAS-CITY	956,073	931,294	24,779	0
THAGARD	63,912	63,912	0	0
THE-REFINERY	98,739	192,076	0	93,337
THRIFTWAY	19,065	33,612	0	14,547
THUNDERBIRD	96,866	161,230	0	64,364
TONKAWA	27,309	55,049	0	27,740
TOTAL-LEONARD	262,674	460,099	0	197,425
UNION-OIL	5,990,684	5,109,272	881,412	0
UNION-TEXAS	65,407	114,921	0	49,514
UNTD-IND	0	3,055	0	3,055
UNTD-REF	182,086	494,242	0	312,156
US-OIL	0	130,920	0	130,920
VICKERS	149,345	149,345	0	0
VULCAN	0	27,268	0	27,268
WARRIOR	32,967	32,967	0	0

REPORTING FIRM SHORT NAME	OLD OIL ADJUSTED RECEIPTS	********ENTITLEMENT POSITION******** ISSUED	REQUIRED TO BUY	REQUIRED TO SELL
WEST-COAST	92,379	86,219	6,160	0
WESTERN	9,311	9,311	0	0
WICKETT	109,400	105,252	4,148	0
WINSTON	43,322	185,862	0	142,540
WIREBACK	0	1,290	0	1,290
WITCO	127,696	127,696	0	0
YETTER	0	1,634	0	1,634
YOUNG	70,765	70,765	0	0
TOTAL	159,218,121	159,218,121	13,001,010	13,001,010

*/ Reflects a correction for excessive old oil receipts reported for a prior month.

**/Does not include entitlements issued by virtue of the negative volume of old oil receipts shown.

[FR Doc.76-4645 Filed 2-12-76;4:35 am]

FEDERAL MARITIME COMMISSION

ASSOCIATION OF WEST COAST STEAMSHIP COMPANIES

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, NW., Room 10126, or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., San Juan, Puerto Rico and San Francisco, California. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before March 1, 1976. 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:

E. E. Mizrachi, Chairman, The Association of West Coast Steamship Companies, P.O. Box 1952, Cristobal, Canal Zone.

Agreement No. 3302–11, among the member lines of The Association of West Coast Steamship Companies, amends Article 4 of the basic agreement pertaining to voting procedures to provide that the reports of meetings, telephone polls and all actions taken which are required to be filed with the Commission shall show the vote or response of each member line on any matter taken up at any such meeting, by telephone poll or otherwise.

This amendment is filed in compliance with the Federal Maritime Commission's Order in Docket No. 73–74, dated December 23, 1975, entitled, "Notice of Adoption of Initial Decision and Order to Amend Article 4, Agreement No. 3302."

Dated: February 12, 1976.

By Order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-4628 Filed 2-17-76;8:45 am]

CERTIFICATES OF FINANCIAL RESPONSIBILITY (WATER POLLUTION)

Certificates Issued

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by Section 311(p)(1) of the Federal Water Pollution Control Act, and have been issued Federal Maritime Commission Certificates of Financial Responsibility (Water Pollution) pursuant to Part 542 of Title 46 CFR.

Certificate No.	*Owner/operator and vessels*
01077---	H. M. Wrangell & Co., A.S.: *Gard.*
01302---	Boston Fuel Transportation, Inc.: *B.F.T. No. 24.*
01330---	Shell Tankers (U.K.), Ltd.: *Ficus.*
01343---	Hamburg-Sudamerikanische Dampfschiffahrts-Gesellschaft Eggert & Amsinck: *St. Clemens.*
01383---	Rederiaktiebolaget Gustaf Erikson: *Visko Reefer.*
01533---	Henry Nielsen OY/AB: *Lita.*
01877---	Carbocoke Societa di Navigazione S.P.A.: *Euclide.*
01935---	Partnership between Steamship Co. Svendborg, Ltd., and Steamship Co. of 1912, Ltd.: *Karoline Maersk.*
02001---	Rederiaktiebolaget Transatlantic: *Iranian Prosperity.*

Certificate No.	Owner/operator and vessels
02246	Blue Star Line, Ltd.: *Almeda Star.*
02367	Canadian Pacific (Bermuda), Ltd.: *Fort Coulonge.*
02947	Walker Towing Corp.: *Walker No. 23.*
02976	Arthur-Smith Corp.: *Star Diamond.*
03137	Cunard Steamship Co., Ltd.: *Matangi.*
03245	Rederiaktieselskabet Dannebrog: *Fredensborg.*
03294	Companhia de Navegacao Lloyd Brasileiro: *Lloyd Santarem.*
03315	Afran Transport Company: *Beaufort Sea, Coral Sea.*
03322	Daiichi Chuo Kisen K.K.: *Tone Maru.*
03434	Hoko Suisan K.K.: *Nihonkai Maru.*
03510	Takeda Kigyo Kabushiki Kaisha: *Seisho Maru No. 12.*
03530	Yashima Kaiun K.K.: *Shinprima Maru.*
03553	Skibs—A.S. Nanset: *Iver Swift, Iver Swan.*
03623	Crowley Derrick Barges, Inc.: *Barge 5, Barge 19, Barge 20, Barge 25.*
03692	Marmac Corp.: *WGH–9, WGH–11, WGH–12, WGH–14.*
03968	Zim-Israel Navigation Co., Ltd.: *Gold Bridge, Rimon, Gold Leaf, Gold Stream, Gold Star.*
04004	Koninklijke Java China Paketvaart Lijnen N.V.: *Straat Frazer.*
04172	Eklof Marine Corp.: *E12.*
04173	Foss Launch & Tug Co.: *Foss 199.*
04289	Dixie Carriers, Inc.: *TT 7004, TT 7005, TT 7006, TT 7007.*
04467	Kyowa Gyogyo Kabushiki Kaisha: *Kyowa Maru No. 7.*
04770	Texaco Panama, Inc.: *Texaco Ireland.*
04834	Tidewater Barge Lines, Inc.: *Foss III.*
05036	Companhia Nacional de Navegacao: *Almeirim.*
05047	PPG Industries, Inc.: *B–724.*
05147	Arne Presthus Rederi A.S.: *Swedru.*
05232	Diamond M Drilling Co.: *Diamond M Gem.*
05278	Twin City Barge & Towing Co.: *TCB 307.*
05500	Petroleos Mexicanos: *Revolucion.*
05579	Black Sea Shipping Co.: *Ivan Shepetkov.*
05974	Slobodna Plovidba: *Krapant.*
06038	Suomen Hoyrylaiva Osakeyhtio Finska Angfartygs Aktiebolaget: *Taurus.*
06478	Korea Marine Industry Development Corp.: *No. 302 Soogong.*
06510	Compagnie Nationale Algerienne de Navigation: *Amenas.*
06511	Associated Shipping Corp., Ltd.: *Eastern Friendship.*
06558	Orient Overseas Container Services, Inc., of Liberia: *Oriental Commander.*
06566	Occidental Petroleum Corp.: *Hooker Rio, Hooker Columbia, Hooker Tacoma.*
06588	Hanover Towing, Inc.: *ATC No. 91.*
06706	Miskal Shipping Co. S.A.: *Attika Hope.*
06725	Geest Industries, Ltd.: *Geesterest, Geestland, Geeststar, Geestlide.*
06829	Shinsei Suisan K.K.: *Shinsei Maru No. 3.*
06853	Shipping Co. Knud I. Larsen: *Celtic.*
06925	Bibby Bulk Carriers, Ltd.: *Mersey Bridge.*
07574	Georgian Shipping Co.: *Filipp Makharadze, Mikha Ckhakaja.*
07788	Rome Transfer Corp.: *Syracuse Sears.*
07843	Northland Marine Lines, Inc.: *Kivalina.*
08038	Flota Petrolera Ecuatoriana: *Zamora.*
08207	Bibby Tankers, Ltd.: *Liverpool Bridge.*
08696	Martimas Eslait & Cia: *Zamira.*
08818	Venus Carriers Corp. S.A.: *Clivia.*
08887	C.A. Naviera de Transporte Y Turismo: *Armando Reveron.*
08898	Damodar Bulk Carriers, Ltd.: *Damodar Dr. Albert Bloch.*
08948	Veb Deutfracht / Seereederei: *Theodor Korner.*
09074	Zuito Shipping Co., Ltd.: *Gekko Maru.*
09098	The Boswell Oil Co.: *Beth.*
09374	International Ocean Transport Corp.: *Banner.*
09440	Barge Leasing Corp.: *J. W. Lyon III.*
09625	Scheepvaartagentuur Orionbel N.V.: *Jorge S.*
09811	Cove Tankers Corp.: *Cove Communicator.*
10025	Hansa Offshore (Sea) Pty. Ltd.: *Freudenfels.*
10260	Hollywood Marine, Inc.: *GDM 50.*
10391	Norman Wotten, Inc. d.b.a. Wooten's River Service: *Barge No. 17.*
10421	The Port of Portland: *B 31.500.0.*
10569	Peavey Co.: *CC 207.*
10644	New Conquest Line, S.A.: *New Conquest.*
10651	Naviera Industrial S.A.: *Lucile.*
10666	Empresa Flota Atunera de Cuba: *Cubanacan.*
19684	Northern Star Shipping Co., Ltd.: *Princess Diamond.*
10703	Liberian Sea Transport, Ltd.: *White Dolphin.*
10706	Tolla Compania Naviera S.A.: *Parga.*
10713	Bravo Alex Shipping Corp.: *Bravo Alex.*
10714	Bravo Denis Shipping Corp.: *Bravo Denis.*
10717	General-Western, a joint venture: *Papoose.*
10738	Bold Adventuress joint venture: *Bold Adventuress.*
10750	L & R Shipping Co., Ltd.: *Lew Rose.*
10760	FMC Corp.: *Hull No. GTT–3.*
10766	Courage Shipping Corp.: *Oinoussian Courage.*
10773	East Pacific Steamship Co.: *Korean Fir.*
10779	Liberian Eminence Transports, Inc.: *Asia Rindo.*
10792	Conesta Marine Corp.: *Nepco Courageous.*
10807	Shahnaz Marine Co., Ltd.: *Arion.*
10839	Liberian Belladonna Transports, Inc.: *Asia Beauty.*
10862	Polytropos Steamship, Inc.: *Polytropos.*
10875	Thenamris Maritime, Inc., of Liberia: *Eurometal.*
10883	Amari Navigation Co., Ltd., *Amari.*
10888	Altair Steamship Co., Ltd.: *Flor.*
10889	Polinnia & Co. Ltd.: *Eastern Uranus.*
10906	Zea Silver shipping Co., S.A.: *Zea Silver.*
10907	Nicopan Shipping Co., S.A.: *Eudokia.*
10908	Cichus Shipping, Inc.: *Eurohunter.*
10909	Garden Gate Shipping, Ltd.: *Garden gate.*
10914	Chi Tai Navigation S.A.: *Chi Tai.*
10915	Argyros Compania Naviera S.A.: *Antonis P. Lemos.*
10916	Zapata North Sea, Inc.: *Louisiana.*
10919	Compagnie des Transporteurs Petroliers: *Vignemale.*
10920	Jardine, Matheson & Co., Ltd.: *Eagle Arrow.*
10921	Marthanassa Cia, Naviera S.A.: *Theokrates.*
10922	Leda Shipping Co.: *Leda.*
10925	Caribbean Tankers, Inc.: *Corolla.*
10926	Harmony Tanker Corp.: *Kazuko.*
10931	Hansung Shipping Co., Ltd.: *Blue Orion, Blue Cassiopeia.*
10935	Belbeta Shipping Co., S.A.: *Panagia.*
10936	Reliant Shipping S.A.: *Pacific Leader.*
10940	Swanlake Shipping Co., S.A.: *Swan Lake.*
10942	Zea Sky Shipping Co., S.A.: *Zea Sky.*
10945	Alaska Bulk Carriers, Inc.: *Prince William Sound.*
10946	Mycene Shipping Co.: *Mycene.*

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76–4627 Filed 2–17–76;8:45 am]

FEDERAL POWER COMMISSION

NATIONAL GAS SURVEY SUPPLY-TECHNICAL ADVISORY TASK FORCE-PROSPECTIVE EXPLORATION & DEVELOPMENT & ADDITIONS TO RESERVES-SUBGROUP ON EXPLORATORY & DEVELOPMENT LEVELS

Cancellation of Meeting

Notice is hereby given of the cancellation of the meeting of the National Gas Survey Supply-Technical Advisory Task Force-Prospective Exploration & Development & Additions to Reserves-Subgroup on Exploratory & Development Levels of February 18, 1976, which was published in the FEDERAL REGISTER February 2, 1976, 41 FR 4862.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–4670 Filed 2–17–76;8:45 am]

NATIONAL GAS SURVEY SUPPLY-TECHNICAL ADVISORY TASK FORCE-PROSPECTIVE EXPLORATION & DEVELOPMENT & ADDITIONS TO RESERVES-SUBGROUP ON GAS RESERVE ADDITIONS AND ECONOMIC ANALYSIS

Cancellation of Meeting

Notice is hereby given of the cancellation of the meeting of the National Gas Survey Supply-Technical Advisory Task Force-Prospective Exploration & Development & Additions to Reserves-Subgroup on Gas Reserve Additions and Economic Analysis of February 13, 1976, which was published in the FEDERAL REGISTER January 30, 1976, 41 FR 4646.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–4671 Filed 2–17–76;8:45 am]

FEDERAL RESERVE SYSTEM

CITIZENS AND SOUTHERN HOLDING COMPANY

Order for Hearing

On January 24, 1972, Citizens and Southern Holding Company, Atlanta, Georgia (C&S Holding), submitted to the Federal Reserve Bank of Atlanta an application for permission to engage *de novo*, in eleven Georgia communities, in the activities of a mortgage company through a newly formed subsidiary, Citizens and Southern Mortgage Company, Inc., Atlanta, Georgia (C&S Mortgage). The application was submitted pursuant to section 4(c)(8) of the Bank Holding Company Act of 1956, as amended, 12 U.S.C. § 1843(c)(8), in the manner and form specified by Part 225.4(b)(1) of the Board's Regulation Y, 12 CFR § 225.4(b)(1). The application proposed that C&S Mortgage would engage in the activities of:

(1) Making or acquiring, for its own account or for the account of others, loans and other extensions of credit (including issuing letters of credit and accepting drafts), such as would be made, for example, by a mortgage, finance, credit card, or factoring company;

(2) Servicing loans and other extensions of credit for any person;

(3) Acting as investment or financial adviser, including (i) serving as the advisory company for a mortgage or a real estate investment trust and (ii) furnishing economic or financial information.

On June 1, 1972, the Federal Reserve Bank of Atlanta, acting pursuant to authority delegated by the Board of Governors, 12 CFR § 265.2(f)(20), approved the subject application. The Reserve Bank's action was then appealed to the Board, by a participant in the proceedings before the Reserve Bank, pursuant to Part 265.3 of the Board's Rules Regard Delegation of Authority, 12 CFR § 265.3. After reviewing the matter *de novo*, the Board issued an Order approving the subject application on August 31, 1973 (38 FEDERAL REGISTER 24932).

Upon judicial review of the Board's Order, the United States Court of Appeals for the District of Columbia Circuit has remanded the case to the Board with instructions to conduct a hearing on the application pursuant to the Board's Rules of Practice for Formal Hearings, 12 CFR § 263. *Independent Bankers Association of Georgia* v. *Board of Governors of the Federal Reserve System*, 516 F.2d 1206 (D.C. Cir. 1975).

In remanding this case to the Board for a hearing, the Court of Appeals expressly directed the Board to consider whether C&S Mortgage's offices would constitute branch banks in violation of federal and Georgia law; and the Court also concluded that "the Board erred in not honoring [Petitioner's] request for a hearing in which to develop its charges of 'undue concentration' and 'decreased competition.'" However, the Court held that the Board need not hold a hearing on two other issues raised by Petitioner that are legal issues on which the Board, in the Court of Appeals' view, reached correct conclusions of law. These latter two issues, which are not covered by the instant Order for Hearing, involve (1) the legality of the corporate structure of Citizens and Southern National Bank under 12 U.S.C. § 21 *et seq.*, and (2) whether Citizens and Southern National Bank violated 12 U.S.C. § 24 when, in 1965, it merged under its sole ownership both the legal and beneficial interest in shares of stock of C&S Holding that had previously been held in trust for the benefit of the bank's own shareholders.

Accordingly, *it is hereby ordered* that a public hearing be held with respect to this application at the Federal Reserve Bank of Atlanta, Atlanta, Georgia 30303. Such hearing shall commence on a date to be designated by the Administrative Law Judge and shall be conducted in accordance with the Board's Rules of Practice for Formal Hearings (12 CFR Part 263).

It is further ordered that the Board hereby designates the Honorable James W. Mast, a duly qualified Administrative Law Judge, to preside at the aforesaid hearing. The Administrative Law Judge may, in his discretion, convene a prehearing conference or conferences at any convenient time or place.

It is further ordered that the Board hereby designates Stephen L. Siciliano and Allan Schott, Board staff attorneys, to serve as Board counsel at the aforesaid hearing.

It is further ordered that the issue to be considered at the hearing is whether the acquisition of C&S Mortgage by C&S Holding can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices. In balancing the public benefits and possible adverse effects, the question of whether C&S Mortgage's offices would constitute branch banks in violation of federal and Georgia law, and the charges of undue concentration and decreased competition referred to by the Court of Appeals, will also be considered. This designation of specific questions to be considered is not intended to be exclusive and does not preclude consideration of additional related matters and questions at the discretion of the Administrative Law Judge.

It is further ordered, that any person desiring to give testimony, present evidence, or otherwise participate in these proceedings shall file with the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, on or before March 8, 1976, a written request containing a detailed statement of the nature of the requestor's interest in the proceedings, the extent of the participation desired, a summary of the matters concerning which the requestor desires to give testimony or submit evidence, and a statement of the reasons why effective presentation of those matters requires participation in the manner and to the extent requested. Any requestor seeking participation more extensive than the submission of written comments shall, in his statement to the Secretary, address the questions of whether he is likely to suffer injury in fact as a result of Board action on the application and whether his asserted interest is within the zone of interests protected by the Bank Holding Company Act, 12 U.S.C. § 1841 *et seq.* Any person desiring to submit substantive written comments on the application must file said comments with the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, on or before March 8, 1976. All such requests and comments will be submitted to the Administrative Law Judge for his determination—as to intervention, participation and admissibility—and persons submitting same will be notified of his decision. Failure to comply with any of the above requirements regarding submission of comments and requests for participation shall constitute sufficient ground for rejection by the Administrative Law Judge of such comments or requests. Petitioners in the Court of Appeals, the Independent Bankers Association of Georgia, will, in light of the Court's decision, be granted intervention as a matter of right upon submission of their request in conformity with these requirements. Submission of the names and identities of possible witnesses can be made to the Administrative Law Judge at such time as the date for the hearing has been determined, or at such other time as the Administrative Law Judge shall direct.

By order of the Board of Governors, effective February 13, 1976.

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

[FR Doc.76-4805 Filed 2-17-76;9:16 am]

ROSSITER AND MATNEY INSURANCE AGENCY, INC.

Formation of Bank Holding Company

Rossiter and Matney Insurance Agency, Inc., Walthill, Nebraska, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act [12 U.S.C. § 1842(a)(1)] to become a bank holding company through acquisition of 93.2 per cent or more of the voting shares of The First National Bank of Walthill, Walthill, Nebraska ("Bank"). The factors that are considered in acting on the application are set forth in section 3(c) of the Act [12 U.S.C. § 1842(c)].

Rossiter and Matney Insurance Agency, Inc., Walthill, Nebraska has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act [12 U.S.C. § 1843(c)(8)] and § 225.4(b)(2) of the Board's Regulation Y, for permission to retain its general insurance agency business in Walthill, Nebraska. Notice of the application was published on January 1, 1976, in the Walthill Citizen, a newspaper circulated in Walthill, Nebraska.

Applicant states that it would continue to engage in general insurance agency activities upon the premises of Bank, which is located in a community

that has a population not exceeding 5000 people. Such activities have been specified by the Board in § 225.4 of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than March 11, 1976.

Board of Governors of the Federal Reserve System, February 11, 1976.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-4806 Filed 2-17-76;9:16 am]

GENERAL SERVICES ADMINISTRATION

REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

Notice of Meeting

FEBRUARY 12, 1976.

Pursuant to Public Law 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 3, March 3, 1976, from 9:30 to 3:00, Room 202 General Services Administration, Winder Building, 17th & F Streets NW., Washington, D.C. The meeting will be devoted to the initial step of the procedures for screening and evaluating the qualification of architect-engineers under consideration for selection to furnish professional services for the proposed Master Plan Development, Southeast Federal Center Site, Washington, D.C. (GS-OOB-69000). Frank and open discussion of the professional qualifications of the firms being considered is essential to insure selection of the best qualified firms. Accordingly, pursuant to a determination that it will be concerned with a matter listed in 5 U.S.C. 522(b)(5) the meeting will not be open to the public.

JOHN F. GALUARDI,
Regional Administrator.

[FR Doc.76-4765 Filed 2-17-76;8:45 am]

REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 10, March 4, 1976, from 8:30 a.m. to 3:00 p.m., Room 2247, GSA Regional Headquarters Building, Auburn, Washington, 98002. The meeting will be devoted to the initial step of the procedures for screening and evaluating the qualifications of architect-engineers under consideration for selection to furnish professional services for the proposed Western Regional Center, National Oceanic and Atmospheric Administration at Seattle, Washington. Frank and open discussion of the professional qualifications of the firms being considered is essential to insure selection of the best qualified firms. Accordingly, pursuant to a determination that it will be concerned with a matter listed in 5 U.S.C. 552(b)(5) the meeting will not be open to the public.

Dated February 13, 1976.

DAVID L. HEAD,
Regional Administrator.

[FR Doc.76-4766 Filed 2-17-76;8:45 am]

THE NATIONAL COMMISSION ON SUPPLIES AND SHORTAGES

ADVISORY COMMITTEE ON NATIONAL GROWTH POLICY PROCESSES

Meeting

Notice is hereby given, pursuant to Section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. section 10 (a), that the Advisory Committee on National Growth Policy Processes to the National Commission on Supplies and Shortages will conduct a public meeting on February 27, 1976, at 350 Park Avenue, New York, N.Y., in the Board Room on the 30th Floor of the Manufacturer Hanover Trust Building, beginning at 10:00 a.m. The objectives and scope of activities of the Advisory Committee on National Growth Policy Processes is "* * * to develop recommendations as to the establishment of a policy making process and structure within the Executive and Legislative branches of the Federal Government as a means to integrate the study of supplies and shortages of resources and commodities into the total problem of balanced national growth and development, and a system for coordinating these efforts with appropriate multi-state, regional and state governmental jurisdictions."

The summarized agenda for the meeting is as follows:

1. Review and Analyses of Federal Budgetary Processes.

2. Implementation Procedures for Completion of Advisory Committee Workplan.

In the event the Committee does not complete its consideration of the items on the agenda on February 27, 1976, the meeting may be continued on the following day or until the agenda is completed.

The meeting is open to the public. The Chairman of the Committee will conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any number of the public that wishes to file a written statement with the committee should mail a copy of the statement to the Advisory Committee on National Growth Policy Processes, 1750 K Street, NW., 8th Floor, Washington, D.C. 20006, at least five days before the meeting. Members of the public that wish to make oral statements should inform Katherine Soaper, telephone (202) 254-6836, at least five days before the meeting, and reasonable provisions will be made for their appearance on the agenda.

The Advisory Committee is maintaining a list of persons interested in the operations of the Committee and will mail notice of its meetings to those persons. Interested persons may have their names placed on this list by writing James E. Thornton, Executive Director, The Advisory Committee on National Growth Policy Processes, 1750 K Street, NW., 8th Floor, Washington, D.C. 20006.

Dated: February 10, 1976.

ARNOLD SALTZMAN,
Chairman, The Advisory Committee on National Growth Policy Processes.

[FR Doc.76-4539 Filed 2-17-76;8:45 am]

NATIONAL TECHNICAL INFORMATION SERVICE

GOVERNMENT-OWNED INVENTIONS

Notice of Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications, either paper copy (PC) or microfiche (MF), can be purchased at the prices cited from the National Technical Information Service (NTIS), Springfield, Virginia 22161. Requests for copies of patent applications must include the PAT-APPL-number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator National Technical Information Service.

DEPARTMENT OF THE ARMY, Chief, Patents Division, Office of Judge Advocate General, Patent Division Room 2C-455, Pentagon, Washington, D.C. 20310.

Patent 3,183,457: Ferrite Power Limiter Duplexer; filed 18 April 1960; patented 11 May 1965; not available NTIS.

Patent 3,183,990: Multiple Track Steering Application for a Plurality of Vehicles; filed 29 January 1963; patented 18 1965; not available NTIS.

Patent 3,185,165: Baffle Vent for Air Supported Building, filed 7 May 1964; patented 25 May 1965; not available NTIS.

Patent 3,185,928: Pulse Generator Employing Plural Pulse-Forming-Networks with Pulse Producing Means for Cancellation of Undesirable Reflected Pulse, filed 24 May 1963; patented 25 May 1965; not available NTIS.

Patent 3,185,945: Amplified Microwave Power Limiter, filed 2 December 1960; patented 25 May 1965; not available NTIS.

Patent 3,187,709: Adjustable Height Propeller and Drive Assembly, filed 15 March 1963; patented 8 June 1965; not available NTIS.

Patent 3,187,834: Muffler Having Spaced Frusto-Conical Baffle Plates with Perforated Center Tube and Attached Cooling Fins, filed 29 March 1963; patented 8 June 1965; not available NTIS.

Patent 3,187,970: Cycle Timing Mechanism, filed 20 May 1963; patented 8 June 1965; not available NTIS.

DEPARTMENT OF THE AIR FORCE, AF/JACP, Washington, D.C. 20314.

Patent Application 570,746: Multiple Level Fluid Bearing Track Assembly, filed 21 May 1975; PC$3.25/MF$2.25.

Patent application 578,835: Coining Friction Rings, filed 19 May 1975; PC$3.25/MF$2.25.

Patent application 578,836: Two's Complement Subtracting System, filed 19 May 1975; PC$3.25/MF$2.25.

Patent application 578,845: Laser Velocimeter Real Time Digital Data Analyzer, filed 19 May 1975; PC$3.25/MF$2.25.

Patent application 578,846: Addition Curable Phenyl-Quinoxaline Compositions and Their Synthesis, filed 19 May 1975; PC$3.25/MF$2.25.

Patent application 578,847: Ethynyl-Substituted Aromatic Ortho Diamines and Method of Synthesis; filed 19 May 1975; PC$3.25/MF$2.25.

Patent 3,886,478: Multi-Component Flow Injector Pump for a Flowing Gas Laser with Low Output Pressure; filed 5 November 1973; patented 27 May 1975; not available NTIS.

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION, Assistant General Counsel for Patents, Washington, D.C. 20545.

Patent application 527,469: Method for Localizing Heating in Tumor Tissue; filed 26 November 1974; PC$3.25/MF$2.25.

Patent application 528,382: Method for Preparing Superconductors; filed 29 November 1974; PC$3.25/MF$2.25.

Patent 3,864,041: Doppler-Shift Velocity Measurement System Using a Two-Frequency Laser; filed 6 June 1973; patented 4 February 1975; not available NTIS.

Patent 3,864,233: Uranium-Sensitive Electrode Membrane; filed 17 December 1973; patented 4 February 1975; not available NTIS.

Patent 3,865,746: UO2 BeO Fuel Process; filed 16 July 1959; patented 11 February 1975; not available NTIS.

Patent 3,865,801: Stabilization of Urinary Erythropoietin Using Sodium P-Aminosalicylate and Extracting Into Phenol, filed 15 June 1973; patented 11 February 1975; not available NTIS.

Patent 3,866,132: Moving Foil Stripper for a Particle Accelerator; filed 30 May 1974; patented 11 February 1975; not available NTIS.

Patent 3,866,424: Heat Source Containing Radioactive Nuclear Waste; filed 3 May 1974; patented 18 February 1975; not available NTIS.

Patent 3,867,137: Purification of Iridium; filed 22 June 1973; patented 18 February 1975; not available NTIS.

Patent 3,867,176: Method for Plating Race-Type Assemblies; filed 12 October 1973; patented 18 February 1975; not available NTIS.

Patent 3,867,510: Process for Recovering Uranium and Plutonium from Irradiated Nuclear Fuel Oxides; filed 23 April 1973; patented 18 February 1975; not available NTIS.

Patent 3,868,333: Technetium Catalyst for Hydrocarbon Reforming; filed 20 November 1973; patented 25 February 1975; not available NTIS.

Patent 3,872,565: Reactor Vessel Seal Service Fixture, filed 9 May 1974; patented 25 March 1975; not available NTIS.

Patent 3,872,909: Method of Desalinating Salt Water; filed 10 January 1972; patented 25 March 1975; not available NTIS.

Patent 3,873,217: Simplified Rotor for Fast Analyzer of Rotary Cuvette Type; filed 24 July 1973; patented 25 March 1975; not available NTIS.

Patent 3,873,447: Cold Trap for Liquid Sodium Impurities Collection; filed 21 December 1973; patented 25 March 1975; not available NTIS.

Patent 3,873,838: Two-Dimensional Readout System for Radiation Detector; filed 22 April 1974; patented 25 March 1975; not available NTIS.

Patent 3,873,839: High Speed Linac-Beam Analyzer; filed 10 April 1974; patented 25 March 1975; not available NTIS.

[FR Doc.76-4787 Filed 2-17-76;8:45 am]

GOVERNMENT OWNED INVENTIONS

Notice of Availability for Licensing

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Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications, either paper copy (PC) or microfiche (MF), can be purchased at the prices cited from the National Technical Information Service (NTIS), Springfield, Virginia 22161. Requests for copies of patent applications must include the PAT-APPL-number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

DEPARTMENT OF THE ARMY, Chief, Patents Division, Office of Judge Advocate General, Patent Division, Room 2C-455, Pentagon, Washington, D.C. 20310.

Patent 3,187,834: Muffler Having Spaced Frusto-Conical Baffle Plates with Perforated Center Tube and Attached Cooling Fins; filed 29 March 1963; patented 8 June 1965; not available NTIS.

Patent 3,188,618: Positive Lockout Control for Oil and Water Baths; filed 21 May 1962; patented 8 June 1965; not available NTIS.

Patent 3,189,420: Electrically Conductive Element; filed 1 October 1962; patented 15 June 1965; not available NTIS.

Patent 3,189,441: Magnesium-Lithium-Thorium Alloys; filed 27 May 1963; patented 15 June 1965; not available NTIS.

Patent 3,189,550: Process of Making Ferrite Magnetic Core Materials; filed 7 March 1961; patented 15 June 1965; not available NTIS.

Patent 3,189,644: C406 Perfluorinated Glycol Diesters of Trimethylacetic Acid; filed 25 February 1963; patented 15 June 1965; not available NTIS.

Patent 3,189,669: Process for Shipping Flexible Polyurethane Foam; filed 1 November 1962; patented 15 June 1965; not available NTIS.

Patent 3,189,837: Pulse Generator Employing Plural Pulse Forming Networks Providing Overlapped Pulses to Effect Ripple Cancellation; filed 14 March 1963; patented 15 June 1965; not available NTIS.

Patent 3,189,844: Search Sweep Oscillator Comprising One or More Three Electrode Transistors and a Double Base Diode; filed 7 June 1962; patented 15 June 1965; not available NTIS.

Patent 3,190,299: Air-Supported Building Structure; filed 1 March 1963; patented 22 June 1965; not available NTIS.

Patent 3,190,416: Clutch and Brake Positioning Device; filed 29 November 1963; patented 22 June 1965; not available NTIS.

Patent 3,190,588: Aircraft Canopy Actuator; filed 3 April 1964; patented 22 June 1965; not available NTIS.

DEPARTMENT OF THE AIR FORCE, AF/JACP, Washington, D.C. 20314.

Patent 3,886,478: Multi-Component Flow Injector Pump for a Flowing Gas Laser with Low Output Pressure; filed 5 November 1973; patented 27 May 1975; not available NTIS.

U.S. DEPARTMENT OF AGRICULTURE, Chief, Research Agreements and Patent Management Branch, Federal Bldg., General Services Division, Agricultural Research Service.

Patent 3,858,277: Spiral Carding Apparatus; filed 26 October 1973; patented 7 January 1975; not available NTIS.

Patent 3,867,041: Method for Detecting Bruises in Fruit; filed 3 December 1973; patented 18 February 1975; not available NTIS.

Patent 3,873,326: Concrete-Curing and Anti-spalling Compositions, filed 1 June 1973, patented 25 March 1975; not available NTIS.

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION, Assistant General Counsel for Patents, Washington, D.C. 20545.

Patent application 528,380: Insensitive Explosive; filed 29 November 1974; PC $3.25/MF $2.25.

Patent 3,501,337: Tungsten Seal Coat; filed 27 December 1966; patented 17 March 1970; not available NTIS.

Patent 3,579,028: Converging-Barrel Plasma Accelerator; filed 23 October 1968; patented 18 May 1971; not available NTIS.

Patent 3,624,241: Method and Apparatus for Controlling Thermal Nuclear Reactors; filed 10 February 1970; patented 30 November 1971; not available NTIS.

Patent 3,864,089: Multiple-Sample Rotor Assembly for Blood Fraction Preparation; filed 10 December 1973; patented 4 February 1975; not available NTIS.

Patent 3,864,219: Process and Electrolyte for Applying Barrier Layer Anodic Coatings; filed 8 January 1974; patented 4 February 1975; not available NTIS.

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Notice of Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of the patents cited are availeither paper copy (PC) or microfiche (MF), can be purchased at the prices cited from the National Technical Information Service (NTIS), Springfield, Virginia 22161. Requests for copies of patent applications must include the PAT-APPL-number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

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Patent Program Coordinator
National Technical Information Service.

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[FR Doc.76–4789 Filed 2–17–76;8:45 am]

GOVERNMENT-OWNED INVENTIONS

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DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

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[FR Doc.76–4790 Filed 2–17–76;8:45 am]

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[FR Doc.76–4791 Filed 2–17–76;8:45 am]

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DOUGLAS J. CAMPION,
Patent Program Coordinator
National Technical Information Service.

U.S. DEPARTMENT OF THE ARMY, Office of the Judge Advocate General, Patent Division, Room 2C–455, Pentagon, Washington, D.C. 20310.

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Patent 3,156,041: Method of Soldering and Brazing Structural Elements; filed 18 April 1960; patented 10 November 1964; not available NTIS.
Patent 3,157,423: Multiple Pallet Unitizing Frame; filed 19 October 1962; patented 17 November 1964; not available NTIS.
Patent 3,157,931: Backing Plate Hanger; filed 29 July 1963; patented 24 November 1964; not available NTIS.
Patent 3,158,778: Phase Modulated Television Camera Tube; filed 7 March 1962; patented 24 November 1964; not available NTIS.
Patent 3,160,649: Synthesis of Methylthiomethyl Isothiocyanate; filed 2 February 1961; patented 8 December 1964; not available NTIS.
Patent 3,161,248: Vehicle Wheel Suspension; filed 8 June 1962; patented 15 December 1964; not available NTIS.
Patent 3,161,272: Self-Energizing Clutch; filed 3 May 1962; patented 15 December 1964; not available NTIS.
Patent 3,161,399: Stop Valve Mechanism; filed 19 September 1961; patented 15 December 1964; not available NTIS.
Patent 3,161,452: Mounting Adapter for Electrical Connectors; filed 5 September 1963; patented 15 December 1964; not available NTIS.
Patent 3,162,603: Method of Growing Iridium Substituted Single Crystal Using Bismuth Oxide Flux; filed 1 February 1962; patented 22 December 1964; not available NTIS.
Patent 3,162,724: System for Transmission of Binary Information at Twice the Normal Rate; filed 3 July 1961; patented 22 December 1964; not available NTIS.
Patent 3,164,023: Motion Sensing Transducer; filed 10 September 1962; patented 5 January 1965; not available NTIS.
Patent 3,164,148: Insulated Container; filed 15 January 1964; patented 5 January 1965; not available NTIS.
Patent 3,164,745: Sweep Collapse and Rotation Failure Alarm System for PPI Display Device; filed 2 May 1961; patented 5 January 1965; not available NTIS.
Patent 3,164,983: Horizontal Displacement Meter; filed 30 November 1960; patented 12 January 1965; not available NTIS.
Patent 3,165,047: Photographic Processing Apparatus; filed 1 March 1962; patented 12 January 1965; not available NTIS.
Patent 3,165,588: Tune Division Multiplex Digital Communication System Employing Delta Modulation; filed 25 November 1960; patented 12 January 1965; not available NTIS.
Patent 2,165,651: Piezoelectric Crystal Apparatus; filed 1 December 1959; patented 12 January 1965; not available NTIS.
Patent 3,167,265: Film Reel Drive; filed 8 November 1962; patented 26 January 1965; not available NTIS.
Patent 3,179,533: Magnetic Tape with Reinforced Backing; filed 4 October 1961; patented 20 April 1965; not available NTIS.
Patent 3,179,597: Vertical Adherence Paint Remover Compositions; filed 7 November 1961; patented 20 April 1965; not available NTIS.
Patent 3,180,021: Weld Joint Backing and Method of Welding with Same; filed 21 November 1962; patented 27 April 1965; not available NTIS.
Patent 3,183,438: Modulated Power Measuring Bridge with Automatic A.C. and D.C. Rebalancing; filed 8 March 1960; patented 11 May 1965; not available NTIS.

U.S. DEPARTMENT OF AGRICULTURE Research Agreements and Patent Management Branch, General Services Division, Federal Building, Agricultural Research Service, Hyattsville, MD 20782.

Patent application 587,923: Treatment of Wood with Butylene Oxide; filed 18 June 1975; PC $3.25/MF $2.25.
Patent application 588,099: Low Density Fiberboard and Method of Making the Same; filed 18 June 1975; PC $3.25/MF $2.25.
Patent 3,862,028: Flotation-Beneficiation of Phosphate Ores; filed 20 November 1973; patented 21 January 1975; not available NTIS.
Patent 3,865,802: Process for Obtaining Full-Fat Oilseed-Protein Beverages Using Water and Initial Acid pH; filed 20 June 1973; patented 11 February 1975; not available NTIS.
Patent 3,870,727: Production of Harringtonine and Isoharringtonine; filed 27 April 1972; patented 11 March 1975; not available NTIS.

U.S. DEPARTMENT OF TRANSPORTATION Patent Counsel, 400 7th Street, SW., Washington, D.C. 20590.

Patent application 597,557: Inflatable Drag Reducer for Land Vehicles; filed 21 July 1975; PC $3.25/MF $2.25.

U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION Assistant General Counsel for Patents, Washington, D.C. 20545.

Patent appplication 503,544: Decomposition of Carbohydrate Wastes; filed 5 September 1974; PC $3.25/MF $2.25.
Patent application 534,328: Production of MHD Fluid; filed 19 December 1974; PC $3.25/MF $2.25.
Patent application 539,889: Methanation Process; filed 23 January 1975; PC $3.25/MF $2.25.
Patent application 550,099: Method and Apparatus for Measuring Incombustible Content of Coal Mine Dust Using Gamma Ray Backscatter; filed 14 February 1975; PC $3.25/MF $2.25.
Patent application 551,225: Electrode Assembly; filed 19 February 1975; PC $3.25/MF $2.25.
Patent 3,865,632: Terminal for Thermoelectric Element: filed 23 April 1973; patented 11 February 1975; not available NTIS.
Patent 3,866,075: Vacuum Type Trigger Discharge Tube with Cup Shaped Anode; filed 9 May 1974; patented 11 February 1975; not available NTIS.
Patent 3,870,099: Seal Assembly; filed 19 May 1972; patented 11 March 1975; not available NTIS.
Patent 3,872,718: Multipurpose Sampler Device for Liquid Metal; filed 30 October 1973; patented 25 March 1975; not available NTIS.

U.S. DEPARTMENT OF THE INTERIOR Branch of Patents, 18th and C Streets, NW., Washington, D.C. 20240.

Patent application 478,838: Hard Hat Air Curtain; filed 13 June 1974; PC $3.25/MF $2.25.

Patent application 488,082: A Process and Composition for Cleaning Hot Fuel Gas; filed 12 July 1974; PC $3.25/MF $2.25.

Patent application 491,012: Method and Apparatus for Direct Contact Multi-Stage Flash Desalination; filed 23 July 1974; PC $3.25/MF $2.25.

Patent application 495,486: Process for Manufacturing Wallboard and the Like; filed 8 August 1974; PC $3.25/MF $2.25.

Patent application 497,422: Method for Coating Ferrous Metals with Iron Sulfide by Reaction with Sulfur and Articles Produced Thereby; filed 14 August 1974; PC $3.25/MF $2.25.

Patent application 498,333: Use of Scavenger in Recovery of Metal Values; Filed 18 August 1974; PCS $3.25/MF $2.25.

Patent application 499,103: Transmitter-Receiver System; filed 20 August 1974; PC $3.25/MF $2.25.

Patent application 502,265: Vibrating Wire Stress Meter and Method to Clamp Wires; filed 3 September 1974; PC $3.25/MF $2.25.

Patent appplication 504,925; Polymer Concrete; filed 11 September 1974; PC $3.25/MF $2.25.

Patent application 507,099: Bed level Monitor; filed 18 September 1974; PC $3.25/MF $2.25.

Patent appplication 518,131: Quick-Slide Color Process; filed 25 October 1974; PC $3.25/MF $2.25.

Patent appplication 559,942: Hydrometallurgical Process for Copper Recovery from Sulfide Ores; filed 19 March 1975; PC $3.25/MF $2.25.

Patent application 571,180: Fire Prevention System; filed 24 April 1975; PC $3.25/MF $2.25.

Pat application 572,496: Remote Sealing of Mile Passages, filed 25 April 1975; PC $3.25/MF $2.25.

Pat application 574,992: Method and Apparatus for Determining Rock Stress in Situ; filed 6 May 1975; PC $3.75/MF $2.25.

Patent 3,823,019: Mine Wall Coating; filed 6 September 1972; patented 9 July 1974; not available NTIS.

Patent 3,825,651: Recovery of Gold from Ores; filed 14 October 1971; patented 23 July 1974; not available NTIS.

Patent 3,826,128: Surface Deformation Indicating Apparatus; filed 1 February 1973; patented 30 July 1974; not available NTIS.

Patent 3,826,667: Magnetite Coating Composition; filed 30 November 1972; patented 30 July 1974; not available NTIS.

Patent 3,826,971: Determination of Sulfate Using Ferric Ion-Selective Electrode; filed 12 April 1973; patented 30 July 1974; not available NTIS.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, ASSISTANT GENERAL COUNSEL FOR PATENT MATTERS, NASA CODE GP-2, WASHINGTON, D.C. 20546.

Pat application 589,119: Charge-Coupled Device Data Processor for an Airborne Imaging Radar System; filed 23 June 1975; PC $3.75/MF $2.25.

Pat application 590,182: Thrust Bearing; filed 25 June 1975; PC $3.25/MF $2.25.

Patent 3,884,432: High Life Aircraft; patented 20 May 1975; not available NTIS.

[FR Doc.76-4792 Filed 2-17-76;8:45 am]

GOVERNMENT-OWNED INVENTIONS

Notice of Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications, either paper copy (PC) or microfiche (MF), can be purchased at the prices cited from the National Technical Information Service (NTIS), Springfield, Virginia 22161. Requests for copies of patent applications must include the PAT-APPL-number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

DEPARTMENT OF THE ARMY, OFFICE OF THE JUDGE ADVOCATE GENERAL, PATENT DIVISION, ROOM 2C-455, PENTAGON, WASHINGTON, D.C. 20310.

Patent 3,165,047: Photographic Processing Apparatus; filed 1 March 1962; patented 12 January 1965; not available NTIS.

Patent 3,167,202: Closure Assembly for Container Neck; filed 15 January 1964; patented 26 January 65; not available NTIS.

Patent 3,167,265: Film Reel Drive; filed 8 November 1962; patented 26 January 1965; not available NTIS.

Patent 3,167,393: Method of Producing Pure Single Crystals of Graphite; filed 5 April 1962; patented 26 January 1965; not available NTIS.

Patent 3,167,429: Monobaths Containing Sodium Polyacrylate and Polyvinyl-Pyrrolidone; filed 26 May 1961; patented 26 January 1965; not available NTIS.

Patent 3,169,070: Method for Use in Freeze-Vacuum Dehydration of Meat; filed 5 April 1961; patented 9 February 1965; not available NTIS.

Patent 3,170,473: Captive Bolt; filed 12 September 1962; patented 23 February 1965; not available NTIS.

Patent 3,171,048: Crystal Frequency Temperature Compensation; filed 7 June 1963; patented 23 February 1965; not available NTIS.

Patent 3,179,533: Magnetic Tape with Reinforced Backing; filed 4 October 1961; patented 20 April 1965; not available NTIS.

Patent 3,732,821: Nose Ogive for Nonlethal Projectile; filed 25 May 1971; patented 15 May 1973; not available NTIS.

Patent 3,732,824: Means for Converting Impulse Linear Acceleration to Rotational Inertia; filed 28 April 1971; patented 15 May 1973; not available NTIS.

Patent 3,733,138: Optical System for Inspection of a Cavity; filed 14 June 1972; patented 15 May 1973; not available NTIS.

Patent 3,733,489: Radiation Timing Device; filed 7 July 1971; patented 15 May 1973; not available NTIS.

Patent 3,733,597: Proximity Detector and Alarm Utilizing Field Effect Transistors; filed 29 August 1969; patented 15 May 1973; not available NTIS.

Patented 3,734,116: Back Pressure Sensitive Switch for a Flueric Device; filed 1 September 1971; patented 22 May 1973; not available NTIS.

Patent 3,734,592: High Intensity Light Limiting Device; filed 21 June 1971; patented 22 May 1973; not available NTIS.

Patent 3,734,723: Compacted and Sintered Powder Mass Having a Discrete Cavity in the Mass and Method of Forming; filed 4 September 1970; patented 22 May 1973; not available NTIS.

Patent 3,734,983: Continuous Melt-Pour Process for High Explosives; filed 23 August 1971; patented 22 May 1973; not available NTIS.

Patent 3,735,137: Large, Two Dimension, Screen for Converting an Optical Image Projected on One Side to an Identical Infrared Image Display on the Other Side; filed 2 May 1972; patented 22 May 1973; not available NTIS.

Patent 3,738,223: Obturatod-Extractor Device for Firearms; filed 23 November 1971; patented 12 June 1973, not available NTIS.

Patent 3,738,224: Obturated Firearm Breech Safety Device; filed 23 November 1971; patented 12 June 1973; not available NTIS.

Patent 3,738,278: Coloured Smoke Production; filed 7 June 1971; patented 12 June 1973; not available NTIS.

Patent 3,739,082: Ordered Dither System; filed 29 February 1972; patented 12 June 1973; not available NTIS.

Patent 3,740,740: Liquid Cryogen Detector; filed 12 January 1972; patented 19 June 1973; not available NTIS.

Patent 3,741,479: Drive-Off Aid for Wheeled Vehicles and Method; filed 4 October 1971; patented 26 June 1973; not available NTIS.

Patent 3,741,727: Arsenic Sampler; filed 4 February 1972; patented 26 June 1973; not available NTIS.

Patent 3,744,369: Thermite Cable Cutter; filed 16 July 1971; patented 10 July 1973; not available NTIS.

Patent 3,744,418: Flares; filed 3 June 1971; patented 10 July 1973; not available NTIS.

Patent 3,744,971: Fuel-Metal Compatibility Test Unit; filed 28 May 1971; patented 10 July 1973; not available NTIS.

Patent 3,745,051: Quadruple Lap Simple Shear Test Specimen; filed 9 November 1971; patented 10 July 1973; not available NTIS.

Patent 3,745,100: Method of Preparing Semiporous Film of Aluminum Oxide Voltage Anodization; filed 22 December 1971; patented 10 July 1973; not available NTIS.

Patent 3,745,127: Composition of Matter Containing Carbon; filed 20 March 1972; patented 10 July 1973; not available NTIS.

Patent 3,745,404: Imaging Tube with Sensitivity Threshold; filed 23 July 1971; patented 10 July 1973; not available NTIS.

Patent 3,745,832: Link-Type Hypersonic Centrifuge; filed 13 May 1971; patented 17 July 1973; not available NTIS.

Patent 3,746,905: High Vacuum Field Effect Electron Tube; filed 21 December 1971; patented 17 July 1973; not available NTIS.

Patent 3,747,007: Variable Compensation for Feedback Control Systems; filed 7 July 1972; patented 17 July 1973; not available NTIS.

DEPARTMENT OF AGRICULTURE, Research Agreements and Patent Management Branch, General Services Division, Federal Bldg., Agricultural Research Service, Hyattsville, Md. 20782.

Patent 3,872,935: Apparatus and Method for Obtaining Undisturbed Soil Core Samples; filed 30 April 1974; patented 25 March 1975; not available NTIS.

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION, Assistant General Counsel for Patents, Washington, D.C. 20230.

Patent application 538,061: Methanation Process Utilizing Split Cold Gas Recycle;

filed 2 January 1975; PC $3.25/MF $2.25.
Patent Application 541,376: Agglomerating Combustor-Gasifier Method and Apparatus for Coal Gasification; filed 15 January 1975; PC $3.25/MF $2.25.
Patent 3,870,099: Seal Assembly; filed 19 May 1972; patented 11 March 1975; not available NTIS.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, National Institutes of Health, Chief, Patent Branch, Westwood Bldg., Bethesda, Md. 20014.

Patent application 568,986; Metal-Staining Assay (MSA) and Metal-Staining Inhibition Assay (MSIA) Detecting and Measuring Device for Detecting and Measuring an Antigen-Antibody Reaction; filed 17 April 1975; PC $3.25/MF$2.25.
Patent 3,898,412: Positive Position Interlock Concealment Shutter; filed 21 May 1974; patented 5 August 1975; not available NTIS.

DEPARTMENT OF THE INTERIOR, Branch of Patents, 18th and C Streets NW., Washington, D.C. 20240.

Patent application 495,351: Boltless Segmented Tunnel Lining Backed with Polyurethane Foam; filed 7 August 1974; PC $3.25/MF $2.25.
Patent application 509,153: Two-Stage Disposable Particle Sampling Head; 25 September 1974; PC $3.25/MF $2.25.
Patent application 515,390: Process for Separating Liquids from Suspensions; filed 16 October 1974; PC $3.25/MF $2.25.
Patent application 522,169: Emergency Breather Apparatus; filed 8 November 1974; PC $3.25/MF $2.25.
Patent application 554,834: Method for Applying Wax or Plastic Coatings to Granular Materials; filed 3 March 1975; PC $3.25/MF $2.25.
Patent application 554,838: Wax or Plastic Coated Phosphor Grains; filed 3 March 1975; PC $3.25/MF $2.25.
Patent application 554,839: Combination of Band-Type and Line-Type Emission Phosphors; filed 3 March 1975; PC $3.25/MF $2.25.
Patent application 554,993: Diluents for Coded Phosphor Grains; filed 3 March 1975; PC $3.25/MF $2.25.
Patent application 559,936: Powder Agglomerator and Its Method of Use; filed 19 March 1975; PC $3.25/MF $2.25.
Patent application 559.941: Process for Recovering Adsorbed Gold and/or Silver Values from Activated Carbon; filed 19 March 1975; PC $3.25/MF $2.25.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsel for Patent Matters, NASA Code GP–2, Washington, D.C. 20546.

Patent application 583,486: Three Phase Full Wave DC Motor Decoder; filed 3 June 1975; PC $3.25/MF $2.25.
Patent application 591,569: Mechanical Thermal Motor; filed 30 June 1975; PC $3.25/MF $2.25.
Patent application 593,142: Magnetic Bearing System; filed 3 July 1975; PC $3.75/MF $2.25.
Patent application 594.971: Rotating Joint Signal Coupler; filed 11 July 1975; PC $3.25/MF $2.25.
Patent application 595,197: Method and Apparatus for Neutralizing Potentials Induced on Spacecraft Surfaces; filed 11 July 1975; PC $3.25/MF $2.25.
Patent 3,189,784: Very High Intensity Light Source Using a Cathode Ray Tube; patented 15 June 1965; not available NTIS.
Patent 3,275,794: Apparatus for Welding Sheet Material: patented 27 September 1966; not available NTIS.
Patent 3,281,558: Multiple Circuit Protector Device; patented 25 October 1966; not available NTIS.
Patent 3,373,016: Brazing Alloy; patented 12 March 1968; not available NTIS.
Patent 3,411,900: Brazing Alloy Composition; patented 19 November 1968; not available NTIS.
Patent 3,454,766: Method and Apparatus for Vibration Analysis Utilizing the Mossbauer Effect; patented 8 July 1969; not available NTIS.
Patent 3,475,442: Brazing Alloy Binder; patented 28 October 1969; not available NTIS.
Patent 3,551,831: Traveling Wave Solid State Amplifier Utilizing a Semiconductor with Negative Differential Mobility; patented 29 December 1970; not available NTIS.
Patent 3,884,432: High Lift Aircraft; patented 20 May 1975; not available NTIS.
Patent 3,884,765: Automatic Microbial Transfer Device; patented 20 May 1975; not available NTIS.
Patent 3,888,362: Cooperative Multiaxis Sensor for Teleoperation of Article Manipulating Apparatus; patented 10 June 1975; not available NTIS.
Patent 3,891,311: Multiparameter Vision Testing Apparatus; patented 24 June 1975; not available NTIS.
Patent 3,891,533: Electrolytic Cell Structure; patented 24 June 1975; not available NTIS.
Patent 3,891,848: Fluorescence Detector for Monitoring Atmospheric Pollutants; patented 24 June 1975; not available NTIS.
Patent 3,891,851: Impact Position Detector for Outer Space Particles; patented 24 June 1975; not available NTIS.
Patent 3,893,449: Reference Apparatus for Medical Ultrasonic Transducer; patented 8 July 1975; not available NTIS.
Patent 3, 893,458: Heat Sterilizable Patient Ventilator; patented 8 July 1975; not available NTIS.
Patent 3,894,289: High Power Laser Apparatus and Systems; patented 8 July 1975; not available NTIS.

[FR Doc.76–4793 Filed 2–17–76;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

OMEGA-ALPHA, INC.

[File No. 500–1]

Amending Notice of Suspension of Trading

FEBRUARY 11, 1976.

The Commission having determined to amend its notice of February 10, 1976 summarily suspending trading in the common stock of Omega-Alpha, Inc. for the period from 3:35 p.m. (e.s.t.) on February 10, 1976 through February 19, 1976.

Therefore, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the 4¾% convertible subordinated debentures due 1992, the 6½% subordinated debentures due 1988 and all other securities of Omega-Alpha, Inc. being traded on the Midwest Stock Exchange and all other securities of Omega-Alpha, Inc. being traded otherwise than on a national securities exchange is suspended, for the period from 3:35 p.m. (e.s.t.) on February 10, 1976 through February 19, 1976.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.76–4562 Filed 2–17–76;8:45 am]

[Rel. No. 9152; (812–3882)]

THE VANGUARD GROUP, INC.

Filing of Application

FEBRUARY 11, 1976.

Notice is hereby given That The Vanguard Group, Inc. ("Vanguard"), and Wellington Fund, Inc., Windsor Fund, Inc., Ivest Fund, Inc., Exeter Fund, Inc., Explorer Fund, Inc., Trustees' Equity Fund, Inc., Wellesley Income Fund, Inc., W. L. Morgan Growth Fund, Inc., Westminster Bond Fund, Inc., Fund for Federal Securities, Inc., Whitehall Money Market Trust, and Qualified Dividend Portfolio, Inc., all open-end diversified management investment companies and Gemini Fund, Inc., a closed-end diversified investment company ("Vanguard Funds"), all of which are registered under the Investment Company Act of 1940 ("Act"), and Qualified Dividend Portfolio II, Inc., P.O. Box 823, Valley Forge, Pennsylvania 19482 ("Qualified II"), a newly organized open-end diversified management investment company registered under the Act, (all collectively "Applicants") filed an application on December 8, 1975, and an amendment thereto on January 30, 1976, pursuant to Section 17(b) of the Act and Rule 17d–1 thereunder for an order permitting Applicants to engage in certain transactions. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

On February 18, 1975, the Commission issued an order (Investment Company Act Release No. 8676) on an application filed by Vanguard, Vanguard Funds and Wellington Management Company ("WMC"), their investment adviser and principal underwriter, to permit, in substance, the partial internalization of the Vanguard Funds through Vanguard, a corporation owned by the Vanguard Funds which provides them with corporate management and administratives services at cost. Pursuant to this arrangement, each of the Vanguard Funds contributed to the capital of Vanguard in proportion to such fund's relative net assets. Adjustments will be made periodically to maintain proportional ownership by each of the Vanguard Funds. Applicants state that after approval by the shareholders of each Vanguard Fund, Vanguard began its operations on May 1, 1975.

WMC has organized a new investment company, Qualified II, for which WMC will act as investment adviser and principal underwriter. Qualified II's Board of Directors will be composed of the same persons who serve as directors of the Vanguard Funds, and Qualified II, will have the same officers as the Vanguard Funds. The Vanguard Funds' Service Contract makes provision for other registered investment companies to become parties to the agreement and join in the "at cost" arrangements for corporate management and administrative services. The Vanguard Funds propose to permit Qualified II to become a party to the agreement. Qualified II will

participate in the capitalization of Vanguard, which is limited to .05% of the net assets of each party to the agreement.

Section 17(a) of the Act, in pertinent part, prohibits an affiliated person of or principal underwriter for a registered investment company, acting as principal, knowingly to sell any security to such registered company, or knowingly to purchase from such registered investment company any security. Section 17(b) of the Act provides, however, that the Commission, upon application, may exempt a transaction from the provisions of Section 17(a) if evidence establishes that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person action is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

Vanguard is an affiliated person of several of the Vanguard Funds which own more than 5% of its voting securities. Further, since there are common directors and Vanguard Funds and Qualified II will own all of Vanguard's voting securities, Vanguard may be deemed to be directly or indirectly controlled by, or under common control with, one or more of the Vanguard Funds and Qualified II; and therefore Vanguard may be deemed to be an affiliated person of each of them and they may be deemed to be affiliated persons of each other. Thus, Applicants state the proposed purchases and sales of Vanguard shares by Qualified II among Vanguard and Vanguard Funds may be deemed subject to the provisions of Section 17(a).

Section 17(d) of the Act and Rule 17d–1 thereunder, in pertinent parts, prohibit an affiliated person of a registered investment company, or an affiliated person of such a person, acting as principal, to participate in, or effect any transaction in connection with any joint enterprise or arrangement in which any such registered investment company or a company controlled by such registered company is a participant with the affiliated person unless an application regarding such transaction is filed and an order is granted permitting such joint enterprise or arrangement prior to its submission to security holders for approval; and provide that, in passing upon such application the Commission will consider whether the participation of such registered or controlled company in such arrangement is consistent with the provisions, policies and purposes of the Act, and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

Applicants state that Vanguard, Vanguard Funds and Qualified II may be deemed to be engaged in such a joint transaction and prohibited from having Qualified II join the Vanguard Fund Group unless the Commission issues an order allowing the implementation of such proposal.

Applicants, therefore, request an order pursuant to Section 17(b) of the Act and Rule 17d–1 thereunder (1) exempting from Section 17(a) of the Act the transaction whereby Vanguard will issue and Qualified II will purchase securities of Vanguard as described above; (2) exempting from Section 17(a) of the Act the transactions whereby each of the Vanguard Funds and Qualified II periodically may purchase and sell securities of Vanguard among themselves to maintain ownership of Vanguard proportional to their assets; and (3) permitting Vanguard, Vanguard Funds, and Qualified II to enter into and implement the proposed joint transaction whereby Qualified II joins the Vanguard Funds described herein.

Vanguard Funds and Qualified II reassert the representations made in their earlier applications, i.e., that the internalization of the management of their corporate administrative affairs through Vanguard achieves increased independence from and an increased ability to monitor and evaluate the performance of any external investment adviser or distributor, thereby increasing their ability to obtain the best investment advisory, distribution, and administrative services at a reasonable cost. They further state that the arrangement increases their bargaining power in obtaining advisory and underwriting services and reduces the expenses both immediately and in the long run by having corporate administrative services performed at cost. Vanguard Funds and Vanguard state that the addition of Qualified II to The Vanguard Fund Group arrangements will produce additional benefits to the Vanguard Funds because of the ability to spread Vanguard's fixed costs of operation over a larger asset base, producing economies of scale. Vanguard asserts it has the capability to provide services to Qualified II without impairing the quality of service to others.

The application states that the proposed contribution to the capitalization of Vanguard by Qualified II is reasonable in view of the anticipated working capital needs of Vanguard and the de minimis portion of its assets to be invested, and fair since each investment company will contribute capital in proportion to its current net assets with the capital contribution being adjusted periodically so that no investment company will have a disproportionate investment. Applicants further state that the essential purposes of the proposal are consistent with the provisions, policies and purposes of the Act.

Applicants represent that all the proposed arrangements and transactions described in the application comport with the applicable statutory standards.

Notice is further given That any interested person may, not later than March 9, 1976, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. As provided by Rule O–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76–4561 Filed 2–17–76;8:45 am]

SMALL BUSINESS ADMINISTRATION

LOS ANGELES DISTRICT ADVISORY COUNCIL

Public Meeting

The Los Angeles District Advisory Council will hold a public meeting at 12:00 noon, Monday, March 15, 1976, in the Bordequx Room at Taix Les Freres French Restaurant, 1911 W. Sunset Boulevard, Los Angeles, California, to discuss such mattters as may be presented by members, staff of the Small Business Administration and others present. For further information, write or call Stewart L. Rollins, Small Business Administration, 350 South Figueroa Street, Suite 600, Los Angeles, California 90071, (213) 688–2977.

Dated: February 10, 1976.

ANTHONY S. STASIO,
Chief Counsel for Advocacy.

[FR Doc.76–4541 Filed 2–17–76;8:45 am]

[Declaration of Disaster Loan Area #1207]

MASSACHUSETTS

Declaration of Disaster Area

Jamaica Plain, in the City of Boston, Suffolk County, within the State of Massachusetts, constitutes a disaster area because of damage resulting from a fire which occurred on February 1, 1976. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on April 8, 1976, and for economic injury until the close of business on November 8, 1976 at:

Small Business Administration, District Office, 150 Causeway Street, Boston, Massauchetts 02114

or other locally announced locations.

Dated: February 6, 1976.

LOUIS F. LAUN,
Acting Administrator.

[FR Doc.76-4540 Filed 2-17-76;8:45 am]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS NUCLEAR REGULATORY COMMISSION

Meeting

In accordance with the purposes of sections 29 and 182 b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactor Safeguards will hold a meeting on March 4–6, 1976, in Room 1046, 1717 H Street, NW, Washington, DC.

The agenda for the subject meeting will be as follows:

THURSDAY, MARCH 4, 1976

8:30 a.m.–9:30 a.m.: Executive Session (Closed)—The Committee will meet in closed session to discuss the opinions of individual members and to exchange recommendations related to: nomination of candidates for appointment to the Committee; ACRS policy regarding proposed meetings; and activities of the NRC Staff. The Committee members will exchange and discuss individual opinions regarding evaluation of the ACRS Subcommittee and consultants related to the Washington Public Power Supply System Nuclear Project No. 3 & 5.

9:30 a.m.–1:00 p.m.: Washington Public Power Supply System Nuclear Project No. 3 & 5 (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC Staff and the Applicant related to the reqeust for a Construction Permit for this project. Closed sessions will be held if required to discuss proprietary information applicable to this project. Closed sessions will also be held if required to discuss security arrangements for this plant and for Committee deliberative sessions.

2:00 p.m.–2:30 p.m.: Executive Session (Closed)—The Committee will meet in closed session to discuss the personal opinions of individual members and to exchange recommendations regarding the evaluation of the ACRS Subcommittee and its consultants related to the proposed repairs and modifications at the Browns Ferry Nuclear Plant which have been proposed as a result of the fire which occurred on March 22, 1975.

2:30 p.m.–7:00 p.m.: Browns Ferry Nuclear Power Plant Units 1 & 2 (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC Staff and the Tennessee Valley Authority regarding proposed repairs and modifications at the Browns Ferry Nuclear Plant which have been proposed as a result of the fire which occurred on March 22, 1975. Portions of this session will be closed if required to discuss proprietary information applicable to this plant.

FRIDAY, MARCH 5, 1976

8:30 a.m.–11:00 a.m.: Executive Session (Closed)—The Committee will meet in closed session to exchange individual opinions and recommendations of the members regarding the NRC inspection and enforcement program. This session will include discussion with the Executive Director for Operations and the Director, Office of Policy Evaluation, regarding preliminary results and conclusions of internal reviews of the NRC regulatory and inspection and enforcement programs.

11:00 a.m.–1:00 p.m.: Discussion with NRC Staff (Open)—The Committee will meet in open session with members of the NRC Staff to discuss the NRC inspection and enforcement program; procedures and requirements for licensing reactor operators; recent operating experience and licensing actions; and the anticipated schedule for future ACRS meetings.

2:00 p.m.–2:30 p.m.–Executive Session (Closed)—The Committee will meet in closed session to discuss the opinions of individual members and to exchange recommendations regarding the evaluation of the ACRS Subcommittee and its consultants related to proposed modification of the containment for the Vermont Yankee Nuclear Power Station.

2:30 p.m.–5:30 p.m.: Vermont Yankee Nuclear Power Station (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC Staff, the General Electric Company, the Vermont Yankee Nuclear Power Corporation, and the MK–I Review Group related to proposed modification of the containment for the Vermont Yankee Nuclear Power Station.

Portions of this session will be closed if necessary to discuss proprietary information applicable to this plant and/or the pressure suppression containment design. Closed portions will also be held for Committee deliberative sessions.

5:30 p.m.–6:30 p.m.: Executive Session (Closed)—The Committee will meet in closed session to discuss the opinions of individual members and exchange recommendations leading to the formulation of advice to the Commission and the NRC Staff regarding proposed criteria for packages used for air shipment of plutonium, proposed NRC Regulatory Guides, and ACRS review of application amendments.

SATURDAY, MARCH 6, 1976

8:30 a.m.–4:30 p.m.: Executive Session (Closed)—The Committee will meet in closed session to discuss the opinions of individual members and to exchange recommendations leading to the formulation of advice to the Commission with respect to matters considered at this meeting. Proposed ACRS reports regarding generic items such as emergency core cooling systems, management of radioactive wastes, and the design basis accident for fast reactors will also be discussed. Propective candidates for appointment as ACRS consultants will be considered.

I have determined in accordance with Subsection 10(d) of Pub. L. 92–463 that it is necessary to close portions of the meeting as noted above to protect proprietary data (5 U.S.C. 552(b)(4)), to protect the free exchange of opinion during the Committee's deliberative process (5 U.S.C. 552(b)(5)), and to preclude unwarranted invasion of privacy (5 U.S.C. 552(b)(6)). These closed sessions will consist primarily of deliverative discussion among the Committee members leading to the formulation of advice and recommendations to the Nuclear Regulatory Commission. Separation of factual information from the individual advice, opinion or recommendations of ACRS members and consultants during this discussion is not considered practical.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Committee is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda items may do so by providing a readily reproducible copy to the Committee at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview. Persons desiring to mail written comments may do so by mailing a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than February 25, 1976, to the Executive Director, Advisory Committee on Reactor Safeguards, Nuclear Regulatory Commission, Washington, DC 20555 will normally be received in time to be considered at this meeting. Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street, NW, Washington, DC 20555 and at the following Public Document Rooms:

WASHINGTON PUBLIC POWER SUPPLY SYSTEM NUCLEAR PROJECT NO 3 & 5

H. W. Able Memorial Library, 125 Main Street South, Montesano, WA 98563.

BROWNS FERRY

Athens Public Library, South and Forrest Streets, Athens, AL 12333.

VERMONT YANKEE NUCLEAR POWER STATION

Brooks Memorial Library, 224 Main Street, Brattleboro, VT 05301.

(b) Those persons wishing to make oral statements regarding agenda items at the meeting should make a request to do so prior to the meeting, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Committee will receive oral statements in safety related areas within the Committee's purview at an appropriate time chosen by the Chairman of the Committee.

(c) Further information regarding topics to be discussed, whether the meeting or portions of the meeting have been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted therefor, can be obtained by a prepaid telephone call on March 3, 1976, to the Office of the Executive Director of the Committee (Telephone: 202–634–1371) between 8:15 a.m. and 5:00 p.m., Eastern Time. It should be noted that the schedule noted above is tentative, based on the anticipated availability of related information, etc. It may be necessary to reschedule items to accommodate required changes. The ACRS Ex-

ecutive Director will be prepared to describe these changes on March 3, 1976.

(d) Questions may be propounded only by members of the Committee and its consultants.

(e) The use of still, movie, and television cameras, the physical installation and presence of which will not interfere with the course of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(f) Persons with agreements or orders permitting access to proprietary information other than safeguards information may attend portions of ACRS meetings where this material is being discussed upon confirmation that such agreements are effective and relate to the material being discussed. The Executive Director of the ACRS should be informed of such an agreement at least 3 days prior to the meeting so that the agreement can be confirmed and a determination can be made regarding the applicability of this agreement to the material that will be discussed during the meeting. Minimum information provided should include information regarding the date of the agreement, the scope of material included in the argeement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to the Executive Director at the beginning of the meeting.

(g) A copy of the transcript of the open portions of the meeting will be available for inspection during the following workday at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street, NW, Washington, DC. Copies of the minutes of the meeting will be made available for inspection at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street, NW, Washington, DC, on or after June 4, 1976. Copies may be obtained upon payment of appropriate charges.

JOHN C. HOYLE,
Advisory Committee Management Officer.

FEBRUARY 12, 1976.

[FR Doc.76-4818 Filed 2-17-76;10:18 am]

VETERANS ADMINISTRATION

STATION COMMITTEE ON EDUCATIONAL ALLOWANCES

Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on February 25, 1976, at 10:00 a.m., the Veterans Administration Regional Office Station Committee on Educational Allowances shall at Federal Building—U.S. Courthouse, Room A-220, 110 9th Avenue, South, Nashville, Tennessee, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in Shelby State Community College, 1588 Union Avenue, Memphis, Tennessee, should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the Committee at that time and place.

Dated: February 10, 1976.

R. S. BIELAK,
Director, VA Regional Office.

[FR Doc.76-4605 Filed 2-17-76;8:45 am]

INTERNATIONAL TRADE COMMISSION

PRIVACY ACT OF 1974

Modification of Proposed System of Records

On October 17, 1975, the United States International Trade Commission proposed a new system of records on identifiable individuals. Notice of this proposal was published on October 22, 1975, at 40 FR 49564. Specifically, the proposed system was to consist of a position and personnel roster for current employees of the United States International Trade Commission.

The FEDERAL REGISTER notice invited public comment on the "routine use" section of the proposed system in accordance with 5 U.S.C. 552a(e)(11). No comments have been received.

Since publication of the notice concerning the proposed position and personnel roster, both the Office of Management and Budget and the Civil Service Commission have advised the staff of the United States International Trade Commission that the proposed position and personnel roster is covered by the notice for a government-wide system for General Personnel Records (CSC/GOVT-3) published on August 17, 1975, at 40 FR 39245-39246. Therefore, the United States International Trade Commission has determined that the position and personnel roster as described in the FEDERAL REGISTER of October 22, 1975, will be established pursuant to the government-wide system for General Personnel Records (CSC/GOVT-3) as published at 40 FR 39245-39246.

Issued: February 13, 1976.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc.76-4775 Filed 2-17-76;10:35 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 977]

ASSIGNMENT OF HEARINGS

FEBRUARY 12, 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-18 Sub 10, Chesapeake, and Ohio Railway Company Abandonment of the Pomeroy Branch serving the stations of Union Furnace, Starr, New Plymouth, Orland, Creola, McArthur, Dondas, Oreton, Hawks, Minerton, Vinton, Bidwell, Kerrs, Gallipolis, Kanauge, Cheshire, Middleport, Ambassador Siding, and Pomeroy, all in Hocking, Vinton, Gallia, and Meigs Counties, Ohio, in a hearing room to be designated later.

MC 82841 (Sub-No. 157), Hunt Transportation, Inc., now assigned March 1, 1976, at Washington, D.C., is canceled and application dismissed.

MC 130302, Eastern Ski Tours, Inc., now assigned February 17, 1976, at Philadelphia, Pa., is postponed indefinitely.

MC 72442 (Sub-No. 47), Akers Motor Lines, Incorporated, now assigned February 17, 1976, at Charlotte, N.C., is canceled and application dismissed.

MC 106398 (Sub-No. 732), National Trailer Convoy, Inc., now being assigned April 6, 1976, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 128866 (Sub-No. 54), B & B Trucking, Inc., now being assigned April 7, 1976, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 113666 (Sub-No. 95), Freeport Transport, Inc., now being assigned April 7, 1976, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-C-8551, Red Star Express Lines of Auburn, Inc. vs. Boss-Linco, Inc., now being assigned April 21, 1976, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 109847 (Sub 22), Boss-Linco Lines, Inc., now being assigned April 21, 1976, at the Offices of the Interstate Commerce Commission, Washington, D.C.

No. 36277, Increased Absorption of Switching Charges at Mobile, Ala., now being assigned April 20, 1976, at Mobile, Ala., in a hearing room to be later designated.

No. 36282, United States Manufacturing Company, Inc., v. Pacific Intermountain Express Company, Inc., now being assigned April 27, 1976, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 110325 (Sub-No. 67), Transcon Lines, now assigned March 29, 1976, at Lansing, Mich., is postponed to April 26, 1976, (1 week), at Lansing, Mich., in Room 215, Federal Building, 315 West Allegan Street.

MC 107295 (Sub-No. 782), Pre-Fab Transit Co., application dismissed.

MC 130140 (Sub-No. 1), Connecticut Tours, Incorporated, now assigned March 8, 1976, at New Haven, Conn., is postponed indefinitley.

MC 14112 (Sub-No. 4), Gallop Bus Lines, now being assigned March 8, 1976 at Post Office and Court House Building, Room 8-A, 600 Cranby Street, Norfolk, Virginia.

MC 141373 K.I.T. Motor Express, Incorporated, application dismissed.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.76-4616 Filed 2-17-76;8:45 am]

[Notice No. 17]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

FEBRUARY 12, 1976.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which is 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.

No. MC 106485 (Sub 17TA), filed January 26, 1976. Applicant: LEWIS TRUCK LINES, INC., Box 642, Lisbon, N. Dak. 58054. Applicant's representative: Michael E. Miller, 502 First National Bank Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Articles* dealt in or used by retail grocery stores from Northfield, Minn., to Fargo, N. Dak., restricted to shipments originating at facilities of Fairway Foods, Inc., located at Northfield, Minn., for 180 days. Supporting shipper: Fairway Foods, Inc., 1930 Como Avenue, St. Paul, Minn. 55108. Send protests to: Joseph H. Ambs, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 107002 (Sub 478TA), filed February 3, 1976. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, U.S. Highway 80 West, Jackson, Miss. 39205. Applicant's representative: Edward M. Regan (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal or poultry feed ingredients*, in bulk, from Memphis, Tenn., to points in Alabama, Arkansas, Georgia, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, and Texas, for 180 days. Applicant has also filed underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Mid-South Milling Co., Inc., 1229 Kansas Street, Memphas, Tenn. 38106. Send protests to: District Supervisor Tarrant, Interstate Commerce Commission, Room 212, 145 East Amite Building, Jackson, Miss. 39201.

No. MC 107460 (Sub 60TA), filed January 12, 1976. Applicant: WILLIAM Z. GETZ, INC., 3055 Yellow Gose Road, Lancaster, Pa. 17601. Applicant's representative: Donald D. Shipley (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Materials and supplies* used in the manufacture of metal roofing (except commodities in bulk), from the plant site of Fabral Corporation located at or near Jackson, Ga., to the plant site of Fabral Corporation located at or near Lancaster, Pa., under a continuing contract or contracts with Fabral Corporation, for 180 days. Applicant has also filed underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Fabral Corporation, 3449 Hempland Road, Lancaster, Pa. 17601. Send protests to: Robert P. Amerine, Dist. Supv., Bureau of Operations, Interstate Commerce Commission, 278 Federal Building, Post Office Box 869, Harrisburg, Pa. 17108.

No. MC 113459 (Sub-No. 103 TA) (correction), filed January 14, 1976, published in the FEDERAL REGISTER issue of February 4, 1976, and republished as corrected this issue. Applicant: H. J. JEFFERIES TRUCK LINE, INC., P.O. Box 94850, 4720 South Shields Blvd., Oklahoma City, Okla. 73129. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Bldg., Dallas, Texas. 75224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles*, (except commodities in bulk), from the plantsite and facilities of National Pipe and Tube Company, located in Liberty County, Tex., to points in the United States (except Alaska, Hawaii and Texas), and (2) *materials, equipment, and supplies* used in the manufacturer, processing and distribution of iron and steel articles (except commodities in bulk), from points in the United States (except Alaska, Hawaii and Texas), to the plantsite and facilities of National Pipe and Tube Company, located in Liberty County, Tex., restricted in Parts (1) and (2) above to traffic originating at and destined to the named plantsite and facilities of National Pipe and Tube Company and the named states, for 180 days. Supporting shipper: National Pipe and Tube Company, William E. Linton, V. P. of Traffic, 20th and State Streets, Granite City, Ill. 62040. Send protests to: Larry Chapman, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, Okla.

NOTE.—The purpose of this correction is to indicate the territorial description in (2) above.

No. MC 118039 (Sub 26 TA), filed January 28, 1976. Applicant: MUSTANG TRANSPORTATION, INC., 833 Warner Street, SW., Atlanta, Ga., 30310. Applicant's representative: Mr. Virgil H. Smith, Suite 12, Phoenix Blvd., Atlanta, Ga. 30349. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Boxes, fiberboard, and beverage cartons*, from the plant site and warehouse of the Mead Packaging Division of Mead Corporation in Cobb County, Ga., to points in Mississippi, Arkansas, Oklahoma, Louisiana, and Texas, and points in Tennessee on and West of a line beginning at the Alabama-Tennessee State Line and extending along Tennessee Highway 13 to junction U.S. Highway 79, and thence along U.S. Highway 79 to the Tennessee-Kentucky State Line, for 180 days. Applicant has also filed underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Mead Packaging Division of Mead Corporation, 1040 W. Marietta St., Atlanta, Ga. Send protests to: Mr. William L. Scroggs, District Supervisor, Interstate Commerce Commission, 1252 W. Peachtree St., N.W., Rm. 546, Atlanta, Ga. 30309.

No. MC 133119 (Sub-No. 80TA) (Correction), filed January 13, 1976, published in the FEDERAL REGISTER issue of February 4, 1976, and republished as corrected this issue. Applicant: HEYL TRUCK LINES, INC., 200 Norka Drive, P.O. Box 206, Akron, Iowa 51001. Applicant's representative: Donald Heyl (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen potatoes and potato products*, (1) from Clark, S. Dak., to Sioux Falls, S. Dak.; and (2) from Sioux Falls, S. Dak., to points in Arizona, Alabama, Arkansas, Kansas, Iowa, Wisconsin, Colorado, Nebraska, Missouri, Illinois, Michigan, Oklahoma, Texas, New Mexico, Louisiana, Mississippi, Tennessee, Georgia, Florida, North Carolina, and South Carolina, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Joseph H. Roe, President, Midwest Foods Corporation, P.O. Box 100, Clark, S. Dak. 57225. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

NOTE.—The purpose of this republication is to indicate the correct territorial description.

No. MC 133119 (Sub 84TA), filed February 2, 1976. Applicant: HEYL TRUCK LINES, INC., 200 Norka Drive, Akron, Iowa 51001. Applicant's representative: Donald Heyl (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen pizza*, from

the Minneapolis, Minn., commercial zone, to points in Georgia, North Carolina, South Carolina and Panama City, Fla., for 180 days. Applicant has also filed underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Emmett Keenan, Distribution Manager, Totino's Finer Foods Division, The Pillsbury Company, 7350 Commerce Lane, Fridley, Minn., 55432. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th St., Omaha, Nebr. 68102.

No. MC 136220 (Sub 27TA), filed January 27, 1976. Applicant: ROY SULLIVAN, doing business as SULLIVAN TRUCKING CO., 1708 N. 3rd, Ponca City, Okla. 74601. Applicant's representative: G. Timothy Armstrong, Suite 200, Timbergate Office Gardens, 6161 N. May Ave., 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., at Old Rock, Kans., to points in Arkansas, Illinois, Louisiana, Mississippi, Missouri, Oklahoma, and Texas, for 180 days. Applicant has also filed underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Vy Lactose Laboratories Co., 1901 Euclid, Des Moines, Iowa 50313. Send protests to: William J. Green, Transportation Specialist, Interstate Commerce Commission 215, N.W. 3rd St., Oklahoma City, Okla. 73102.

No. MC 141603 (Sub-No. 1TA) (Amendment), filed January 12, 1976, published in the FEDERAL REGISTER issue of January 29, 1976, and republished as amended this issue. Applicant: CANADIAN PACIFIC EXPRESS LTD., 853 York Mills Road, Don Mills, Ontario, Canada M3B 1Y2. Applicant's representative: John H. Clune (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, Classes A and B explosives and livestock), moving in express service, restricted against the transportation of shipments weighing in the aggregate of 300 pounds or more from any one consignor to any one consignee on any one day, with no individual piece weighing more than 70 pounds, (1) between points along the International Boundary line between the United States and Canada located along the Niagara River, on the one hand, and, on the other, Detroit, Mich., and points in the Detroit, Mich., and Buffalo, N.Y., Commercial Zones; and (2) between points on the International Boundary line between the United States and Canada located along the Detroit River, on the one hand, and, on the other, Detroit, Mich., the Detroit Metropolitan Wayne County Airport, and points in the Detroit, Mich., Commercial Zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately 93 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: George M. Parker, District Supervisor, Interstate Commerce Commission, Bureau of Operations 910 Federal Building, 111 West Huron Street, Buffalo, N.Y. 14202.

No. MC 141722 (Sub 1TA), filed January 23, 1976. Applicant: NORM'S DELIVERY SERVICE, INC., 7107 Vineland Avenue, North Hollywood, Calif. 91605. Applicant's representative: Eldon M. Johnson, 650 California Street. Suite 2808, San Francisco, Calif. 94108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Jet aircraft engines; component parts for jet aircraft; and assembled turbo-jet propellers*, restricted to movements on low-bed trailers equipped with air-ride suspension, between points in California, on the one hand, and, on the other hand, points in Arizona, Colorado, Nevada, New Mexico, Oregon, Utah and Washington, for 180 days. Supporting shippers: Trans World Airlines, Inc., 7001 World Way West, Los Angeles, Calif. 90009, Continental Airlines, Inc., 7300 World Way West, Los Angeles, Calif. 90009, World Airways, Inc. 1100 Airport Drive, Oakland, Calif. 94614, Aviation Power Supply, Inc., 3111 Kenwood St., Burbank, Calif., 91505, General Electric Co. AS)/Ontario, Ontario International Airport, Ontario, Calif. 91761, Loretz & Company, Inc., 8728 Aviation Blvd., Inglewood, Calif. 90301, Pacific Airmotive Corporation, 2940 N. Hollywood Way, Burbank, Calif. 91502. Send protests to: Transportation Assistant Mildred I. Price, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 141739 (Sub 1TA), filed January 27, 1976. Applicant: SPECIALIZED TRUCKING SERVICE, INC., 1523 18th N.E., Puyallup, Wash. 98731. Applicant's representative: George H. Hart and Jack R. Davis, 110 IBM Bldg., Seattle, Wash. 98101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Mineral fibre, mineral fibre products and insulating materials*, from the facilities of U.S. Gypsum Company at Tacoma, Wash., to points in California, Idaho, Utah, Montana, Nevada, and points of entry on the United States-Canada boundary line located in Washington, Idaho and Montana for service to British Columbia and Alberta, Canada. Applicant has also filed underlying ETA seeking up 90 days of operating authority. Under a continuing contract or contracts with United States Gypsum Company. Supporting shipper: U.S. Gypsum Company, 525 S. Virgil Avenue, Los Angeles, Calif. Send protests to: L. D. Boone, Transportation Specials, Bureau of Operations, Interstate Commerce Commission, 858 Federal Building, Seattle, Wash. 98174.

By the Commission.

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

[FR Doc.76-4618 Filed 2-17-76;8:45 am]

Just Released

CODE OF FEDERAL REGULATIONS

(Revised as of October 1, 1975)

Title 45—Public Welfare (Part 500–End)---------- $4.90

[*A Cumulative checklist of CFR issuances for 1975 appears in the first issue of the Federal Register each month under Title 1*]

**Order from Superintendent of Documents,
United States Government Printing Office,
Washington, D.C. 20402**