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Pages 25429–25578

PART I

federal register

June 16, 1975—Pages 25429–25578

NOTICE REGARDING PRIVACY ACT PUBLICATIONS GUIDELINES

The Office of the Federal Register announces that the Privacy Act Publications Guidelines originally scheduled for this issue of the Federal Register will be published within a few days. A government-wide meeting will be held at 2:00 p.m. on Tuesday, July 1, 1975, in the GSA Auditorium, 18th and F Sts., NW., to address questions about Privacy Act publications. Further information about this meeting will appear in the Guidelines.

HIGHLIGHTS OF THIS ISSUE

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

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PART II:

reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

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FHLLB—Federal charters; retention by associations converting from mutual to stock form 20943; 5–14–75

Federal savings and loan systems; operations; amendment to escrow funds 20942; 5–14–75

Treasury/CS—Port of entry, Des Moines, Iowa 19194; 5–2–75

Weekly List of Public Laws

This is a listing of public bills enacted by Congress and approved by the President, together with the law number, the date of approval, and the U.S. Statute citation. The list is kept current in each issue of the Federal Register and copies of the laws may be obtained from the U.S. Government Printing Office.

H.R. 4109 ..... Pub. Law 94–31
Grand Canyon National Park (June 10, 1975; 89 Stat. 172)

ATTENTION: Questions, corrections, or requests for information regarding the contents of this issue only may be made by dialing 202–523–5266. For information on obtaining extra copies, please call 202–523–5240. To obtain advance information from recorded highlights of selected documents to appear in the next issue, dial 202–523–5022.

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

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Title 3—The President

PROCLAMATION 4379

National Day of Prayer, 1975

By the President of the United States of America

A Proclamation

As we begin the celebration of our Bicentennial, it is fitting to recall that it was a profound faith in God which inspired the Founders of our Nation. Two hundred years ago, on June 12, 1775, the Second Continental Congress called upon the inhabitants of all the Colonies to unite, on a designated Thursday in July, in "humiliation, fasting, and prayer." This was our first national day of prayer.

Americans on that day were asked to address their prayers to the "Great Governor of the World" to preserve their new Union and secure civil and religious liberties.

Those first prayers were answered in full measure. The Union survives. The liberties for which our forefathers prayed were never so secure as they are today. But material progress and human achievement often beckon mankind away from the spiritual virtues.

As we prepare to mark the 200th anniversary of the birth of our Nation, it is my fervent hope that Americans will not forget that it was prayer that helped to forge our freedoms and foster our liberties.

Let us now pray—as we have done throughout our history, and as the Congress has requested (66 Stat. 64)—for the wisdom to continue the American pilgrimage, striving toward a nobler existence for all humanity. Let us ask for the strength to meet the challenges that face our Nation. Let us give thanks to God for the many blessings granted to America throughout these two centuries. And let us express the hope that our lives may continue to be enriched by the grace of our Maker.

NOW, THEREFORE, I, GERALD R. FORD, President of the United States of America, do hereby proclaim Thursday, July 24, 1975, as National Day of Prayer, 1975.

I call upon all Americans to pray that day, each after his or her own manner and convictions, for unity and the blessings of Freedom throughout our land and for peace on earth.

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

Gerald R. Ford

[FR Doc.75-15676 Filed 6-12-75;2:04 pm]

Executive Order 11863 • June 12, 1975

Withholding of City Income or Employment Taxes by Federal Agencies

By virtue of the authority vested in me by Section 5520 of Title 5 of the United States Code (as added by Public Law 93–340, Act of July 10, 1974, 88 Stat. 294), Section 301 of Title 3 of the United States Code, and as President of the United States, I hereby revoke Executive Order No. 11833 of January 13, 1975, and prescribe the following regulations to govern agreements between the Secretary of the Treasury and any city for the withholding of city income or employment taxes from the compensation of Federal employees:

SECTION 1. As used in this Order or in agreements—

(a) The term "agency" means (1) an Executive agency as defined in Section 105 of Title 5 of the United States Code, (2) the judicial branch, and (3) the United States Postal Service.

(b) The term "Armed Forces" includes all regular and reserve components of the Army, Navy, Air Force, Marine Corps, and Coast Guard.

(c) The term "employees" as applied to employees of an agency includes officers and means individuals who are (1) appointed by a Federal officer or employee acting in his official capacity, (2) engaged in the performance of a Federal function under authority of law or an Executive act, and (3) subject to the supervision of a Federal officer or employee in the performance of the duties of his position. The term does not include retired personnel, pensioners, annuitants, or similar beneficiaries of the Federal Government who are not performing active service, or persons receiving remuneration for services on a contract-fee basis.

(d) The term "city" means a city which is duly incorporated under the laws of a State and has within its political boundaries, on the date of the agreement, 500 or more persons who are regularly employed by all agencies of the Federal Government.

(e) The term "city income or employment taxes" means any form of tax for which, under a city ordinance, collection is provided by imposing on employers generally the duty of withholding sums from the pay of employees and making returns of the sums to the city. Whether the tax is described as an income, wage, payroll, earnings, occupational license, or otherwise, is immaterial.

(f) The term "regular place of Federal employment" means the official duty station, or other place, where an employee actually performs his services, irrespective of his residence. If the employee's services are performed in a travel or temporary duty status, his "regular place of Federal employment" will be the official duty station, or other place, to which he is expected to proceed when his travel or temporary duty status ends.

(g) The term "compensation" as applied to employees of an agency means "wages" as defined in Section 3401(a) of the Internal Revenue Code of 1954 and regulations thereunder.

SEC. 2. Each agreement shall be (a) consistent with the provisions of Section 5520 of Title 5 of the United States Code and the rules and regulations (including this Executive Order) issued thereunder, and (b) subject to amendment of any such provisions, including amendments made after the effective date of the agreement.

SEC. 3. Each agreement shall provide (a) when tax withholding shall begin, (b) that the head of an agency may rely on an employee's withholding certificate in withholding city taxes, (c) that the method for calculating the amount to be withheld shall produce approximately the tax required to be withheld by the city ordinance, and (d) that procedures for the withholding, filing of returns, and payment of the withheld taxes to the city shall conform to the usual fiscal practices of agencies. No agreement shall require the collection by an agency of delinquent tax liabilities of an employee.

SEC. 4. The head of each agency shall designate, or provide for the designation of, the officers or employees whose duty it shall be to withhold taxes, file required returns, and direct the payment of the taxes withheld, in accordance with this Order, any rules or regulations prescribed by the Secretary of the Treasury, and the applicable agreement.

SEC. 5. Nothing in this Order, in rules or regulations issued hereunder, or in any agreement pursuant thereto, shall be considered an agreement by the United States to the application of a city ordinance which imposes more burdensome requirements on the United States than on other employers, or which subjects the United States or its employees to a penalty or liability.

SEC. 6. I hereby delegate to the Secretary of the Treasury authority to prescribe additional rules and regulations to implement Section 5520 of Title 5 of the United States Code and this Order.

Gerald R. Ford

THE WHITE HOUSE,
June 12, 1975.

[FR Doc.75-15675 Filed 6-12-75;2:04 pm]

rules and regulations

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Community Services Administration

Section 213.3373 is amended to show that one position of Assistant Director for Plans, Research, and Evaluation is no longer excepted under Schedule C. This section is further amended to show a change in title from one Confidential Secretary to the General Counsel to one Confidential Staff Assistant to the General Counsel.

Effective on June 16, 1975. §§ 213.3373 (a)(1) and (f)(1) are amended as set out below.

§ 213.3373 Community Services Administration.

(a) *Office of the Director.*

(1) [Revoked]

* * * * *

(f) *Office of General Counsel.*

(1) One Confidential Staff Assistant to the General Counsel.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.75-15579 Filed 6-13-75;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Health, Education, and Welfare

Section 213.3316 is amended to show a headnote change from Administration on Aging to Federal Council on the Aging. Section 213.3316 is further amended to change in the title of the superior for one Special Assistant from Commissioner on Aging to Chairperson, Federal Council on the Aging.

Effective on June 16, 1975, § 213.3316 (f) and (f)(2) are amended as set out below:

§ 213.3316 Department of Health, Education, and Welfare.

* * * * *

(f) *Federal Council on the Aging.*

* * * * *

(2) One Special Assistant to the Chairperson, Federal Council on the Aging.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.75-15580 Filed 6-13-75;8:45 am]

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

Review of Claim for Payment or Service

On January 30, 1975, a proposed rulemaking document was published in the FEDERAL REGISTER (40 FR 4444) to effect Civil Service Commission reviews of disputed claims for service or payment under the Federal Employees Health Benefits Program as mandated by Section 3 of Pub. L. 93–246. All comments were given due consideration.

A. As a result of the comments received, the following change is made in addition to punctuation changes for clarification.

Paragraph (b) of section 890.105 is reworded to provide guidance as to the claimant's and carrier's respective responsibilities when additional information is requested by a carrier in connection with its reconsideration of a denied claim.

B. Certain other recommendations have been carefully considered but have not been adopted. The following suggestions were not adopted for the reasons assigned:

1. It was suggested that the response requirements placed on the carriers be extended from 30 to 60 days. As time is of the essence in settling disputed claims and there is provision for extension of the time requirements where additional information is required, the suggested extension to 60 days was not adopted.

2. It was suggested that time requirements be placed on initial processing of health benefits claims, that initial claim denials include a notice of the claimant's right to request the carrier to reconsider its decision, and that carriers should be made liable for any interest accrued on an unpaid bill. The notice of claimant's reconsideration rights is contained in each health benefits brochure. This notice is deemed sufficient. The suggestions concerning interest and initial processing of claims are not appropriate for inclusion in regulations to effect a claim review process. They will be retained for consideration in future contract negotiation.

3. It was suggested that the regulations provide for third-party arbitration of disputed claims exceeding a specified monetary value. Such an addition is considered unnecessary given the review process proposed and the claimant's civil remedies.

4. The carrier reconsideration process was viewed as unnecessary. However, experience indicates that many claims are resolved as a result of the reconsideration process and the issues in those that are not resolved are clearly defined as a result of the process.

5. The time contraints placed on the claimant for making a request for Commission review of a claim were termed too stringent. Given the fact that carriers must advise claimants of their review rights if a claim is denied after reconsideration, the 90 days allowed for request pursuant to such notice is viewed as reasonable.

Accordingly, 5 CFR Part 890 is revised as set forth below.

Effective date. These regulations shall become effective for claims arising on or after January 1, 1975.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

Section 890.103 is amended as set forth below:

§ 890.103 Employee appeals, corrections, and adjustments.

* * * * *

(d) [Revoked]

* * * * *

§ 890.105 Review of claim for payment or service.

(a) The Commision does not adjudicate individual claims for payment or service under health benefits plans. Individual claims for payment or service are adjudicated by the health benefits plan in which the employee or annuitant is enrolled.

(b) If a claim (or portion of a claim) or a service is initially denied by a health benefits plan, the plan will reconsider its denial upon receipt within one year of the denial of written request for reconsideration from the employee or annuitant. Such written request should set forth the reasons why the employee or annuitant believes that the denied claim or service should have been paid or provided. The plan must affirm the denial

in writing to the employee or annuitant, setting out in detail the reasons therefor, within 30 days after receipt of the request for reconsideration, or pay or provide the claim or service within such time, unless it requests additional information reasonably necessary to a determination. Such requests by the plan must specifically identify the additional information required and the reason or reasons therefor. If the information requested is not supplied within 60 days of the request therefor, the plan shall make its determination and notify the employee or annuitant as provided elsewhere in this section.

(c) If a plan either affirms its denial of a claim, or fails to respond to a written request for reconsideration within 30 days of the request, the employee or annuitant may make a written request to the Commission's Bureau of Retirement, Insurance, and Occupational Health for a review to determine whether the plan's denial is in accord with the terms of the Commission's contract with the carrier of the plan. The plan shall provide written notice to the employee or annuitant of the right to request such a review when it affirms a denial after reconsideration. A request for review will not be honored if received by the Commission more than 90 days from the date of the plan's affirmation of the denial. Nor will a request for review be honored if, upon request by the Bureau, the employee or annuitant does not furnish authorization signed by the patient (or person capable of acting for the patient) for the release of medical evidence to the Bureau.

(d) In reviewing a claim denied by a plan, the Bureau will review copies of all original evidence and findings upon which the plan denied the claim and any additional evidence submitted to the Bureau or otherwise obtained by the plan or Bureau. Plans will release such evidence and findings to the Bureau within 30 days of request therefor. Any evidence obtained by the Bureau in connection with a review of the denied claim will be held privileged and confidential and will be reviewed only by persons having official need to see it.

(e) In reviewing a claim denied by a plan, the Bureau may request the employee or annuitant to obtain and submit additional medical or hospital records. The Bureau may also request a confidential advisory opinion from an independent physician, or such other information or evidence as may in the Bureau's judgment, be required to evaluate the claim denial. A Bureau request for an advisory opinion shall not disclose the identity of the claimant or patient, the plan, or any medical institutions or physicians involved in the claim.

(f) Within 30 days after all evidence requested by the Bureau has been received, it shall notify the employee and the plan of its findings on review.

(5 U.S.C. 8913)

[FR Doc.75-15578 Filed 6-13-75;8:45 am]

Title 7—Agriculture

CHAPTER IV—FEDERAL CROP INSURANCE CORPORATION, DEPARTMENT OF AGRICULTURE

[Amendment No. 69]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

SUGARCANE

Pursuant to the authority contained in the Federal Crop Insurance Act, as amended, § 401.135 the Sugarcane Endorsement of the Federal Crop Insurance Corporation Regulations contained in 7 CFR, Part 401, is revised effective beginning with the 1976 Crop Year to read as follows:

§ 401.135 The Sugarcane Endorsement.

The provisions of the Sugarcane Endorsement for the 1976 and Succeeding Crop Years are as follows:

1. *Insured crop.* The insured crop shall be sugarcane grown on insurable acreage, as reported by the insured or as determined by the Corporation, for processing for sugar.

Insurance shall not be considered to have attached to any acreage cut for seed.

2. *Production guarantees.* The per acre production guarantees for unharvested and harvested acreage shall be the tons of standard sugarcane shown on the county (or parish) actuarial table.

3. *Insurance period.* Insurance shall attach to insurable acreage at the time of planting for planted acreage and on the April 15 following harvest for stubble acreage.

Insurance shall cease upon harvest or final adjustment of a loss, but in no event shall insurance remain in effect later than the January 31 following the calendar year in which the harvest of sugarcane is normally commenced in the county.

4. *Responsibility of the insured to report acreage and share.* In lieu of Section 3 of the policy, the following shall apply:

Not later than May 31 of each crop year, the insured shall submit to the office for the county, on a form prescribed by the Corporation, a report showing all of the insurable acreage of sugarcane in the county to be kept for processing for sugar in which he has a share and his share therein, and also showing any acreage of sugarcane to which insurance does not attach.

If an insured does not have a share in any acreage in the county for any crop year, he shall submit a report so indicating.

Any acreage report submitted by the insured shall be binding upon the insured and shall not be subject to change by the insured.

If the insured does not file an acreage report by May 31, the Corporation may elect to determine by insurance units the insured acreage and share, or declare the insured acreage on any insurance unit(s) to be "zero."

5. *Claims for loss.* (a) Any claim for loss on an insurance unit (hereinafter called "unit") must be submitted to the Corporation on a form prescribed by the Corporation, no later than 60 days after the applicable calendar date for the end of the insurance period. The Corporation reserves the right to provide additional time if it determines that circumstances beyond the control of either party prevent compliance with this provision.

(b) It shall be a condition precedent to the payment of any loss that the insured establish the production of the insured crop on the unit and that such loss has been directly caused by one or more of the hazards insured against during the insurance period for the crop year for which the loss is claimed, and furnish any other information regarding the manner and extent of loss as may be required by the Corporation.

(c) Losses shall be determined separately for each unit. The amount of loss with respect to any unit shall be determined by (1) multiplying the insured acreage of sugarcane on the unit by the applicable production guarantee per acre, which product shall be the production guarantee for the unit, (2) subtracting therefrom the total production of standard sugarcane to be counted for the unit, (3) multiplying the remainder by the applicable price for computing indemnities, and (4) multiplying the result obtained in (3) by the insured interest: *Provided*, That if for the unit the insured fails to report all of his interest or acreage insurable under the policy, the amount of loss shall be determined with respect to all of his interest and insurable acreage, but in such cases or otherwise, if the premium computed on the basis of the insurable acreage and interest exceeds the premium on the reported acreage and interest, or the acreage and interest when determined by the Corporation under Section 4 of this endorsement, the amount of loss shall be reduced proportionately.

The total production of standard sugarcane to be counted for a unit shall be determined by the Corporation and, subject to the provisions hereinafter, shall include all harvested production and any appraisals made by the Corporation for (1) stubble acreage with insufficient stand at the time of inspection as provided in subsection (d) below, (2) unharvested or potential production, (3) poor farming practices, (4) uninsured causes of loss, or (5) acreage abandoned or put to another use without the consent of the Corporation: *Provided*, That, any appraisals made by the Corporation and any harvested production not processed for sugar, the net tons shall be considered as standard sugarcane, except as provided in subsection 5(f): *Provided*, further, That on any acreage of sugarcane which is unharvested, the total production to be counted shall be the appraised production in excess of the difference between the harvested production guarantee, applicable for such acreage and the unharvested production guarantee, except that for acreage abandoned or put to another use without prior written consent of the Corporation and acreage damaged solely by an uninsured cause, the total production to be counted shall be not less than the applicable production guarantee provided for such acreage.

(d) An appraisal for inadequate stand shall be made on any stubble acreage of sugarcane when the stand at the time of inspection is less than 1,000 plants for each ton of harvested guarantee. The per acre appraisal shall be the number of tons by which the harvested guaranteed per acre exceeds the number of tons determined by converting the plant population per acre to tons at the rate of 1,000 plants per ton.

(e) The stubble on any acreage of sugarcane with respect to which a loss is claimed shall not be destroyed until the Corporation makes an inspection.

(f) Notwithstanding any other provisions of this section for determining production to be counted, the production to be counted of any harvested sugarcane damaged by freeze occurring within the insurance period to the extent that processing of such cane

adversely affects boiling house operations, as determined by the Corporation, shall be adjusted by the factor obtained by dividing the value of such damaged sugarcane by the value of undamaged standard sugarcane, as determined by the Corporation.

6. *Meaning of terms.* For the purpose of insurance on sugarcane the terms:

(a) "Standard sugarcane" means net sugarcane, containing 12 percent sucrose in the normal juice with a purity of at least 76.00 but not more than 76.49 percent or the equivalent thereof.

(b) "Harvest" means cutting and removing the cane from the field.

(c) "Insurance unit" in lieu of that portion of the first sentence preceding item (1) of Section 19(e) of the policy, the following shall apply: "Insurance unit means all the insurable acreage of sugarcane in the county at the time insurance attaches."

(d) "Stubble acreage" means acreage from which a crop has previously been harvested and the stubble from the stalks is left for the purpose of producing another crop.

7. *Cancellation and termination for indebtedness dates.* For each crop year of the contract the cancellation date shall be the July 31, and the termination date for indebtedness shall be the August 31, immediately preceding the beginning of the crop year for which the cancellation or the termination is to become effective.

8. *Annual premium.* If at any time the cumulative dollar amount of indemnities paid under this endorsement exceeds the cumulative premiums earned through the previous crop year, the premium discounts referred to in section 6(b) of the policy shall not thereafter be applicable until the cumulative earned premiums equal or exceed the cumulative indemnities.

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

The revision of § 401.135 above was necessitated by the elimination of the Sugar Act of 1948, as amended. The current Sugarcane Endorsement contains certain contractual provisions relating to production and acreage records for sugarcane producers that were based on provisions of the Sugar Act, which are now no longer available.

In revising the Sugarcane Endorsement to provide for the continuation of the Sugarcane Crop Insurance Program for 1976 and future years, additional provisions were made including provision for: The coverage of stubble acreage as well as planted acreage; A guarantee based on tons of standard sugarcane, instead of on cwt of commercially recoverage sugar as defined in the Sugar Act; A quality adjustment based on the value of freeze damaged sugarcane; An appraisal on stubble acreage with an inadequate stand; and a provision to make the good experience discount nonapplicable whenever the cumulative dollar amount of indemnities exceeds the cumulative premiums earned through the previous crop year.

It is desirable that this amendment become effective with the 1976 Crop Year. Notice of changes must be given to insureds by July 15, 1975, and applications will be taken in the near future.

Because of the nature of the Crop Insurance Program, the Corporation is not required to follow the procedure for notice and public participation prescribed by 5 U.S.C. 553(b) and (c). The Secretary of Agriculture has directed, however, in a Statement of Policy executed January 20, 1971, (36 FR 13804), that this procedure be followed in all cases insofar as practicable. Under the circumstances enumerated above, the Board of Directors of the Federal Crop Insurance Corporation found that it would be impracticable and contrary to the public interest to follow such procedure in this case. Accordingly, said regulations were adopted by the Board of Directors on May 15, 1975.

[SEAL] PETER F. COLE,
Secretary, Federal Crop Insurance Corporation.

Approved on June 11, 1975.

EARL L. BUTZ,
Secretary.

[FR Doc.75-15538 Filed 6-13-75;8:45 am]

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

[Peach Reg. 5, Amdt 1]

PART 917—HANDLING OF FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

Container and Pack Regulation

This amendment of Peach Regulation 5 (§ 917.436; 40 FR 19633) is issued pursuant to the marketing agreement and Order No. 917 (7 CFR Part 917). Said regulation became effective on May 7, 1975, and this amendment extends the regulation, without change, for an indefinite period. Unless extended, the regulation would expire on June 21, 1975.

Notice was published in the May 16, 1975, issue of the FEDERAL REGISTER (40 FR 21483) that consideration was being given to a proposal by the Peach Commodity Committee, established under the marketing agreement, as amended, and Order No. 917, as amended (7 CFR Part 917), regulating the handling of fresh pears, plums, and peaches grown in California. This is a regulatory program effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "act." The notice allowed interested persons 17 days to submit written data, views, or arguments pertaining to the proposal. No such materal was submitted.

The amended regulation will continue to require that all varieties of fresh California peaches shipped in interstate commerce shall be in containers which conform to the pack and container requirements hereinafter specified. Those requirements are that (1) all peaches packed in closed containers shall meet the requirements of "standard pack" as specified in the United States Standards for Peaches, (2) each container of peaches shall bear the name of the variety of peaches or the words "unknown variety" if the variety is not known, (3) each container of peaches shall be marked with the size of the peaches therein, (4) the variation in diameter among peaches in each container shall not exceed the limits hereinafter specified, and (5) all No. 22D and 22E standard lug boxes shall be labeled according to the applicable net weight hereinafter specified.

The provisions of Peach Regulation 5, as summarized above, contain essentially the same requirements as were in effect in 1974 and prior years except that the "standard pack" requirements have been broadened to include all closed containers and the "net weight" labeling requirement has been added. Said regulation also contains technical changes in the terminology of the size designations which bring such terminology into conformity with certain requirements of the Fair Packaging and Labeling Act (15 U.S.C. 1451 et seq.) applicable to the disclosure of the size of the contents of containers by appropriate labeling of the containers. Said regulation superseded Peach Regulation 2 (§ 917.424; 36 FR 12508) which had been in effect since July 4, 1971. This regulatory action is necessary to assure that shippers of fresh California peaches, in interstate commerce, will continue to implement standardized packing practices and more informative labeling which will facilitate more orderly marketing of fresh California peaches and contribute to more effective operations under said marketing agreement and order.

After consideration of all relevant material presented, including the proposal set forth in the aforesaid notice, the recommendations and information submitted by the Peach Commodity Committee, established under said amended marketing agreement and order, and other available information, it is hereby found that the limitation of handling of California peaches, as hereinafter provided, will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of California peaches are currently in progress and the regulation should continue to be applicable to all such shipments in order to effectuate the declared policy of the act; (2) the provisions of the amendment are identical to those specified in the notice; (3) compliance with this amended regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof; and (4) this amended regulation was recommended, with one dissenting vote, by members of the Peach Commodity Committee in an open meeting at which all interested persons were afforded an opportunity to submit their views.

Order. The provisions of § 917.436(b) preceding subparagraph (1) thereof are amended to read as follows:

§ 917.436 Peach Regulation 5.

* * * * *

(b) On and after May 7, 1975, no handler shall handle any package or container of any variety of peaches except in accordance with the following terms and conditions: * * *

* * * * *

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

Dated: June 10, 1975, to become effective June 20, 1975.

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

[FR Doc.75-15536 Filed 6-13-75;8:45 am]

[Valencia Orange Regulation 501, Amendment 1]

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

Limitation of Handling

This regulation increases the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period June 6–12, 1975. The quantity that may be shipped is increased due to improved market conditions for California-Arizona Valencia oranges. The regulation and this amendment are issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 908.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of hte Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674) and upon the basis of the recommendation and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for an increase in the quantity of oranges available for handling during the current week results from changes that have taken place in the marketing situation since the issuance of Valencia Orange Regulation 501 (40 FR 24175). The marketing picture now indicates that there is a greater demand for Valencia oranges than existed when the regulation was made effective. Therefore, in order to provide an opportunity for handlers to handle a sufficient volume of Valencia oranges to fill the current demand thereby making a greater quantity of Valencia oranges available to meet such increased demand, the regulation should be amended, as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because 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 restriction on the handling of Valencia oranges grown in Arizona and designated part of California.

(b) *Order, as amended.* The provisions in paragraph (b)(1) (i), (ii), and (iii) of § 908.801 (Valencia Orange Regulation 501 (40 FR 24175) are hereby amended to read as follows:

"(i) District 1: 338,000 cartons;
"(ii) District 2: 637,000 cartons;
"(iii) District 3: 325,000 cartons."

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

Dated: June 11, 1975.

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

[FR Doc.75-15583 Filed 6-13-75;8:45 am]

PART 918—FRESH PEACHES GROWN IN GEORGIA

Expenses and Rate of Assessment

This document authorizes expenses of $13,165 of the Industry Committee under Marketing Order No. 918 for the 1975–76 fiscal period and fixes a rate of assessment of $0.015 per bushel basket of peaches (net weight of 48 pounds), handled in such period to be paid to the Committee by each first handler as his pro rata share of such expenses.

On May 21, 1975, notice of proposed rulemaking was published in the FEDERAL REGISTER (40 FR 22141) regarding proposed expenses and the related rate of assessment for the period March 1, 1975, through February 29, 1976, pursuant to the marketing agreement and Order No. 918 (7 CFR Part 918) regulating the handling of fresh peaches grown in Georgia. This notice allowed interested persons 19 days during which they could submit written data, views, or arguments pertaining to the proposals. None were submitted. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). After consideration of all relevant matters presented, including the proposals set forth in such notice which were submitted by the Industry Committee (established pursuant to said marketing agreement and order), it is hereby found and determined that:

§ 918.213 Expenses and rate of assessment.

(a) *Expenses.* Expenses that are reasonable and necessary to be incurred by the Industry Committee during the period March 1, 1975, through February 29, 1976, will amount to $13,165.

(b) *Rate of assessment.* The rate of assessment for said period, payable by each handle in accordance with § 918.41, is fixed as $0.015 per bushel basket of peaches (net weight of 48 pounds), or an equivalent of peaches in other containers or in bulk.

It is hereby further found that good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (7 U.S.C. 553) in that (1) shipments of fresh peaches have already begun; (2) the relevant provisions of said amended marketing agreement and this part require that the rate of assessment fixed for a particular fiscal period shall be applicable to all assessable peaches from the beginning of such period; and (3) the current fiscal period began March 1, 1975, and the rate of assessment herein fixed will automatically apply to all assessable peaches beginning with such date.

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

Dated: June 11, 1975.

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

[FR Doc.75-15584 Filed 6-13-75;8:45 am]

PART 981—ALMONDS GROWN IN CALIFORNIA

Revision of Certain Provision of the Administrative Rules and Regulations

Notice of a proposal to amend Subpart—Administrative Rules and Regulations (7 CFR 981.441–981.481; 39 FR 23239, 39258; 40 FR 3005, 4416, 6475) by revising certain provisions was published in the May 21, 1975, issue of the FEDERAL REGISTER (40 FR 22141). These provisions pertain to crediting for paid advertising, reserve matters, and reporting requirements.

The subpart is pursuant to the marketing agreement, as amended, and Order No. 981, as amended (7 CFR Part 981; 40 FR 4416), hereinafter collectively referred to as the "order", regulating the handling of almonds grown in California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The proposal was based on a unanimous recommendation of the Almond Control Board.

The notice afforded interested persons an opportunity to submit written data, views, or arguments with respect to the proposal; none were received.

Section 981.441 prescribes the procedure for giving a handler credit for paid advertising expenditures against his pro rata expense assessment obligation pursuant to § 981.41(c). Paragraph (b) of § 981.441 currently provides that the media used must be listed in publications of the Standard Rate and Data Service, the Buyer's Guide to Advertising, or station or publication rate cards. The purpose of this is to permit verification of the advertising rates. However, not all weekly newspapers and other media are covered

by these sources, and therefore some advertisements, which would otherwise be creditable, are excluded. Paragraph (b) would be amended to allow credit for these advertisements by providing for the Almond Control Board to grant the claim if it is consistent with rates for comparable outlets. Also, § 981.441(f)(3) would be revised to bring § 981.441(f) in conformity with the proposal to amend paragraph (b).

Section 981.441(c) currently provides that the major theme of each advertisement shall promote the sale, consumption, or use of California almonds and nothing in the advertisement shall detract from this objective. However, crediting involves handler advertisements of their brand of almonds, and some advertisements appear to have as their major theme a specific brand of almonds. In order to avoid questions of interpretation, paragraph (c) would be amended so that the clear and evident purpose, rather than the major theme, of each advertisement would be to promote the sale, consumption or use of California almonds and nothing should detract from this purpose.

Section 981.441(d) (5), (6) and (7) provide the method for computing handler credit for advertising almonds and almond products in retail stores and catalogs. Subparagraphs (5) and (7) were previously suspended for the 1974–75 crop year (40 FR 6495). Now, these subparagraphs, as well as subparagraph (6) would be deleted. These paragraphs have gone unused, require the submission of sales data other than for almonds, and cover advertisements which can be judged adequately under other provisions of § 981.441.

Section 981.441 does not cover advertisements which direct consumers to one or more named retail outlets, other than those which are operated by the handler. These advertisements are deemed to cause buyers to purchase one brand of almonds in preference to another—not increase the consumption, or use, of California almonds. A new § 981.441(f)(3), which would prohibit crediting for such advertisements, would replace current paragraph (f)(3).

Section 981.441(g) sets forth the requirements and procedures for handlers in filing claims for advertising credit. Currently, paragraph (g) provides that claims for credit must be filed within 60 days of the appearance of the advertisement or July 15, whichever is sooner. That provision makes it difficult for some handlers to receive credit because 60 days is insufficient time for them to obtain all of the necessary documentation and file their claims. Paragraph (g) would be amended by deleting all references to 60 days after the advertisements have been published, broadcast, or posted, and require only that in order to obtain credit the handler must file his claim no later than July 15 of the succeeding crop year.

Section 981.441(g) would also be amended to delete provisions requiring unnecessary or duplicate information. This would include deletion of subparagraph (5). Subparagraphs (1), (2) and (3) would be revised to require a handler to submit the agency invoice as well as the invoice for publication or display. The revision includes a redesignation of certain provisions.

Section 981.450 provides for the exemption from program requirements of almonds disposed of in certain outlets. In order to obtain the exemption and to assure accountability to the Board, a handler is required to submit: A notice of intent to dispose of almonds in exempt outlets; a schedule of processing; an invoice or other instrument to verify shipment; and a user certification that the almonds have been crushed or fed. These requirements, however, are deemed excessive to verify the delivery and disposition of almonds to an exempt outlet. Section 981.450 would be amended by eliminating the provision requiring the handler to notify the Board of his intention to ship almonds in such outlets. It would also eliminate the need for a written authorization to permit Board employees to observe the storage and processing or other disposition of almonds.

Section 981.467(b) sets forth the forms to be issued by handlers for disposition of almonds in reserve outlets. Currently, separate forms are required which are used only as vehicles for transmitting documents and are not issued by the Board in any way for the handler to prove completion of the reserve obligation. The amended provision would delete the requirement for two such forms.

Currently, § 981.472(b) requires a report of production by counties three times a year—as of December 31, March 31 and June 30. Since the greatest need for total production by counties is soon after December 31, and since practically the entire crop is accounted for by March 31, the provision requiring a report of production by counties for the period of April 1 to June 30 is unnecessary and should be deleted. Section 981.472(b) would be amended by deleting that period for reporting and replacing it with a statement giving the Board the power to request this information as it needed.

Section 981.473 requires redetermination data by variety as of December 31, March 31 and June 30. A varietal breakdown each time requires a submission of several worksheet forms plus a summary form. However, none of the varietal information has been reproduced and given the industry and other interested parties except after June 30. Section 981.473 would be amended to eliminate the need to report redetermination data by variety.

Therefore, after consideration of all relevant matter presented, including that in the notice, the information and recommendation submitted by the Board, and other available information, it is found that to amend the administrative rules and regulations as herein set forth will tend to effectuate the declared policy of the act.

It is further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) and for making it effective at the time hereinafter provided in that: (1) This action should be made effective as soon as possible in the 1974–75 crop year ending June 30, 1975 so as to enable handlers to obtain maximum benefit from the revised provisions pertaining to crediting for paid advertising; (2) this action relieves restrictions on handlers with respect to certain reporting requirements; (3) handlers are aware of this action and require no advance preparation to comply therewith; and (4) no useful purpose would be served by postponing its effective time beyond that hereinafter provided.

It is therefore, ordered, That Subpart-Administrative Rules and Regulations (7 CFR 981.441–981.481; 39 FR 23239, 39258; 40 FR 3005, 4416, 6475) be amended as follows:

1. In § 981.441, paragraphs (b), (c), (f)(3) and (g), are revised, paragraphs (d) (5), (6) and (7) are deleted. The revised paragraphs read as follows:

§ 981.441 Crediting for paid advertising.

* * * * *

(b) Each advertisement must be published, broadcast, or displayed during the crop year for which credit is requested. The credit granted by the Board shall be that which is appropriate when compared to the applicable outlet rate published in the domestic or Canadian catalogs of Standard Rate and Data Service, The Buyers Guide to Outdoor Advertising, or station or publisher rate cards. In the case of claims for credit not covered by any such source, the Board shall grant the claim if it is consistent with rates for comparable outlets.

(c) The clear and evident purpose of each advertisement shall be to promote the sale, consumption or use of California almonds and nothing therein shall detract from this purpose.

* * * * *

(d) * * *

(5) [Removed]

(6) [Removed]

(7) [Removed]

* * * * *

(f) Credit granted a handler shall be subject to other conditions as follows:

* * * * *

(3) Advertisement which direct consumers to one or more named retail outlets, other than handler operated shall not be eligible for credit.

(g) A handler must file a claim with the Control Board to obtain credit for an advertising expenditure. No claim shall be granted if it is filed later than July 15 of the succeeding crop year. Each claim must be submitted on ACB Form 31 and accompanied by appropriate proof of performance as follows:

(1) For published advertisements, submit a copy of the publication invoice, agency invoice, if any, and tear sheet of the advertisement;

(2) For radio advertisements, submit a copy of the station invoice, a copy of the script, or reference to a copy on file with the Control Board, and the agency invoice, if any;

(3) for television advertisements, submit a copy of the station invoice, a copy of the script and tape or story board of the advertisement, or a reference to these in the Control Board files, and the agency invoice, if any;

(4) for outdoor advertisements, submit a copy of the company invoice, a photograph of the display or a reference to a photograph in the Control Board files, and the agency invoice, if any; and

(5) each claim shall also include a certification to the Secretary of Agriculture and to the Control Board that the claim is just and conforms to requirements set forth in § 981.41(c). The Control Board shall advise the handler promptly of the extent to which such claim has been allowed.

2. Section 981.450 is revised to read as follows:

§ 981.450 Exempt dispositions.

As provided in § 981.50, any handler who intends to dispose of almonds, other than those withheld to meet a reserve obligation, for crushing into oil, or for poultry or animal feed, may have the kernelweight of these almonds excluded from his receipts and exempted from program obligations so long as:

(a) The handler qualifies as, or delivers such almonds to, a feeder or crusher acceptable to the Control Board;

(b) each shipment of such almonds is directly to the place of disposition, is certified to the Control Board by the handler on ACB Form 8, and is supported by a sales invoice or bill of lading; and

(c) the receiver (user) certifies that the almonds have been crushed, fed, or so commingled with other feed products or otherwise processed that they have lost their identity as almonds, no later than June 30 of the crop year in which the almonds were received.

3. Section 981.467(b) is revised to read as follows:

§ 981.467 Disposition in reserve outlets by handlers.

* * * * *

(b) *Forms.* Intentions to divert almonds shall be reported to the Board on ACB Form 13 and completion of diversion on ACB Form 14. Sales in export shall be reported on ACB Form 18 and completion of deliveries in export on ACB Form 19. On ACB Form 14 and 19, the handler shall report whether the shipment is a disposition of reserve almonds withheld in satisfaction of reserve obligation or a disposition of salable almonds in a reserve outlet pursuant to paragraph (c) of this section.

4. Section 981.472(b) is revised to read as follows:

§ 981.472 Report of almonds received.

* * * * *

(b) Each handler shall submit a summary report of almonds received for his own account during the following periods:

July 1 to December 31;
January 1 to March 31;

Each summary report shall be submitted to the Control Board within 30 days after the end of the reporting period and shall show the quantity of almonds received for the handler's own account during the reporting period by county of production and such varieties as may be requested by the Board.

§ 981.473 [Amended]

5. Section 981.473 is amended by deleting all references to "variety" as follows:

(a) In paragraphs (a) and (b), insert a comma after "all almonds" and delete "by variety,".

(b) In paragraph (c), delete "variety,".

(c) In paragraph (e), delete "the variety of almonds in the lot,".

(d) In paragraph (f), delete "the variety".

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

Dated June 11, 1975, to become effective June 16, 1975.

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

[FR Doc.75-15585 Filed 6-13-75;8:45 am]

Title 9—Animals and Animal Products

CHAPTER III—ANIMAL AND PLANT HEALTH INSPECTION SERVICE (MEAT AND POULTRY PRODUCTS INSPECTION), DEPARTMENT OF AGRICULTURE

SUBCHAPTER A—MANDATORY MEAT INSPECTION

PART 308—SANITATION

SUBCHAPTER C—MANDATORY POULTRY PRODUCTS INSPECTION

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

Sanitation; Equipment and Utensils

On January 31, 1974, there was published in the FEDERAL REGISTER (39 FR 3959) a proposal to amend the Federal meat inspection regulations and the poultry products inspection regulations, pursuant to the authority contained, respectively, in the Federal Meat Inspection Act, as amended (21 U.S.C. 601 et seq.), and the Poultry Products Inspection Act, as amended (21 U.S.C. 451 et seq.), to provide a procedure under which the Administrator could evaluate equipment and utensils to be used in federally inspected plants. Interested persons were given until April 12, 1974, to submit data, views, or arguments concerning the proposed amendments.

Statement of Considerations. Three letters of comment were received—one from a consultant firm, one from a major meat and poultry packer, and one from a national poultry trade association. The national poultry trade association and the consultant firm endorsed the concept of formal evaluation and acceptance of equipment and utensils. The national poultry trade association suggested that we clarify the intended meaning in § 381.53(a)(2) of the reference to equipment and utensils in use and accepted at the time this regulation becomes effective. They were of the opinion that this regulation would require submission of information on equipment and utensils already accepted by the Department. This point has been clarified in the final rule by omitting the words "in use or" where they appear in §§ 308.5(b) and 381.53(a)(2). It is not the intention of the Animal and Plant Health Inspection Service to include equipment and utensils already evaluated by the Agency and found to be acceptable. In fact, the statement of considerations correctly stated that the proposed amendments would provide for a procedure under which the Administrator could evaluate equipment and utensils "to be used" in federally inspected plants.

The consultant suggested that equipment and utensils be reviewed at the equipment manufacturer's factory. The Department concludes that this suggestion cannot be adopted because of additional costs involved and because of the fact that the Department has no jurisdiction to require manufacturers of equipment and utensils to submit to such a review. In addition, many problems not detectable in a review at the manufacturer's factory will surface under the rigors of the production environment of the meat or poultry plant when the equipment and utensils are being used experimentally as provided for by §§ 308.5(d) and 381.53(a)(4).

The meat and poultry packer objected to the promulgation of the regulations for the following reasons: (1) USDA already has the authority to reject equipment and utensils; (2) the proposed regulation will result in a possible delay in use of new equipment and utensils; (3) the requirement is a duplication of the work of the National Sanitation Foundation; (4) the Department failed to list the criteria that would be used in reviewing proposed equipment and utensils; and (5) it is unreasonable to place responsibility on the official establishment to supply needed information.

Insofar as objections (1) through (3) are concerned, the Department has the following comments: (1) The Department agrees that it already has the authority under 9 CFR 308.15 and 381.99 to reject equipment and utensils which are unclean or otherwise in violation of any of the regulations. The purpose of the new regulations is to set out the procedures involved in accepting or rejecting equipment or utensils that have not yet been used in official establishments. (2) The regulation change is not expected to delay the use of new equipment or utensils more than present practice. But even if some delays do occur, the interest of the consumer in unadulterated and nonmisbranded product is an overriding consideration. (3) The National Sanitation Foundation does not have standards for meat or poultry slaughter equipment, nor does it have any authority under the Federal Meat Inspection Act (FMIA) or the Poultry Products Inspection Act (PPIE). Consequently, the Department would not duplicate the work of that organization if the new regulations are promulgated.

With respect to objections (4) and (5), the Department has the following comments: (1) The Department considers that the general criteria for equipment and utensils are clearly set forth in §§ 308.5(a) and 381.53(a)(1). These are the criteria that will be used by the Administrator in evaluating proposed equipment and utensils. (2) The Department has jurisdiction only over official establishments and not over manufacturers of equipment or utensils. While the official establishment is ultimately responsible for providing the necessary information to the Administrator, there is nothing in the proposed regulations or in the Federal Meat Inspection Act or the Poultry Products Inspection Act that would preclude another party, such as a manufacturer, from supplying the information on behalf of the official establishment.

After consideration of all comments, the regulations are issued as proposed with modifications taking into account those points mentioned in the three comments received. Modifications of the proposal have also been made in the interest of clarity.

In § 308.5(a) and § 381.53(a)(1), the words "shall be suitable for the purpose intended and" are deleted from the first sentence as they are ambiguous. The sentence "In addition to these requirements, equipment and utensils shall not in any way interfere with or impede inspection procedures" is added to §§ 308.5(a) and 381.53(a)(1) to clarify the intent of the original proposal, and to set forth a requirement that the Agency has always applied to equipment and utensils proposed for use in official establishments. In §§ 308.5(b) and 381.53(a)(2), the words "at the request of the Administrator" are deleted to make it clear that the Agency will evaluate all equipment or utensils intended for use in federally inspected plants, and that operators of such establishments must submit the necessary information with regard to such equipment or utensils to the Administrator. In §§ 308.5(c) and 381.53(a)(3), the words "of models" are deleted, and the words "by name and model number" are substituted therefor so as to make the listing referred to more accurate and specific.

In order to protect the rights of the applicant, §§ 308.5(f) and 381.53(b) have been added to the proposal to allow the applicant an opportunity to present his views before a final determination with respect to approval of any equipment or utensils is made and an opportunity for a hearing if the applicant does not accept the final determination. However, to insure the protection of consumers, the Department retains the right to reject equipment or utensils pending the outcome of such presentation of views or hearing.

These regulations will provide substantial benefit to consumers by insuring that sanitary equipment and utensils to be used for processing meat and poultry products will not cause adulteration or misbranding of the products. They will also benefit producers by providing uniform standards for deciding acceptability of equipment and utensils, and by identifying for their information, as well as for inspection personnel, the equipment and utensils evaluated and found to meet USDA standards.

1. Accordingly, § 308.5 is revised to read as follows:

§ 308.5 Equipment and utensils to be easily cleaned; those for inedible products to be so marked; evaluation of equipment and utensils.

(a) Equipment and utensils used for preparing or otherwise handling any edible product or ingredient thereof in any official establishment shall be of such material and construction as, in the judgment of the Administrator, will facilitate their thorough cleaning and insure cleanliness in the preparation and handling of all edible products and otherwise avoid adulteration and misbranding of such products. In addition to these requirements, equipment and utensils shall not in any way interfere with or impede inspection procedures. Receptacles used for handling inedible material shall be of such material and construction that, in the judgment of the Administrator, their use will not result in adulteration of any edible product or in insanitary conditions at the establishment, and they shall bear conspicuous and distinctive marking to identify them as only for such use and shall not be used for handling any edible product.

(b) When equipment or utensils for use in preparing or handling product are proposed for use in an official establishment, the operator of the establishment shall so notify the Administrator, and thereafter shall submit to the Administrator such information as the Administrator specifies in each case as necessary to determine whether the equipment or utensils meet the criteria specified in paragraph (a) of this section. The required information shall include, but may not be limited to, assembly type drawings and a list showing the materials of which parts are made. The Administrator will evaluate the model of equipment or utensil and determine whether it is acceptable for its proposed use under the criteria set forth in paragraph (a) of this section.

(c) The Administrator will, from time to time, prepare a listing by name and model number of equipment and utensils that have been evaluated and found to be acceptable for their proposed use in accordance with this section. A copy of such listing can be obtained from Technical Services, Meat and Poultry Inspection Program, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250.

(d) The Administrator may disapprove for use in official establishments particular models of equipment or utensils that he finds do not meet the requirements of paragraph (a) of this section or that he cannot evaluate because of lack of sufficient information. Further, he may prescribe such conditions for the use of particular models of equipment or utensils, either on a trial or permanent basis, as he finds necessary to prevent adulteration or misbranding of product.

(e) Nothing in this section shall affect the authority of Program inspectors to reject specific equipment or utensils under §308.15 of the regulations in this subchapter.

(f) Before approval of any model or specific item of equipment or utensil is finally denied, or is granted only with conditions, the applicant shall be given notice and opportunity to present his views to the Administrator. If the applicant does not accept the Administrator's determination, a hearing before the Administrator will be held to resolve such dispute. This shall not preclude rejection of the equipment or utensils under § 308.15 or this section pending the outcome of the presentation of views or hearing.

(Sec. 21, 34 Stat. 1260, as amended, 21 U.S.C. 621; 37 FR 28464, 28477)

2. Section 381.53 is revised to read as follows:

§ 381.53 Equipment and utensils.

(a)(1) Equipment and utensils used for processing or otherwise handling any edible poultry product or ingredient thereof, in any official establishment shall be of such material and construction as, in the judgment of the Administrator, will facilitate their thorough cleaning and insure cleanliness in the preparation and handling of all edible poultry products and otherwise avoid adulteration and misbranding of such products. In addition to these requirements, equipment and utensils shall not in any way interfere with or impede inspection procedures. Receptacles used for handling inedible products shall be of such material and construction that, in the judgment of the Administrator, their use will not result in adulteration of any edible product or in insanitary conditions at the establishment, and they shall bear conspicuous and distinctive marking to identify them as only for such use and shall not be used for handling any edible poultry products.

(2) When equipment or utensils for use in preparing or handling product are proposed for use in an official establishment, the operator of the establishment shall so notify the Administrator, and thereafter shall submit to the Administrator such information as the Administrator specifies in each case as necessary to determine whether the equipment or utensils meets the criteria specified in paragraph (a)(1) of this section. The required information shall include, but may not be limited to, assembly type drawings, and a list showing the materials of which parts are made. The Administrator will evaluate the model of equipment or utensil and determine whether it is acceptable for its proposed use under the criteria set forth in paragraph (a)(1) of this section.

(3) The Administrator will, from time to time, prepare a listing by name and

model number of equipment and utensils that have been evaluated and found to be acceptable for their proposed use in accordance with this section. A copy of such listing can be obtained from Technical Services, Meat and Poultry Inspection Program, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250.

(4) The Administrator may disapprove for use in official establishments particular models of equipment or utensils that he finds do not meet the requirements of paragraph (a)(1) of this section, or that he cannot evaluate because of lack of sufficient information. Further, he may prescribe such conditions for the use of particular models of equipment or utensils, either on a trial or permanent basis, as he finds necessary to prevent adulteration or misbranding of product.

(5) Nothing in this section shall affect the authority of Inspection Service inspectors to reject specific equipment or utensils under § 381.99 of the regulations in this subchapter.

(b) Before approval of any model or specific item of equipment or utensil is finally denied, or is granted only with conditions, the applicant shall be given notice and opportunity to present his views to the Administrator. If the applicant does not accept the Administrator's determination, a hearing before the Administrator will be held to resolve such dispute. This shall not preclude rejection of the equipment or utensils under § 381.99 or this section pending the outcome of the presentation of views or hearing.

(Sec. 14, 71 Stat. 447, as amended (21 U.S.C. 463); 37 FR 28464, 28477)

It does not appear that further public participation in rulemaking proceedings on these amendments would make additional information available to the Department which would alter the decision in this matter. Therefore, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that further notice or other public rulemaking proceedings on these amendments are impracticable and unnecessary.

The foregoing amendments shall become effective July 17, 1975.

Done at Washington, D.C., on June 9, 1975.

NOTE: Incorporation by reference provisions approved by the Director of the Federal Register, April 2, 1975.

F. J. MULHERN,
Administrator, Animal and Plant Health Inspection Service.

[FR Doc.75-15537 Filed 6-13-75;8:45 am]

Title 11—Federal Elections

CHAPTER II—FEDERAL ELECTION COMMISSION

[Notice 1975-3]

ADDENDUM TO INTERIM GUIDELINES

Reports and Registration

On June 2, 1975 the Federal Election Commission announced interim guidelines for persons subject to the Federal Election Campaign Act, as amended, who must report to various offices on or before July 10, 1975. That previous announcement is reported in volume 40 FEDERAL REGISTER at page 23832 (Notice 1975-1). It was there noted that committees, candidates and others who have heretofore filed reports with the Secretary of the Senate or the Clerk of the House of Representatives should file the July 10, 1975 reports with those officers as before.

1. For clarification purposes, the Federal Election Commission announces further:

a) That principal campaign committees (2 U.S.C. 431(n) and 432(f)(1)) supporting candidates for the House of Representatives or the United States Senate, which have not heretofore filed with either the Clerk of the House of Representatives or the Secretary of the Senate, should until further notice file their statement of registration (2 U.S.C. 433), with the Clerk or the Secretary respectively. All candidates for the House of Representatives or the United States Senate and principal campaign committees supporting such candidates should file their July 10, 1975 reports with the Clerk or the Secretary respectively.

b) That principal campaign committees (2 U.S.C. 431(n) and 432(f)(1)) supporting candidates for the office of President and Vice President of the United States, which have not heretofore filed with the Comptroller General should file their statement of registration (2 U.S.C. 433) with the Federal Election Commission, 1325 K Street, NW., Washington, D.C. 20463. All candidates for the office of President and Vice President of the United States and the principal campaign committees supporting such candidates should file their respective July 10, 1975 reports with the Federal Election Commission, 1325 K Street, NW, Washington, D.C. 20463.

c) The Commission further notes that all political committees (other than a principal campaign committee), whether reporting heretofore to a federal supervisory officer or not, should file the July 10, 1975 report with the appropriate principal campaign committee pursuant to 2 U.S.C. 434(a)(2) and need not file with the Federal Election Commission or with any previous supervisory officer. Until further notice of the Commission, principal campaign committees may be designated by letter, or by memo entry on a registration form, to be filed with the Clerk of the House, Secretary of the Senate or Federal Election Commission, as appropriate.

d) That all candidates and committees described by the foregoing paragraphs a) through c) may file their respective July 10, 1975 reports in conformance with earlier regulations published by the previous supervisory officers, and on forms promulgated by said supervisory officers, such reporting to observe the modifications described in the above-cited F.E.C. Notice 75-1 at 40 FR 23832. Committees described by the foregoing paragraphs a) through c) may register, under 2 U.S.C. 433, on standard registration forms issued by the previous supervisory officers.

2. The Commission further notes that persons subject to 2 U.S.C. 434(e) ("Contributions or expenditures by persons other than political committee or candidates") or 2 U.S.C. 437(a) ("Reports by certain other persons") should file the July 10, 1975 report with the Federal Election Commission, 1325 K Street, NW, Washington, D.C. 20463. Such reports may be on a standard form "Report of receipts and expenditures for a political committee" issued by any of the previous supervisory officers. Persons so reporting should indicate on the face of the reporting form the Section under which they report.

Dated: June 11, 1975.

THOMAS B. CURTIS,
Chairman for the Federal Election Commission.

[FR Doc.75-15582 Filed 6-13-75;8:45 am]

Title 12—Banks and Banking

CHAPTER III—FEDERAL DEPOSIT INSURANCE CORPORATION

SUBCHAPTER B—REGULATIONS AND STATEMENTS OF GENERAL POLICY

PART 339—LOANS IN AREAS HAVING SPECIAL FLOOD HAZARDS

Loans in Areas Having Special Flood Hazards

The Federal Deposit Insurance Corporation is revising section 339.2 of its regulations governing loans in areas having special flood hazards (12 CFR § 339.2) by incorporating into § 339.2 which prohibits on and after July 1, 1975, real estate loans in nonparticipating communities, the one-year grace period provided in section 201(d) of the Flood Disaster Protection Act of 1973 (the "Act").

Sections 201(d) and 202(b) of the Act provide that an insured nonmember bank may not make, increase, extend, or renew a loan secured by improved real estate or a mobile home located in a special flood hazard area, if the community is not participating in the national flood insurance program by July 1, 1975, or the expiration of one year from notification to the chief executive officer of a community by the Secretary of Housing and Urban Development that the community is one having special flood hazards, whichever is later. After the applicable date, the making, increasing, extension or renewal of any such loan will be prohibited unless the community is participating.

Section 339.2 of Part 339 of Chapter III, Title 12 of the Code of Federal Regulations is revised to read as follows:

§ 339.2 Prohibition as to loans in nonparticipating communities.

On and after July 1, 1975, or on and after one year following the date of official notification to the chief executive officer of a community [1] by the Secretary of Housing and Urban Development that the community is one containing special flood hazard areas,

[1] 39 FR 5748, Feb. 15, 1974.

whichever is later, no insured State nonmember bank shall make, increase, extend or renew any loan secured by improved real estate or a mobile home located or to be located in an area that has been identified by the Secretary of Housing and Urban Development as an area having special flood hazards, unless the community in which such area is situated is then participating[1] in the national flood insurance program.

(Sec. 201(d), 202(b), 87 Stat. 982.)

Since section 201(d) of the Flood Disaster Protection Act of 1973 already embodies the substance of this revision, the requirements of §§ 553(b) and 553 (d) of Title 5 of the United States Code and sections 302.1, 302.2 and 302.5 of the rules and regulations of the Federal Deposit Insurance Corporation, with respect to notice, public participation, and deferred effective date were not followed in connection with the promulgation of this revision.

Effective Date. This revision is effective immediately.

By direction of the Board of Directors, June 11, 1975.

FEDERAL DEPOSIT INSURANCE CORPORATION,
[SEAL] ALAN R. MILLER,
Executive Secretary.

[FR Doc.75-15596 Filed 6-13-75;8:45 am]

Title 13—Business Credit and Assistance

CHAPTER III—ECONOMIC DEVELOPMENT ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 307—TECHNICAL ASSISTANCE, RESEARCH, AND INFORMATION

Grant and Loan Program

Part 307 of Chapter III of Title 13 of the Code of Federal Regulations is hereby amended.

In that the material contained herein is a matter relating to the grant and loan program of the Economic Development Administration and because a delay in implementing these regulations would be contrary to the public interest, the relevant provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation and delay in effective date are inapplicable.

§ 307.54 [Amended]

1. Part 307.54 is amended by deleting paragraph (b)(2) and renumbering paragraph (b)(3) as (b)(2).

Sec. 701, Pub. L. 89-136 (August 26, 1965); 42 U.S.C. 3211; 79 Stat. 570 and Department of Commerce Organization Order 10-4 (April 1, 1970) as amended (35 FR 5970 as amended at 40 FR 12532).

Effective date: This amendment becomes effective on June 16, 1975.

Dated: June 9, 1975.

WILMER D. MIZELL,
Assistant Secretary for Economic Development.

[FR Doc.75-15543 Filed 6-13-75;8:45 am]

[1] For the purposes of this Part 330, a community is a State or a political subdivision thereof which has building code jurisdiction over a particular area having special flood hazards.

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airspace Docket No. 75-AL-10]

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

Alteration of Federal Airways

On May 14, 1975, a Notice of Proposed Rule Making (NPRM) was published in the FEDERAL REGISTER (40 FR 20956) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the floors of airways in the vicinity of Level Island, Alaska.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. No comments were received.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., August 14, 1975, as hereinafter set forth.

1. Section 71.105 (40 FR 305, 17549) is amended as follows:

In A-15, all before "Coghlan Island, Alaska, RBN;" is deleted and "From Ethelda, British Columbia, Canada, NDB via Nichols, Alaska, NDB; 41 miles 12 AGL, 42 miles 52 MSL, 32 miles 12 AGL Petersburg, Alaska, NDB;" is substituted therefor.

2. Section 71.109 (40 FR 306, 17007) is amended as follows:

In B-38, "Nichols, Alaska, RBN; 42 miles, 52 MSL, Petersburg, Alaska RBN;" is deleted and "Nichols, Alaska, NDB; 41 miles 12 AGL, 42 miles 52 MSL, 32 miles 12 AGL, Petersburg, Alaska, NDB;" is substituted therefor.

3. Section 71.125 (40 FR 339, 17007) is amended as follows:

In V-317, all before "Sisters Island, Alaska;" is deleted and "From Ethelda, British Columbia, Canada, NDB via Annette Island, Alaska, including a W alternate via INT Sandspit, British Columbia, Canada, 039° and Annette Island 167° radials; 42 miles 12 AGL, 42 miles 52 MSL, 15 miles 12 AGL Level Island, Alaska, including a W alternate via INT Annette Island 311° and Level Island 164° radials;" is substituted therefor.

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

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

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

[FR Doc.75-15513 Filed 6-13-75;8:45 am]

[Airspace Docket No. 75-WA-10]

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

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Extension of Jet Route; Designation of VOR Federal Airway

The purpose of these amendments to Parts 71 and 75 of the Federal Aviation Regulations is to designate V-360 from Sault Ste. Marie, Mich., via Sault Ste. Marie 110°T radial to the United States/Canadian Border. Canada is designating an airway from that point via Sault Ste. Marie 110°T radial 87 miles to Midland, Ontario, Canada VOR which is located at Lat. 44°34'55" N., Long. 79°47'33" W. This new VOR facility will be commissioned June 19, 1975. In addition, the Ministry of Transport (MOT) proposes to extend High Level Airway/HL553 from Ottawa, Canada, via Midland, direct to Peck, Mich. The amendment to Part 75 is to designate the United States portion of J/HL553. Only a short segment of J/HL553 lies within the United States.

The portion of V-360 that lies within United States airspace overlies presently designated V-300N and no additional airspace is required. This segment assumes a dual designation. That portion of J/HL553 that lies within the United States is within the Continental Control Area and no additional control area designation is involved. Since these amendments are minor in nature and upon which the public would have no reason to comment, notice and public procedure thereon are unnecessary.

These amendments could become effective upon publication in the FEDERAL REGISTER, but to provide sufficient time for these changes to appear on aeronautical charts, they will become effective more than thirty days after publication.

In consideration of the foregoing, Parts 71 and 75 of the Federal Aviation Regulations are amended, effective 0901 GMT, August 14, 1975, as hereinafter set forth.

1. Section 71.123 (40 FR 307) is amended by adding the following:

V-360—"From Sault Ste. Marie, Mich., via Sault Ste. Marie 110° radial to a point 87 miles thence direct to Midland, Ontario, Canada. That airspace within Canada is excluded."

2. In § 75.100 (40 FR 705) Jet Route No. 553 is amended to read as follows:

"From Peck, Minn., to Midland, Ontario, Canada. From Beauce, Quebec, via Houlton,

Me.; to Moncton, New Brunswick. That airspace within Canada is excluded."

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

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

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

[FR Doc.75-15516 Filed 6-13-75;8:45 am]

[Airspace Docket No. 75-WE-6]

PART 73—SPECIAL USE AIRSPACE

Alteration of Restricted Area Title

The purpose of this amendment to Part 73 of the Federal Aviation Regulations is to change the title of Restricted Area R-2518 from Offshore of California to Castle Rock, Calif.

The change in title was requested by the Department of the Navy because R-2518 is more readily identified with the title Castle Rock, Calif., by the aviators and mariners who use it for its designated purpose. Accordingly, the Federal Aviation Administration has concurred with the request.

Since changing the title for a restricted area is a minor amendment upon which the public is not particularly interested, notice and public procedure thereon are unnecessary. However, since it is necessary that sufficient time be allowed to permit appropriate changes to be made on aeronautical charts, this amendment will become effective more than 30 days after publication.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., August 14, 1975, as hereinafter set forth.

In § 73.25 (40 FR 660) the title of Restricted Area R-2518 is amended to read as follows:

R-2518 CASTLE ROCK, CALIF.

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

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

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

[FR Doc.75-15514 Filed 6-13-75;8:45 am]

[Airspace Docket No. 75-SO-37]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Designation and Redesignation of Jet Route Segments

On May 7, 1975, a Notice of Proposed Rule Making (NPRM) was published in the FEDERAL REGISTER (40 FR 19834) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 75 of the Federal Aviation Regulations that would alter J-83, J-91, J-145, and designate a new jet route in the area between Toccoa, Ga., and Ellwood City, Pa.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. No comments were received.

In consideration of the foregoing, Part 75 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., August 14, 1975, as hereinafter set forth.

Section 75.100 (40 FR 705) is amended as follows:

1. J-83 is amended to read as follows: "Jet Route No. 83 From Spartanburg, S.C., via INT Spartanburg 341° and Appleton, Ohio, 184° radials; Appleton; to Cleveland, Ohio."

2. J-91 is amended to read as follows: "Jet Route No. 83 From Spartanburg, Knoxville, Tenn.; Henderson, W. Va.; to Bellaire, Ohio."

3. J-145 is amended to read as follows: "Jet Route No. 145 From Toccoa, Ga., via Charleston, W. Va.; INT Charleston 034° and the Ellwood City, Pa., 194° radials to Ellwood City, Pa."

4. J-186 is added as follows: "Jet Route No. 186 From Tocca, Ga., to the INT of the Spartanburg, S.C., 341° and the Appleton, Ohio, 184° radials."

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

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

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

[FR Doc.75-15515 Filed 6-13-75;8:45 am]

Title 17—Commodity and Securities Exchange

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-11468; File No. S7-515]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Adoption of Amendments to Short Selling Rules

Introduction. The Commission on June 12, 1975 adopted certain amendments to § 240.10a-1 and § 240.10a-2 under the Securities Exchange Act of 1934 (the "Act"). Sections 240.3b-3, 240.10a-1 and 240.10a-2 under the Act comprise the Commission's short sale rules (the "short sale rules"). As amended, the short sale rules provide for comprehensive regulation of all short sales of securities as to which last sale information is to be reported in the consolidated transaction reporting system ("Reported Securities") contemplated by § 240.17a-15 under the Act (the "consolidated system"), regardless of the market in which such short sales are effected, after such information is made available to vendors of market transaction information on a real-time basis.

With a view to implementation of the consolidated system, the Commission first published for comment proposed amendments to the short sale rules on March 6, 1974,[1] and, after revisions in light of the comments received, adopted those amendments on September 27, 1974 (effective October 4, 1974) (the "October Amendments").[2] On October 17, 1974, the October Amendments to §§ 240.10a-1, and 240.10a-2 were suspended temporarily by the Commission pending further study. The October Amendments to § 240.3b-3 were not affected by the suspension. The suspension was instituted in response to representations made to the Commission by certain self-regulatory organizations that implementation of the October Amendments would result in serious operational and other difficulties in regulating short sale transactions in their markets.[3] On March 5, 1975, the Commission published for comment additional proposed amendments to § 240.10a-1 (the "March Proposals"), which were intended to ameliorate the difficulties perceived by those self-regulatory organizations.[4] The amendments to the short sale rules adopted June 12, 1975 are, in substance, an implementation of the March Proposals.

Amended short sale rules. While the Commission has determined to adopt amendments to the short sale rules at this time, in view of the complex nature of these amendments in the context of an operational consolidated system, the Commission wishes to solicit further comment on certain aspects of the new short sale rules with a view to making additional changes in those rules prior to full implementation of the consolidated system, as discussed below.

Paragraph (a) of § 240.10a-1 will not apply to short sales of any Reported Security until last sale information as to transactions in that Reported Security is made available to vendors of market transaction information on a real-time basis in accordance with the terms of the joint industry plan declared effec-

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[1] Securities Exchange Act Release No. 10668 (March 6, 1974); 39 FR 10604 (March 21, 1974).

[2] Securities Exchange Act Release No. 11030 (September 27, 1974); 39 FR 35570 (October 2, 1974).

[3] Securities Exchange Act Release Nos. 11051 (October 15, 1974) and 11051A (November 17, 1974); 39 FR 37971 (October 25, 1974).

[4] Securities Exchange Act Release No. 11276 (March 5, 1975); 40 FR 12522 (March 19, 1975).

tive by the Commission under § 240.17a–15.[4]

After the date on which such information with respect to Reported Securities is made available on a real-time basis, paragraph (a) of § 240.10a–1 will govern short sales of those Reported Securities in all markets (including transactions effected on national securities exchanges and in the over-the-counter market). Prior to that date, short sales of securities (including Reported Securities) will be governed by paragraph (b) of § 240.10a–1, which applies only to short sales effected on national securities exchanges.

The amendments to § 240.10a–1 adopted today by the Commission are identical, in all material respects, to the March Proposals (although certain changes, indicated below, have been made to clarify the meaning of the March Proposals). Certain technical amendments to § 240.10a–2 have been adopted to conform the references to § 240.10a–1 contained therein to the new paragraphing of § 240.10a–1. Section 240.3b–3 has not been changed since the October Amendments and, as amended, has been effective since October 4, 1974.

Reasons for the impact of the amended short sale rules. The need for regulation of short sales was recognized by the Congress when it conferred virtually plenary authority on the Commission to regulate such sales in section 10(a) of the Act (15 U.S.C. 78j).[5] Prior to adoption of the October Amendments (later suspended, as indicated above), the Commission's short sale rules covered only short sales effected on exchanges; however, the advent of the consolidated system, which will result in wide publicity for sales, including short sales, of certain securities effected in all markets (including the over-the-counter market), requires that short sale regulation be extended to over-the-counter short sales of Reported Securities.[7]

The Commission has considered that short sale regulation should accomplish three objectives:

(1) Allow relatively unrestricted short selling in an advancing market;

(2) Prevent short selling at successively lower prices, thus eliminating short selling as a tool for driving the market down;

(3) Prevent short sellers from accelerating a declining market by exhausting all remaining bids at one price level, causing successively lower prices to be established by long sellers.[8]

The Commission believes that § 240.10a–1, as amended, achieves these goals. Consequently, while the Commission recognizes that the short sale rules, as amended, may impose certain burdens on competition, discussed herein, the Commission believes that those burdens are necessary or appropriate in furtherance of the purposes of the Act.

When the short sale rules were promulgated in the 1930's, the Commission considered that, unless so-called "regional" exchanges were afforded relief from the strictures of those rules to permit purchase orders to be filled by short sales at prices which could have been obtained on the "principal" exchange, "regional" exchanges would be unable to attract a sufficient flow of orders to sustain their existence. The equalizing exemption contained in paragraph (d)(6) of § 240.10a–1, prior to amendment, therefore, permitted all short sellers utilizing the facilities of an exchange market other than the "principal" exchange market to effect short sales at prices "necessary to equalize the price . . . with the current price" on the "principal" exchange even though such sales were viewed, in terms of the Rule, as destabilizing. Achievement of a central market system, together with elimination of fixed rates of commissions, however, should place all markets on a relatively equal competitive footing and make possible the elimination of special treatment for "regional" exchanges, such as that afforded by the equalizing exemption.

Until achievement of a central market system, it appears that some form of equalizing exemption will be necessary to permit the "regional" exchanges to progress toward establishing true competitive equality with the "principal" exchanges. The advent of the consolidated system is deemed by the Commission to be a significant advance toward achievement of a central market system. For this reason, when the consolidated system is implemented fully, the new equalizing exemption contained in paragraph (e)(5) of § 240.10a–1 will be limited to specialists and market makers and will apply with equal force to short sales of Reported Securities in all markets. Prior to full implementation of the consolidated system, however, the equalizing exemption contained in paragraph (e)(6) of § 240.10a–1 (the successor to paragraph (d)(6) of the Rule prior to amendment) will remain available to any person for short sales of a Reported Security on an exchange which is not the "principal" exchange market for that security effected in accordance with past interpretations of that exemption.[9]

The Commission's original short sale rules did not apply to over-the-counter transactions since, in the absence of publicity concerning over-the-counter short sales (such as that to be afforded by the consolidated system), there appeared to be little reason to fear that such sales would have a manipulative or destabilizing impact on the markets as a whole. After full implementation of the consolidated system, the new short sale rules will apply only to transactions in Reported Securities.

While short sales of Reported Securities in the over-the-counter market will

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[4] Securities Exchange Act Release No. 10787 (May 10, 1974); 39 FR 17770 (May 20, 1974). In this regard, also see Securities Exchange Act Release No. 11317 (March 28, 1975), 40 FR 15461 (April 7, 1975), stating that vendors of market transaction information are not obligated under § 240.17a–15 to display on their interrogation devices consolidated last sale data as to Reported Securities from all markets until, among other things, such data is made available to them by means of a high speed line, as provided in Section V of the joint industry plan. Thus, until a high speed line has been implemented, and the last sale of a Reported Security reported from any market in the consolidated system can be determined promptly by reference to vendor's interrogation devices, without regard to delays in the transmission of last sale data by means of ticker tape displays, it would not be feasible to subject short sales of that Reported Security in all markets to the provisions of paragraph (a) of § 240.10a–1.

[5] Section 240.10a–1 imposes strictures on only one kind of selling: short selling. Long sales of securities are not subject to the Rule. Although the Commission has expressed uncertainty as to whether any regulation of short selling is necessary in today's markets, the Commission has also indicated that it would seem premature to consider elimination of short sale regulation until further progress has been made toward establishment of a central market system. *See* Securities Exchange Act Release No. 11276 (March 5, 1975), 40 FR 12522 (March 19, 1975), particularly footnote 4 thereof. It is the linking of the existing discrete markets in a single system, electronically and by other means, that will reduce to a minimum the opportunities for would-be manipulators to depress securities prices in the markets as a whole by unrestrained short selling.

[7] *Policy Sstatement of the Securities and Exchange Commission on the Structure of a Central Market System*, at 32, 66 (March 29, 1973). Advisory Committee on a Central Market System, *Interim Report on a Central Market System* (October 11, 1972); Securities Exchange Act Release No. 10688 (March 6, 1974).

[8] 2 Securities and Exchange Commission, *Special Study of Securities Markets*, H.R. Doc. No. 95, 88th Cong., 1st Sess., at 251 (1963).

[9] The equalizing exemption, contained in paragraph (d)(6), under § 240.10a–1, as in effect prior to the amendments adopted today, was framed to permit short sales to be effected on any exchange at a price "which is necessary to equalize the price of such security thereon with the current price of such security on another national securities exchange which is the principal exchange market for such security." In the context of short sale regulation, full implementation of a consolidated system will eliminate the need for regulatory distinctions between a "principal" exchange market and any other market for a Reported Security. During the interim period, however, between implementation of a consolidated ticker tape display of last sale data from all markets and full implementation of the consolidated system (including real-time availability of such data to vendors of market transaction information for display on interrogation devices), it appears that it will not be feasible to require any short sale of a Reported Security to be referenced to the last sale reported in the consolidated system for purposes of compliance with the short sale rules because vendors of market transaction information will not be required to make such information available upon inquiry to users of interrogation devices during that period. Thus, for purposes of paragraph (e)(6) of § 240.10a–1, which affords an equalizing exemption for exchange short sales of Reported Securities prior to full implementation of the consolidated system, the "principal" exchange market reference point will be retained until full implementation of that system is achieved.

not become subject to § 240.10a–1 until full implementation of the consolidated system, the National Association of Securities Dealers, Inc. (the "NASD") has informed the Commission that it is securing agreement by its market maker members responsible for approximately 97 percent of all short sales of Reported Securities in the over-the-counter market to certain conditions governing their short sales of those securities until the consolidated system is implemented fully.[10] The conditions are virtually identical to those which currently govern over-the-counter short sales of Reported Securities included in Phase I of the consolidated system by NASD members who are reporting participants in that pilot project.[11] In the event this action by the NASD proves to be inadequate to assure appropriate and fair restriction of short selling in Reported Securities over-the-counter until full implementation of the consolidated system, the Commission will take corrective action.

In determining to exclude over-the-counter short sales of Reported Securities from the provisions of § 240.10a–1 until full implementation of the consolidated system, the Commission has taken into account not only the NASD's efforts to secure voluntary agreement to appropriate restraints on short selling of Reported Securities by its market maker members, but also the importance of real-time last sale information to third market brokers seeking to effect over-the-counter executions of Reported Security short sale orders for customers. The "tick" test is viable as a measure of short sale permissibility only if those subject to the test (or their agents) have ready access to current information concerning completed transactions. Prior to full implementation of the consolidated system, it will be impossible (as it has been in the past) for brokers and dealers to be aware on a current basis of the prices at which transactions have been effected in the over-the-counter market. Because third market transactions are not effected on a physical "floor," affording prompt access to such information, the absence of a real-time reporting system for over-the-counter transactions undermines the practicality of the "tick" test.[12]

Finally, as amended, and upon full implementation of the consolidated system, § 240.10a–1 permits an exchange to make an election as to whether short sales of Reported Securities are to be governed by a "tick" test referenced to the last sale reported from any market in the consolidated system or one referenced to the last sale in that exchange's market. The Rule also permits an exchange to foreclose use of the equalizing exemption by its specialists and market makers. The Commission recognizes that, to the extent exchanges elect to have short sales effected through their facilities governed by a "tick" test referenced to their own last sales or elect to prohibit use by their specialists and market makers of the equalizing exemption, disparities will exist between markets with respect to the ability of both public investors and market professionals to effect short sales. At certain times, short sales at a given price which could be effected legally in one market may not be permissible in another market.

This aspect of the Rule was designed to ameliorate potential regulatory and operational problems perceived by certain exchanges, as indicated above, which impeded implementation of the October Amendments.[13] The optional method of short sale regulation made available to exchanges by the amended Rule satisfactorily resolves these difficulties while preserving the Rule's essential safeguards against destabilizing trading. The Commission believes, however, that modernization of exchange facilities may eliminate the need to structure short sale regulation in this manner and that it should be possible ultimately to utilize the kind of uniform rule contemplated by the October Amendments.

Commission action. The Securities and Exchange Commission, acting pursuant to 15 U.S.C. 78j(a) and 15 U.S.C. 78w (a), as amended by Pub. L. 94–29, § 18 (June 4, 1975), of the Securities Exchange Act of 1934, as amended, hereby adopts § 240.10a–1 and § 240.10a–2 under Part 240 of Chapter II of Title 17 of the Code of Federal Regulations. Section 240.3b–3 has not been changed since the October Amendments and, as amended, has been effective since October 4, 1974. It is reprinted here to maintain subject matter consistency. The Commission finds that because: (1) Substantively, the amendments to § 240.10a–1 have been exposed for public comment since March 5, 1975, (2) the provisions of § 240.10a–2 have been exposed for public comment since their adoption September 27, 1974 and suspension October 17, 1974, and (3) it is necessary to implement § 240.10a–1 and § 240.10a–2 coincident with the implementation of Network A of the consolidated transaction reporting system expected on June 16, 1975 to ensure comparable short sale regulation of all transactions in Reported Securities in all markets reporting transactions to that system, therefore there is good cause to declare § 240.10a–1 and § 240.10a–2 effective on June 16, 1975 and without publication of these amendments for at least 30 days before their effective date as otherwise generally required by 5 U.S.C. 553(d). Section 240.10a–1 and § 240.10a–2, as in effect prior to these amendments, will remain effective through June 15, 1975.

The full text of §§ 240.3b–3, 240.10a–1, and 240.10a–2 is attached hereto:

§ 240.3b–3. Definition of "Short Sale".

The term "short sale" means any sale of a security which the seller does not own or any sale which is consummated by the delivery of a security borrowed by, or for the account of, the seller. A person shall be deemed to own a security if (1) he or his agent has the title to it; or (2) he has purchased, or has entered into an unconditional contract, binding on both parties thereto, to purchase it but has not yet received it; or (3) he owns a security convertible into or exchangeable for it and has tendered such security for conversion or exchange; or (4) he has an option to purchase or acquire it and has exercised such option; or (5) he has rights or warrants to subscribe to it and has exercised such rights or warrants; *Provided, however*, That a person shall be deemed to own securities only to the extent that he has a net long position in such securities.

§ 240.10a–1. Short sales.

(a) (1) No person shall, for his own account or for the account of any other person, effect a short sale of any security registered on, or admitted to unlisted trading privileges on, a national securities exchange, if trades in such security are reported pursuant to a consolidated transaction reporting system operated in accordance with a plan declared effective under § 240.17a–15 of this chapter (a "consolidated system") and information as to such trades is made available in accordance with such plan on a real-time basis to vendors of market transaction information, (i) below the price at which the last sale thereof, regular way, was reported in such consolidated system, or (ii) at such price unless such price is above the next preceding different price at which a sale of such security, regular way, was reported in a consolidated system.

(2) Notwithstanding paragraph (1) of this paragraph (a), any exchange, by rule, may require that no person shall, for his own account or the account of any other person, effect a short sale of any such security on that exchange (i) below the price at which the last sale thereof, regular way, was effected on such exchange, or (ii) at such price unless such price is above the next preceding different price at which a sale of such securities, regular way, was effected on such exchange, if that exchange determines that such action is necessary or appropriate in its market in the public interest or for the protection of investors; and, if an exchange adopts such a rule, no person shall, for his own account or for the account of any other person, effect a short sale of any such security on such ex-

[10] The NASD agreement provides that:

[n]o Designated Reporting [NASD] Member shall effect a short sale in a security which is included in reporting of the consolidated transaction reporting system declared effective pursuant to Rule 17a–15 [§ 240.17a–15] under the Securities Exchange Act of 1934 below the last sale in such security, or at the last sale if the preceding different sale was at a higher price, effected by such member; provided, however, that such member may effect a short sale in such security if such sale is necessary to equalize the price of such security in its market with the last price of such security reported in the consolidated transaction reporting system.

[11] *See* Securities Exchange Act Release No. 11056 (October 17, 1974); 39 FR 37971 (October 25, 1975).

[12] *See* footnote 6 *supra*.

[13] *See* footnote 4 *supra*.

change otherwise than in accordance with such rule, and compliance with any such rule of an exchange shall constitute compliance with this paragraph (a).

(3) In determining the price at which a short sale may be effected after a security goes ex-dividend, ex-right, or ex-any other distribution, all sale prices prior to the "ex" date may be reduced by the value of such distribution.

(b) No person shall, for his own account or for the account of any other person, effect on a national securities exchange a short sale of any security not covered by paragraph (a) of this rule, (1) below the price at which the last sale thereof, regular way, was effected on such exchange, or (2) at such price unless such price is above the next preceding different price at which a sale of such security, regular way, was effected on such exchange. In determining the price at which a short sale may be effected after a security goes ex-dividend, ex-right, or ex-any other distribution, all sale prices prior to the "ex" date may be reduced by the value of such distribution.

(c) No broker or dealer shall, by the use of any facility of a national securities exchange, or any means or instrumentality of interstate commerce, or of the mails, effect any sell order for a security registered on, or admitted to unlisted trading privileges on, a national securities exchange unless such order is marked either "long" or "short."

(d) No broker or dealer shall mark any order to sell a security registered on, or admitted to unlisted trading privileges on, a national securities exchange "long" unless (1) the security to be delivered after sale is carried in the account for which the sale is to be effected, or (2) such broker or dealer is informed that the seller owns the security ordered to be sold and, as soon as is possible without undue inconvenience or expense, will deliver the security owned to the account for which the sale is to be effected.

(e) The provisions of paragraphs (a) and (b) of this section (and of any exchange rule adopted in accordance with paragraph (a) of this section) shall not apply to—

(1) Any sale by any person, for an account in which he has an interest, if such person owns the security sold and intends to deliver such security as soon as is possible without undue inconvenience or expense;

(2) Any broker or dealer in respect of a sale, for an account in which he has no interest, pursuant to an order to sell which is marked "long";

(3) Any sale by an odd-lot dealer on an exchange with which it is registered for such security, or any over-the-counter sale by a Qualified Third Market Maker in a security for which such market maker has filed a notice with the Commission on Form X-17A-16(1) [§ 249.631 of this chapter] to offset odd-lot orders of customers;

(4) Any sale by an odd-lot dealer on an exchange with which it is registered for such security, or any over-the-counter sale by a Qualified Third Market Maker in a security for which such market maker has filed a notice with the Commission on Form X-17A-16(1) [§ 249.631 of this chapter], to liquidate a long position which is less than a round lot, provided such sale does not change the position of such odd-lot dealer or such market maker by more than the unit of trading;

(5) Any sale of a security covered by paragraph (a) of this section (except a sale to a stabilizing bid complying with § 240.10b-7) by a registered specialist or registered exchange market maker for its own account on any exchange with which it is registered for such security, or by a Qualified Third Market Maker which has filed a notice for such security with the Commission on Form X-17A-16(1) [§ 249.631 of this chapter] for its own account over-the-counter, effected at a price equal to or above the last sale reported for such security in a consolidated system; *Provided, however,* That any exchange, by rule, may prohibit its registered specialists and registered exchange market makers from availing themselves of the exemption afforded by this paragraph (e)(5) if that exchange determines that such action is necessary or appropriate in its market in the public interest or for the protection of investors;

(6) Any sale of a security covered by paragraph (b) of this section on a national securities exchange (except a sale to a stabilizing bid complying with § 240.-10b-7) effected with the approval of such exchange which is necessary to equalize the price of such security thereon with the current price of such security on another national securities exchange which is the principal exchange market for such security;

(7) Any sale of a security for a special arbitrage account by a person who then owns another security by virtue of which he is, or presently will be, entitled to acquire an equivalent number of securities of the same class as the securities sold; provided such sale, or the purchase which such sale offsets, is effected for the bona fide purpose of profiting from a current difference between the price of the security sold and the security owned and that such right of acquisition was originally attached to or represented by another security or was issued to all the holders of any such class of securities of the issuer;

(8) Any sale of a security registered on, or admitted to unlisted trading privileges on, a national securities exchange effected for a special international arbitrage account for the bona fide purpose of profiting from a current difference between the price of such security on a securities market not within or subject to the jurisdiction of the United States and on a securities market subject to the jurisdiction of the United States; provided the seller at the time of such sale knows or, by virtue of information currently received, has reasonable grounds to believe that an offer enabling him to cover such sale is then available to him in such foreign securities market and intends to accept such offer immediately;

(9) Any sale of a security registered on, or admitted to unlisted trading privileges on, a national securities exchange effected in accordance with a special offering plan declared effective by the Commission pursuant to paragraph (d) of § 240.10b-2; or

(10) Any sale by an underwriter, or any member of a syndicate or group participating in the distribution of a security, in connection with an overallotment of securities, or any lay-off sale by such a person in connection with a distribution of securities through rights pursuant to § 240.10b-8 or a standby underwriting commitment.

For the purpose of paragraph (e)(8) of this section a depository receipt of a security shall be deemed to be the same security as the security represented by such receipt.

(f) This rule shall not prohibit any transaction or transactions which the Commission, upon written request or upon its own motion, exempts, either unconditionally or on specified terms and conditions.

§ 240.10a-2. Requirements for Covering Purchases.

(a) No broker or dealer shall lend, or arrange for the loan of, any security registered on, or admitted to unlisted trading privileges on, a national securities exchange for delivery to the broker for the purchaser after sale, or shall fail to deliver a security on the date delivery is due, if such broker or dealer knows or has reasonable grounds to believe that the sale was effected, or will be effected, pursuant to an order marked "long," unless such broker or dealer knows, or has been informed by the seller (1) that the security sold has been forwarded to the account for which the sale was effected, or (2) that the seller owns the security sold, that it is then impracticable to deliver to such account the security owned and that he will deliver such security to such account as soon as it is possible without undue inconvenience or expense.

(b) The provisions of paragraph (a) of this section shall not apply (1) to the lending of a security registered on, or admitted to unlisted trading privileges on, a national securities exchange by a broker or dealer through the medium of a loan to another broker or dealer, or (2) to any loan, or arrangement for the loan, of any such security, or to any failure to deliver any such security if, prior to such loan, arrangement or failure to deliver, a national securities exchange, in the case of a sale effected thereon, or a national securities association, in the case of a sale not effected on an exchange, finds (i) that such sale resulted from a mistake made in good faith, (ii) that due diligence was used to ascertain that the circumstances specified in § 240.10a-1(d)

(1) existed or to obtain the information specified in clause (2) thereof, and (iii) either that the condition of the market at the time the mistake was discovered was such that undue hardship would result from covering the transaction by a "purchase for cash" or that the mistake was made by the seller's broker and the sale was at a price permissible for a short sale under § 240.10a–1(a) or (b).

(Sec. 10, 48 Stat. 891, as amended, 64 Stat. 1265, 15 U.S.C. 78j(a); sec. 23(a), 48 Stat. 901, as amended, 49 Stat. 704, as amended, 49 Stat. 1379, as amended, Pub. L. 94–29 § 18 (June 4, 1975), 15 U.S.C. 78w(a)).

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

JUNE 12, 1975.

[FR Doc.75–15662 Filed 6–13–75;8:45 am]

Title 20—Employees' Benefits

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

[Regs. No. 5, further amended]

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Subpart E—Criteria for Determination of Reasonable Charges; Reimbursement for Services of Hospital Interns, Residents, and Supervising Physicians

ECONOMIC INDEX

On April 14, 1975, there was published in the FEDERAL REGISTER (40 FR 16673), a notice of proposed rulemaking with proposed amendments to Subpart E of Regulations No. 5 (20 CFR Part 405). The proposed amendments were designed to implement the statutory mandate contained in section 224(a) of Pub. L. 92–603 (1972 amendments to the Social Security Act), which provides that, in the case of physicians' services, the prevailing charge level (determined to be reasonable on the basis of the other reasonable charge criteria) for any fiscal year beginning after June 30, 1973, may not exceed the level for the fiscal year ending June 30, 1973, except to the extent that such level is justified by economic index data reflecting changes in physicians' expenses of practice and changes in earnings levels. Interested parties were given 30 days in which to submit written comments or suggestions thereon.

Comments were received from a number of parties including individual physicians and physicians' organizations.

Following is a discussion of the comments received.

1. A recommendation was made that the regulation be withdrawn entirely. This was based in part upon concerns that implementation of the economic index provision may have an adverse effect on assignment rates. This recommendation cannot be adopted since Pub. L. 92–603 mandates the use of the economic index limitation on increases in prevailing charges for physicians' services.

2. Several comments related to an extension of the 30-day comment period, citing the relative complexity of the provision. An extension of the comment period was not found feasible, because of the limited time available for timely implementation of the economic index provision simultaneous with the annual updating of the Medicare carriers' reasonable charge screens due to take place July 1, 1975.

3. Also suggested was the use of prevailing charges from fiscal years more recent than fiscal year 1973 as the base year prevailing charges upon which future increases might be allowed by the economic index. This recommendation cannot be adopted because, under the Medicare law, fiscal year 1973 prevailing charges must be used as bases to which increases are limited by the use of economic index data.

4. One suggestion made was that physicians' "real spendable income" should be a factor in the economic index. As is noted in the notice of the Economic Index for Fiscal Year 1976, which is being published concurrently in this issue of the FEDERAL REGISTER, the Department has utilized what it continues to consider to be the best available data and methodology in developing the economic index figure. The regulation does not preclude future refinement of the data and methodology used to determine the economic index figure. Efforts to refine the statistical bases of the economic index figure will continue and, as suggested by the Senate Finance Committee report which accompanied Pub. L. 92–603, any additional data to refine the existing methodology which are obtained or received, will be considered for use in determining the economic index for future fiscal years.

5. It was suggested that substantive information about the data and methodology be published in the final regulation. The notice mentioned in paragraph 4 above contains substantive information about the data and methodology used to arrive at the cumulative economic index for fiscal year 1976.

6. Another comment related to the national character of the economic index. It was suggested that local indexes should be devised. This suggestion cannot be adopted presently, because sufficient data to do so are not available on a local basis.

7. One comment suggested that the regulation be amended to clarify that "unadjusted" rather than "adjusted" fiscal year 1973 prevailing charge levels are to be used as bases for future increases. (This refers to the adjustments that were made in Medicare fee screens for fiscal year 1973, in accord with the economic stabilization program then in effect.) This suggestion has been adopted.

8. It was suggested that the application of a uniform economic index to all prevailing charges would discriminate against rural physicians who have, in the past, had lower prevailing charge levels than their urban colleagues. The economic index will be applied uniformly to all physicians' prevailing charges, and physicians in rural localities and physicians in other localities will be allowed the same maximum rates of increases.

9. One comment suggested that additional language be included in the regulation to provide for reflection of such events as the sharp increase in medical malpractice insurance premiums in the economic index. The office-expense component of the economic index is intended to reflect changes in the costs of physicians' practice. However, in general, changes in the costs of malpractice insurance did not impact significantly and uniformly on all physicians during all of 1974, and at this time, the matter is still unsettled. It may be possible to give the costs of malpractice insurance additional consideration in establishing the economic index for future years after the situation stabilizes and to the extent that useful statistics on the impact of rises in malpractice insurance premiums on physicians' practice expenses become available.

10. Another comment suggested that the law provides for a limit on increases "in the aggregate" of charges but the regulation does not follow this requirement. However, the Medicare statute and the language of the Senate Finance Committee's report on Pub. L. 92–603 are understood to mean that an aggregate prevailing charge level results from the aggregation of customary charges. The "prevailing charge level" for a particular class of services (e.g., appendectomies) in a particular locality is, therefore, itself an aggregate figure.

11. One comment that the regulatory language which provided that the allowance or reduction of an increase in a prevailing charge for one medical item or service in a locality would not affect the allowable charges for another item or service did not accurately reflect the facts in all situations. The language of the regulation has been modified accordingly.

12. Another comment suggested that the regulatory language be amended to preclude any rollback of prevailing charges below the levels of fiscal year 1975. This suggestion is not being adopted since it is contrary to Medicare law. The statute clearly limits the extent to which rises in prevailing charge levels above the fiscal year 1973 levels, may be recognized.

13. One comment recommended that the economic index be tied to increases in hospital costs since calendar year 1971. This recommendation cannot be adopted since it does not take into account the legislative intent expressed in the Senate Finance Committee report accompanying Pub. L. 92–603. The report indicates that data on the operating expenses of physicians' practices and general earnings levels, combined in a manner consistent with available data on the ratio of those components to income from practice occurring among self-employed physicians as a group, should be the bases for determining the economic index figures.

14. Another comment was that the proposed regulation discriminates against physicians as a class. It should be noted that the language of the regulation does not refer to or limit the incomes of physicians. Rather, it refers to the levels of payments for physicians' services which

may be made under the Medicare program. In this regard it reflects the intent of the legislation as expressed in the Senate Finance Committee report accompanying Pub. L. 92-603.

15. Several comments suggested that the acquisition and development of actual charge data of calendar year 1971 may be difficult and costly. Nonetheless, the statute mandates the use of fiscal year 1973 prevailing charges, which are based upon calendar year 1971 actual charge data, as the bases for limiting increases in prevailing charges.

16. One comment was that the use of the terms "prevailing" and "reasonable" in the regulation implies that the Federal government is involved in fee setting. However, the regulation does not limit the amounts which physicians may charge for their professional services, but only the amounts payable under the Medicare program for such services to Medicare beneficiaries. The terms "prevailing" and "reasonable" are used in the original Medicare law itself.

All the comments have been carefully considered, including many which were received after the expiration of the comment period. With the changes noted above, the amendments as announced under the notice of proposed rulemaking are hereby adopted, and are set forth below.

These regulations will be effective July 1, 1975, since the economic index provision of section 224(a) of Pub. L. 92-603 was designed to apply to fiscal year periods. For the economic index provision to apply to the entire fiscal year 1976, it must be effective July 1, 1975. In addition, the carriers normally update their reasonable charge screens at the beginning of each fiscal year. Thus, the July 1, 1975, effective date of these regulations will also assure that the economic index provision will be applied when carriers' reasonable charge screens are updated for fiscal year 1976.

(Secs. 1102, 1833(a), 1842(b), and 1871 of the Social Security Act, 49 Stat. 647, as amended, 79 Stat. 302, 79 Stat. 310, 79 Stat. 331; 42 U.S.C. 1302, 1395(a), 1395u(b), and 1395hh.)

Effective date. These regulations will be effective July 1, 1975.

(Catalog of Federal Domestic Assistance Program No. 13.801, Health Insurance for the Aged and Disabled—Supplementary Medical Insurance.)

Dated: May 30, 1975.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: June 6, 1975.

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

Regulations No. 5 of the Social Security Administration (20 CFR Part 405) are further amended as set forth below:

1. Paragraph (a) of § 405.502 is revised to read as follows:

§ 405.502 Criteria for determining reasonable charges.

(a) *Criteria.* The law allows for flexibility in the determination of reasonable charges to accommodate reimbursement to the various ways in which health services are rendered and charged for. The criteria for determining what charges are reasonable include:

(1) The customary charges for similar services generally made by the physician or other person furnishing such services.

(2) The prevailing charges in the locality for similar services.

(3) In the case of physicians' services, the prevailing charges for such services for fiscal year 1973 adjusted to reflect the cumulative economic index since calendar year 1971 but only if the charges so determined are not more than the prevailing charges determined under § 405.504(a)(2). The data used in determining the cumulative economic index should reflect changes in expenses of physicians' office practice and in general earnings levels.

(4) Other factors that may be found necessary and appropriate with respect to a specific item or service to use in judging whether the charge is inherently reasonable.

* * * * *

2. Paragraph (a) of § 405.504 is revised to read as follows:

§ 405.504 Determining prevailing charges.

(a) *Range of charges.* (1) In the case of claims received by carriers prior to January 1, 1971, the "prevailing charge" is derived from those charges which fall within the range of charges most frequently and most widely billed in a "locality" (see § 405.505) for a particular medical item or service. The top of this range establishes the prevailing charge which serves as an overall limitation on the charges which a carrier will accept as reasonable for a given medical item or service. (See § 405.506 for discussion of reasonable charges where there are unusual circumstances.) Prevailing charges are derived from the overall pattern existing within a locality. For example, if in a given locality the charges most frequently and widely used by physicians for a particular medical item or service range from $150 to $175, those charges would be applied in determining the prevailing charge for the locality. If in another locality the charges for that same item or service are different, then that different range of charges would be applied in determining the prevailing charge for that locality.

(2) With respect to claims received by carriers on and after January 1, 1971, no charge may be determined to be reasonable if it exceeds the higher of: (i) The prevailing charge limit that, on the basis of statistical data and methodology acceptable to the Secretary, would cover 75 percent of the customary charges made for similar services in the same locality during the calendar year preceding the start of the fiscal year in which the claim is submitted or the request for payment is made; or (ii) The prevailing charge limit for similar services in the same locality in effect on December 31, 1970, provided such prevailing charge limit had been found acceptable by the Secretary.

(3) (i) In the case of physicians' services, each prevailing charge level in each locality may not exceed the level determined for the fiscal year ending June 30, 1973 (without reference to the adjustments made pursuant to the economic stabilization program then in effect), except on the basis of appropriate economic index data which demonstrate that such higher prevailing charge level is justified by: (A) Changes in general earnings levels of workers that are attributable to factors other than increases in their productivity; and (B) changes in expenses of the kind incurred by physicians in office practice. The office-expense component and the earnings component of such index shall be given the relative weights shown in data on self-employed physicians' gross incomes.

EXAMPLE. The available data indicate the office-expense and earnings components of the index should be given relative weights of 40 percent and 60 percent, respectively, and it is calculated that the aggregate increase in expenses of practice for a particular calendar year was 3 percent over the expenses of practice for calendar year 1971 and the increase in earnings (less increases in workers' productivity) was 5 percent over the earnings for calendar year 1971. The allowable increase in any prevailing charge that could be recognized during the next fiscal year would be 4.2 percent ((.40 x 3) + (.60 x 5) = 4.2) above the level recognized for fiscal year 1973.

(ii) If the increase in the prevailing charge in a locality for a particular medical item or service resulting from an aggregate increase in customary charges for that item or service does not exceed the index determined under paragraph (a)(3)(i) of this section, the increase is permitted and any portion of the allowable increase not used is carried forward and is a basis for justifying increases in that prevailing charge in the future. However, if the increase in the prevailing charge exceeds the allowable percentage of increase, the increase will be reduced to the allowable percentage. Future increases will be justified only to the degree that they do not exceed further rises in the economic index.

(iii) When, for any reason, a prevailing charge for a service in a locality has no precise counterpart in the carrier's charge data for calendar year 1971 (the data on which the prevailing charge calculations for fiscal year 1973 were based), the limit on the prevailing charge shall be estimated, on the basis of data and methodology acceptable to the Secretary, to seek to produce the effect intended by the economic index criterion. The allowance or reduction of an increase in a prevailing charge for any individual medical item or service may affect the allowance or reduction of an increase in the prevailing charges for other items or services where, for example, the limit on the prevailing charge is estimated as explained in the preceding sentence of this section, or where the prevailing charges for more than one item or service are established through the use of a relative value schedule and of dollar conversion factors.

* * * * *

[FR Doc.75-15480 Filed 6-13-75;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 510—NEW ANIMAL DRUGS

Sponsors of Approved Applications; Address

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512 (i), 82 Stat. 347 (21 U.S.C. 360b(i))), andu nder authority delegated to the Commissioner (21 CFR 2.120), Part 510 (formerly Part 135 prior to recodification published in the FEDERAL REGISTER of March 27, 1975 (40 FR 13802)) is amended in § 510.600, paragraph (c)(1) and (c)(2) by changing the address of S. B. Penick & Co. to read as follows:

§ 510.600 Names, addresses, and code numbers of sponsors of approved applications.

(c) * * *
(1) * * *

Firm name and address:	Drug listing No.
* * * * *	*
S. B. Penick & Co., 1050 Wall St. West, Lyndhurst, N.J. 07071.	000794
* * * * *	*

(2) * * *

Drug listing No.	Firm name and address
* * * * *	*
000794	S. B. Penick & Co., 1050 Wall St. West Lyndhurst, N.J. 07071.
* * * * *	*

Effective date. This order shall be effective June 16, 1975.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b (i)).)

Dated: June 10, 1975.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.75-15522 Filed 6-13-75;8:45 am]

Title 29—Labor

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

FEDERAL AND STATE VARIANCES FROM IDENTICAL STANDARDS

Coordination Procedures and Conditions

On December 17, 1974, the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary) issued a notice of a proposed rulemaking (39 FR 43635) to amend Chapter XVII of Title 29 of the Code of Federal Regulations, to revise Part 1905, Subpart A of Part 1952, and Part 1954 of that Chapter, regarding procedures and conditions for coordination of Federal and State variance actions with regard to occupational safety and health standards in accordance with sections 6, 8, and 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651) (hereinafter called the Act).

At the same time, notice was issued of a proposed rule to amend § 50-204.1a of Subpart A of Part 50-204 of Title 41 of the Code of Federal Regulations to provide that variance actions taken under approved State provisions from State occupational safety and health standards, found to be at least as effective as the comparable Federal standards contained in Part 50-204 which are incorporated in Part 1910 of Title 29, will be deemed variance actions from the standard under both the Walsh-Healey Public Contracts Act (41 U.S.C. 35) and the Act.

The proposed rulemaking contained revisions and clarifications in response to diverse public comments received on an earlier proposal published in the FEDERAL REGISTER on April 3, 1974 (39 FR 12141).

Written comments on the revised proposal were received from the Industrial Union Department of the AFL-CIO; the States of New York, Michigan, and California; the American Petroleum Institute; and the Engraved Stationery Manufacturers Association, Inc. These comments reflected concern about the impact of a State variance under the proposed amendment to 41 CFR Part 50-204 and the applicability of a variance action taken in one State to other States (AFL-CIO); the precise meaning of standards that are "identical in substance and requirements" (New York, Michigan, California); the meaning of the employer certification that he has not previously applied for the variance on "the same set of facts" with regard to the same place of employment (New York, American Petroleum Institute); the requirement that employers applying for a Federal variance under the proposal must provide a comparison of the identical Federal and State standard (Michigan, Engraved Stationery Manufacturers Association, Inc.); the intent of the employer certification to require a clear statement of each covered workplace's conditions (Michigan); whether or not the proposal would apply to interim orders (Michigan). It was recommended that the proposal be amended to apply only to permanent variances (California) and provide opportunity to States to participate as parties in the Federal proceedings. One commenter (Engraved Stationery Manufacturers Association, Inc.) recommended that all variances be handled by the Federal Government with States agreeing to accept all variances to Federal standards as variances from State standards. One State questioned the reliance on Federal monitoring responsibilities under section 18(f) of the Act as a basis for Federal variance-granting in a State after the application of Federal standards has been withdrawn from the State under section 18(e) of the Act.

As pointed out in the preamble to the revised proposal (39 FR 43635), it is clear from the legislative history of the Act that Congress intended the States to have variance-granting authority from State standards under their plans. Thus, all approved State plans must make provision for variances from State standards on the same basis and under procedural requirements as under the Federal program. In addition, the vast majority of States with approved plans are adopting standards identical to the comparable Federal standards. Even where "at least as effective as" State standards are adopted, there are areas where standards identical to the Federal have actually been adopted by the State. The proposal would make Federal variance machinery available to employers seeking a variance from a State standard identical to the Federal in more than one State with an approved plan or in at least one with such and in a State without an approved plan.

It cannot be stated too strongly that the effect of a particular variance action, under either State or Federal law, extends no further than the actual employment or place of employment covered in the employer's application upon which the particular action is taken. Utilization of Federal procedures under this rule would in no way operate to extend the scope of the action beyond the employment covered in the application. Under the amendment to Part 50-204 of Title 41, recognition of appropriate State variance actions for the purpose of Federal contractor compliance obligations would not extend the scope of the variance action beyond the particular employment or place of employment for which it was granted by the State in question. As pointed out in the preamble to the December 17, 1974, proposal (39 FR 43635), no particular variance action under State law in one State can be considered binding in another State, and it is not the intent or effect of this rule to give any basis for such use of variance actions.

With regard to difficulties found with the rule's definition of "identical" standards, or portions thereof, the rule applies only when State standards are identical to the comparable Federal standard. However, mere editorial, nonsubstantive variations from the Federal standard do not vary an employer's compliance obligations and do not negate the required identity. The term "identical in requirements and substance" was intended to cover this situation only, and not to make the Federal machinery available with respect to a State performance standard *vis-a-vis* a Federal specification standard, or vice versa. In addition, it is not the intent of the requirement in the rule that an employer certify that he has not previously filed for the same variance "on the same facts" to permit subsequent application with either the Federal or the State authority concerned upon slight technical alteration of the facts. It is the intent of the rule, however, to recognize that facts in a given workplace could change to such a material extent as to make denial or qualification of a previous variance application not dispositive with

respect to the changed condition of the workplace.

It is not considered that the obligation in the rule on an employer applying for a Federal variance with regard to employment in a State with an approved plan to provide a side-by side comparison of the Federal and State standard concerned is unduly onerous. Under the law of the State, employers are obligated to know and comply with State standards. At the same time, where there are no approved State plans, employers are obligated to know and comply with Federal standards. The rule would greatly diminish burdens on multi-state employers by providing for consolidation of proceedings with respect to identical standards.

Although Federal standards and their enforcement no longer apply as an employer obligation where the Assistant Secretary has determined in accordance with section 18(e) of the Act that the Federal authority and standards should be withdrawn from a State, the State under an approved plan is obligated to continue to maintain standards "at least as effective as" the comparable Federal (29 CFR 1902.3(c)) and provide for variances from such standards "which correspond to variances authorized under the Act." Federal interpretations of employer compliance obligations with regard to Federal standards continue to be the measure against which these State obligations are evaluated under section 18(f) of the Act. Employers, under the rule, would be securing an interpretation with regard to their compliance obligations under a Federal standard identical to the State standard. Such an interpretation would be either in the nature of approval, or disapproval, of alternative means of compliance, i.e., permanent variances, or approval or disapproval of proposals for coming into compliance under the same conditions and procedures as provided under the State plan, i.e., temporary variances. With opportunity for full State and affected employee participation in interpretations taken with regard to employment under the State's jurisdiction, it appears that subsequent complaints and citations under State law for the approved divergence from the identical State standard would have scant foundation for prosecution and could result only in duplication of procedures. The regulation, therefore, would apply the principles of comity between interpretations under the Federal monitoring and evaluation function and State variance-granting functions where identical Federal and State standards exist in more than one State where at least one has an approved plan.

Such principles would not apply when the affected State and employees did not have the opportunity to participate in the Federal proceedings; they only apply to the employment or places of employment subject to the determination. It is recognized that situations giving rise to requests for temporary variances will often differ from workplace to workplace. Clear statements of these conditions in connection with the steps to be taken to safeguard employees would be required, as in the case of any Federal variance application for temporary variances.

Pursuant to these considerations, and those given in the notice of proposed rulemaking of December 17, 1974 (39 FR 43635), the rule as proposed has been amended to make clear that it applies only in the case where Federal and State standards are identical, that it applies to interim orders, and to afford an opportunity to a State with an approved plan to participate as a party in the Federal proceedings with respect to applications affecting employment or places of employment within its jurisdiction.

The rule has been submitted for public notice and comment two times (39 FR 12141 and 39 FR 43635), and thoroughly commented upon on both occasions. Such comments on these procedural rules having been fully considered, further delay in their effective date would not be in the best interests of the Federal-State occupational safety and health program.

Accordingly, Parts 1905, 1952, and 1954 of Title 29 of the Code of Federal Regulations are hereby amended, effective June 16, 1975, as follows:

PART 1905—RULES OF PRACTICE FOR VARIANCES, LIMITATIONS, VARIATIONS, TOLERANCES, AND EXEMPTIONS UNDER THE WILLIAMS-STEIGER OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

1. Sections 1905.5, 1905.10, 1905.11, 1905.13, 1905.14, and 1905.15 are hereby amended as follows:

§ 1905.5 [Amended]

In § 1905.5, the words "or appropriate State review authority" are inserted after the words "Occupational Safety and Health Review Commission" and before the words "until the completion of such proceeding."

2. In § 1905.10, (b)(11) is revised as set forth below:

§ 1905.10 Variances and other relief under section 6(b)(6)(A).

* * * * *

(b) * * *

(11) Where the requested variance would be applicable to employment or places of employment in more than one State, including at least one State with a State plan approved under section 18 of the Act, and involves a standard, or portion thereof, identical to a State standard effective under such plan:

(i) A side-by-side comparison of the Federal standard, or portion thereof, involved with the State standard, or portion thereof, identical in substance and requirements;

(ii) A certification that the employer or employers have not filed for such variance on the same material facts for the same employment or place of employment with any State authority having jurisdiction under an approval plan over any employment or place of employment covered in the application; and

(iii) A statement as to whether, with an identification of, any citations for violations of the State standard, or portion thereof, involved have been issued to the employer or employers by any of the State authorities enforcing the standard under a plan, and are pending.

* * * * *

In § 1905.11 (b)(8) is revised as set forth below:

§ 1905.11 Variances and other relief under section 6(d).

* * * * *

(b) * * *

(8) Where the requested variance would be applicable to employment or places of employment in more than one State, including at least one State with a State plan approved under section 18 of the Act, and involves a standard, or portion thereof, identical to a State standard effective under such plan:

(i) A side-by-side comparison of the Federal standard, or portion thereof, involved with the State standard, or portion thereof, identical in substance and requirements;

(ii) A certification that the employer or employers have not filed for such variance on the same material facts for the same employment or place of employment with any State authority having jurisdiction under an approved plan over any employment or place of employment covered in the application; and

(iii) A statement as to whether, with an identification of, any citations for violations of the State standard, or portion thereof, involved have been issued to the employer or employers by any of the State authorities enforcing the standard under a plan, and are pending.

* * * * *

4. In § 1905.13, paragraph (c) is revised as set forth below:

§ 1905.13 Modification, revocation, and renewal of rules or orders.

* * * * *

(c) *Multi-state variances.* Where a Federal variance has been granted with multi-state applicability, including applicability in a State operating under a State plan approved under section 18 of the Act, from a standard, or portion thereof, identical to a State standard, or portion thereof, without filing the information required in §§ 1905.10(b)(11) or 1905.11(b)(8) of this chapter, such variance shall likewise be deemed an authoritative interpretation of the employer(s)' compliance obligations with regard to the State standard, or portion thereof, upon filing the information required under §§ 1905.10(b)(11) or 1905.11(b)(8) of this chapter, provided no objections of substance are found to be interposed by the State authority under § 1905.14 of this chapter.

5. In § 1905.14 paragraph (b)(2) is revised; (b)(3) and (4) are added as set forth below:

§ 1905.14 Action on applications.

* * * * *

(b) * * *

(2) A notice of the filing of an application shall include: (i) the terms, or an

accurate summary, of the application; (ii) a reference to the section of the Act under which the application has been filed; (iii) an invitation to interested persons to submit within a stated period of time written data, views, or arguments regarding the application; and (iv) information to affected employers, employees, and appropriate State authority having jurisdiction over employment or places of employment covered in the application of any right to request a hearing on the application.

(3) Where the requested variance, or any proposed modification or extension thereof, involves a Federal standard, or any portion thereof, identical to a State standard, or any portion thereof, as provided in §§ 1905.10(b)(11) and 1905.11(b)(8) of this chapter, the Assistant Secretary will promptly furnish a copy of the application to the appropriate State authority and provide an opportunity for comment, including the opportunity to participate as a party, on the application by such authority, which shall be taken into consideration in determining the merits of the proposed action.

(4) A copy of each final decision of the Assistant Secretary with respect to an application filed under §§ 1905.10, 1905.11, or 1905.13 shall be furnished, within 10 days of issuance, the State authorities having jurisdiction over the employment or place of employment covered in the application.

6. Section 1905.15(a) is revised as set forth below:

§ 1905.15 Requests for hearings on applications.

(a) *Request for hearing.* Within the time allowed by a notice of the filing of an application, any affected employer, employee, or appropriate State agency having jurisdiction over employment or places of employment covered in an application may file with the Assistant Secretary, in quadruplicate, a request for a hearing on the application.

* * * * *

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

2. A new § 1952.9 in Subpart A of Part 1952 is hereby added to read as follows:

§ 1952.9 Variances affecting multi-state employers.

(a) Where a State standard is identical to a Federal standard addressed to the same hazard, an employer or group of employers seeking a temporary or permanent variance from such standard, or portion thereof, to be applicable to employment or places of employment in more than one State, including at least one State with an approved plan, may elect to apply to the Assistant Secretary for such variance under the provisions of 29 CFR Part 1905, as amended.

(b) Actions taken by the Assistant Secretary with respect to such application for a variance, such as interim orders, with respect thereto, the granting, denying, or issuing any modification or extension thereof, will be deemed prospectively an authoritative interpretation of the employer or employers' compliance obligations with regard to the State standard, or portion thereof, identical to the Federal standard, or portion thereof, affected by the action in the employment or places of employment covered by the application.

(c) Nothing herein shall affect the option of an employer or employers seeking a temporary or permanent variance with applicability to employment or places of employment in more than one State to apply for such variance either to the Assistant Secretary or the individual State agencies involved. However, the filing with, as well as granting, denial, modification, or revocation of a variance request or interim order by, either authority (Federal or State) shall preclude any further substantive consideration of such application on the same material facts for the same employment or place of employment by the other authority.

(d) Nothing herein shall affect either Federal or State authority and obligations to cite for noncompliance with standards in employment or places of employment where no interim order, variance, or modification or extension thereof, granted under State or Federal law applies, or to cite for noncompliance with such Federal or State variance action.

PART 1954—PROCEDURES FOR THE EVALUATION AND MONITORING OF APPROVED STATE PLANS

3. Section 1954.3 is amended by adding a new paragraph (d)(1)(i) and as adopted reads as follows:

§ 1954.3 Exercise of Federal discretionary authority.

* * * * *

(d)(1) * * *

(i) Subject to pertinent findings of effectiveness under this part, Federal enforcement proceedings will not be initiated where an employer is in compliance with a State standard which has been found to be at least as effective as the comparable Federal standard, or with any temporary or permanent variance granted to such employer with regard to the employment or place of employment from such State standard, or any order or interim order in connection therewith, or any modification or extension thereof: *Provided* such variance action was taken under the terms and procedures required under § 1902.4(b)(2)(iv) of this chapter, and the employer has certified that he has not filed for such variance on the same set of facts with the Assistant Secretary.

* * * * *

(Secs. 6, 8, 18, 84 Stat. 1593, 1598, 1608 (29 U.S.C. 655, 657, 667))

Signed at Washington, D.C. this 6th day of June 1975.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.75-15540 Filed 6-13-75;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 5A—FEDERAL SUPPLY SERVICE, GENERAL SERVICES ADMINISTRATION

Miscellaneous Amendments

This change to the General Services Administration Procurement Regulations (GSPR) updates and amplifies various procurement procedures.

PART 5A-1—GENERAL

Subpart 5A-1.1—Introduction

Section 5A-1.105(c) is added as follows:

§ 5A-1.105 Exclusions.

* * * * *

(c) One copy of each locally issued procurement procedure shall be furnished to the General Services Administration, Federal Supply Service, (FPP), Washington, DC 20406.

PART 5A-2—PROCUREMENT BY FORMAL ADVERTISING

The table of contents for Part 5A-2 is amended to delete § 5A-2.407-70 and add the following new entries:

§ 5A-2.202-51 Attendance at bid openings.

§ 5A-2.407-2 Responsible bidder—reasonableness of price.

Subpart 5A-2.2—Solicitation of Bids

Section 5A-2.202-51 is added as follows:

§ 5A-2.202-51 Attendance at bid openings.

The following cautionary notice shall be included in all Notices to Prospective Bidders, GSA Form 1602, or under Special Notices To Bidders in the solicitation.

PERSONAL ATTENDANCE AT BID OPENINGS

Bidders, especially those located outside the immediate bid opening area, are cautioned to verify the bid opening date and time with the person at the telephone number indicated in Block 9, page 1 of this solicitation, or with the GSA Business Service Center shown in Block 8, page 1 of this solicitation.

Subpart 5A-2.3—Submission of Bids

Section 5A-2.304(c) is added as follows:

§ 5A-2.304 Modification or withdrawal of bids.

* * * * *

(c) The following clause shall be included in all FSS solicitation.

TELEGRAPHIC BIDS OR PROPOSALS, MODIFICATIONS, OR WITHDRAWALS OF BIDS OR PROPOSALS

When telegraphic bids or proposals, telegraphic modifications, or telegraphic withdrawals of bids or proposals are authorized by the solicitation, the time of receipt stamped by Government personnel at the local GSA Communications Center shall be deemed to be the time of receipt at the office designated in the solicitation for receipt of offers or proposals. This clause shall not apply to any authorized telegraphic commu-

nications which are not received by the GSA Communications Center.

Subpart 5A–2.4—Opening of Bids and Award of Contract

1. Section 5A–2.407–2 is added as follows:

§ 5A–2.407–2 Responsible bidder—reasonableness of price.

(a) Contracting officers are required to determine that price(s) are reasonable for all contract awards. In this regard, contracting officers should exercise good business judgment giving consideration to the extent of competition received, facts in the market place, and price fluctuations caused by changing market conditions. For specific criteria for determining reasonableness of prices, see instructions for completing GSA Form 1535, Recommendation for Award(s), in § 5A–16.950–1535–1.

(b) When only one bid is received in response to an invitation for bids, such bid may considered and accepted if (i) the specifications used in the invitation were not restrictive, (ii) adequate competition was solicited, (iii) the price is reasonable, and (iv) the bid is otherwise in accordance with the invitation for bids. The responsible contracting officer shall ensure that the contract file contains complete documentation that an award to the only offeror is in the best interest of the Government, particularly with regard to price reasonableness. The basis for price reasonableness shall be established from data or information which is available to the contracting officer without contacting the offeror. If after examination of all of the information sources they are still inadequate, and readvertising or negotiating with other sources of supply is not feasible, the contracting officer may then contact the offeror to obtain information necessary to establish price reasonableness.

2. Section 5A–2.407–70 is deleted.

§ 5A–2.407–70 [Removed]

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

Effective date: These regulations are effective on the date shown below.

Dated: May 27, 1975.

M. J. TIMBERS,
Commissioner, FSS.

[FR Doc.75–15511 Filed 6–13–75;8:45 am]

CHAPTER 8—VETERANS ADMINISTRATION

CONTRACT DELIVERY AND FINANCE

Miscellaneous Amendments to Chapter

Chapter 8 of Title 41, Code of Federal Regulations, is amended as set forth below. Section 8–19.302 is revised to reflect agency policy of using precise terms denoting gender; § 8–19.305 is revised to raise the dollar limitation from $25 to $100 per authority from the General Accounting Office; § 8–26.402 is added to supplement FPR 1–26.402; § 8–30.419 is revoked because the material formerly contained therein is revised and included in § 8–30.450; and § 8–30.450 is added to authorize advance payment for magnetic tapes and other audiovisual material and to provide statutory authority for the provisions of paragraphs (a), (b) and (c).

It is the general policy of the Veterans Administration to allow time for interested parties to participate in the rule making process. However, the amendments herein concern agency procedures and practices. Therefore, the public rule making process is deemed unnecessary in this instance.

PART 8–19—TRANSPORTATION

1. In § 8–19.302, paragraphs (b) and (c) are revised to read as follows:

§ 8–19.302 F.o.b. origin.

* * * * *

(b) The vendor will be instructed to forward the merchandise by parcel post utilizing VA Form 07–3017a as an address label and postage. He/she will also be instructed to have Postal Service Form 3817 receipted by the sending post office and returned to the contracting officer as evidence that shipment was mailed.

(c) Shipment of flat bronze markers by the vendor, as directed by the Director, National Cemetery System, or his/her designee, will be made by parcel post. VA Form 40–4951, Order for Flat Bronze Marker, will be used for this purpose.

2. In § 8–19.305, paragraphs (a), (b) (3) and (c)(2) are revised to read as follows:

§ 8–19.305 F.o.b. origin, freight prepaid.

(a) When it has been carefully determined that an f.o.b. origin purchase or delivery order will have transportation charges not in excess of $100, the delivery terms will be stated as "f.o.b. origin, transportation prepaid, with transportation charges to be included on the invoice."

(b) Orders issued on VA Form 07–2138 will direct the vendor's attention to Shipping Instructions No. 1 on the reverse of the form. When VA Form 07–2138 is not used, the vendor will be instructed as follows:

* * * * *

(3) Do not prepay transportation charges on this order if such charges will exceed $100. Ship collect and annotate the commercial bill of lading or express receipt, "To be converted to Government Bill of Lading." These instructions do not apply if the order in question is placed against a Federal Supply Schedule contract that authorizes prepayment of transportation charges regardless of cost.

(c) Each contracting officer is responsible for:

* * * * *

(2) Utilizing the authority in paragraph (a) of this section only when to the best of his/her knowledge the transportation charges will not exceed $100.

* * * * *

PART 8–26—CONTRACT MODIFICATIONS

3. Section 8–26.402 is added to read as follows:

§ 8–26.402 Agreement to recognize a successor in interest.

When the contracting officer determines it is not in the best interest of the Government to concur in the transfer of a contract from one company to another company, the original contractor remains under contractual obligation to the Government, and the contract with that company may be terminated for reasons of default, should the original contractor refuse or fail to perform.

PART 8–30—CONTRACT FINANCING

§ 8–30.419 Excluded advance payments.

[Revoked]

4. Section 8–30.419 is revoked.

5. Section 8–30.450 is added to read as follows:

§ 8–30.450 Other authorized advance payments.

(a) Under the provisions of 31 U.S.C. 530a, as amended, advance payment is authorized for subscriptions or other charges for newspapers, magazines, periodicals and other publications for official use of any office under the Government from appropriations available therefor, notwithstanding the provisions of 31 U.S.C. 529. The term "other publications" includes any publication printed, microfilmed, photocopied or magnetically or otherwise recorded for auditory or visual usage.

(b) Under the provisions of 31 U.S.C. 686, advance payment may be made for services and supplies obtained from another Government agency. This includes items such as coupons from the Government Printing Office and Operator Permits, Civilian Defense Radio System, from the Federal Communications Commission.

(c) Under the provisions of 5 U.S.C. 4109, advance payment may be made for all or any part of the necessary expenses for training Government employees in Government or non-Government facilities. This includes the purchase or rental of books, materials and supplies or services directly related to the training of a Government employee.

(72 Stat. 1114, sec. 205(c), 63 Stat. 390; 38 U.S.C. 210, 40 U.S.C. 486(c))

These regulations are effective June 20, 1975.

Approved: June 10, 1975.

By direction of the Administrator,

[SEAL] ODELL W. VAUGHN,
Deputy Administrator.

[FR Doc.75–15606 Filed 6–13–75;8:45 am]

CHAPTER 50—PUBLIC CONTRACTS, DEPARTMENT OF LABOR

PART 50–204—SAFETY AND HEALTH STANDARDS FOR FEDERAL SUPPLY CONTRACTS

Variances Under Approved State Occupational Safety and Health Plans

On December 17, 1974, the Assistant Secretary for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary) issued a notice of a proposed rulemaking (39 FR 43638) to amend Chapter 50 of Title 41 of the Code of Federal Regulations, to revise Part 50–204 of that Chapter with respect to conditions for recognition of variance actions granted in a State with an occupational safety and health plan approved under section 18 of the Occupational Safety and Health Act of 1970 as variance actions from the comparable standards under the Walsh-Healey Public Contracts Act (41 U.S.C. 35) and the Occupational Safety and Health Act of 1970 (29 U.S.C. 651). This proposal was submitted in conjunction with proposals to amend Title 29 of the Code of Federal Regulations, Parts 1905, 1952, and 1954 containing procedures and conditions for mutual recognition of Federal and State variance actions under the latter Act. As explained in the preamble to the adoption of those proposals, the only public comment directly bearing on the proposed amendment to Part 50–204 of Title 41 came from the Industrial Union Department of the AFL–CIO and expressed concern that the proposal had the effect of extending the application of State-granted variances beyond the jurisdiction of the granting State in contravention of important employee rights. It cannot be too clearly stated that this is not the intent or effect of the proposal. Variance actions can only apply to the employment or place of employment covered in the application for the variance. This is true with regard to variances granted on the Federal level, as well as by the States, under the Occupational Safety and Health Act of 1970, and all such actions are conditioned upon due notice to affected employees (See 29 CFR 1905.10, 1905.11, 1905.12 and 1905.13 also 29 CFR 1902.4(b)(2)(iv)).

Accordingly, for reasons stated in the preamble to amendments to Parts 1905, 1952, and 1954 of Title 29, § 50–204.1a of Part 50–204 of Title 41 of the Code of Federal Regulations is hereby amended, effective June 16, 1975, as follows:

§ 50–204.1a Variances.

* * * * *

(b) * * *. In accordance with the requirements of § 1954.3(d)(1)(i) of Title 29, Code of Federal Regulations, variance actions taken under State provisions under a State occupational safety and health plan approved under section 18 of the Occupational Safety and Health Act of 1970 with regard to State standards found to be at least as effective as the comparable Federal standards contained in this Part and incorporated in Part 1910 of Title 29, Code of Federal Regulations, shall be deemed a variance action from the standard under both the Walsh-Healey Public Contracts Act and the Occupational Safety and Health Act of 1970.

(Secs. 1, 4, 49 Stat. 2036, 2038, as amended (41 U.S.C. 35, 38) Secs. 4, 6, 8, 18, 84 Stat. 1592, 1593, 1598, 1608 (29 U.S.C. 653, 655, 657, 667))

Signed at Washington, D.C., this 6th day of June 1975.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.75–15539 Filed 6–13–75; 8:45 am]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT

[Circular No. 2372]

Advisory Boards; Establishment and Composition

On pages 45016 and 45017 of the FEDERAL REGISTER of December 30, 1974, there was published a notice and text of proposed rules amending Group 1700 of Chapter II, Title 43, of the Code of Federal Regulations. The purpose of this amendment is to provide additional regulations to implement the requirements of the Federal Advisory Committee Act (86 Stat. 770; 5 U.S.C. App. I (1970)) through establishment of guidelines for the creation and composition of balanced, multiple use advisory boards to advise the Director, State Directors, and District Managers of the Bureau of Land Management on matters pertaining to resources and uses of the public lands under the jurisdiction of the Bureau of Land Management.

Interested persons were given until February 10, 1975 to submit comments, suggestions, or objections to the proposed amendment. Approximately 250 comments were received. A substantial majority favored the amendment. Many commentors made specific recommendations concerning the industries, interests, and disciplines to be represented on State and district advisory boards. These comments and incorporated nominations will be referred to the appropriate appointing officers for their consideration at the proper time.

Comments also were made requesting that the regulations provide for uniform composition of the boards to assure that all uses will be represented. Due to the wide variations between States and districts in the nature and intensity of programs, and because of the dynamics of program change, establishment of a standard composition for State and district boards was considered impractical as a means of attaining the balance in points of view envisioned by the Congress. Instead, flexibility is provided to structure boards on an individual basis to reflect: (1) the principal programs associated with a board's area of responsibility; (2) emerging or conflicting programs or uses that affect established programs; (3) broad public interests; and, (4) the kinds of advice needed by the Bureau manager to effectively carry out his multiple use responsibilities. The composition of each State and district board will be determined with appropriate participation by the public in formulation of the charter required by Section 9 of the Federal Advisory Committee Act.

A number of commentors recommended changes in the composition of the National Advisory Board. This Board was substantially restructured January 15, 1974, following public comment on proposed rules (38 FR 34664). As a result of that rulemaking the overall membership of the Board was reduced from 42 to 36, livestock representation was reduced by ten, and recreation, environmental quality, and State and County government representatives were added. The National Advisory Board rules were republished with new regulations governing the creation of the various district and State boards essentially to provide reference to the Bureau's board system in a single document thereby providing a complete picture for the reader. The composition of the National Board is undergoing further review, and changes found to be necessary will be made in conjunction with the rechartering of the Board in 1976. Comments received concerning the National Advisory Board will be considered in the review and rechartering process.

Several commentors recommended that members be appointed to boards through nominations from interested individuals and groups. Others suggested that elections be held. This amendment is designed to allow the appointing official flexibility to utilize the most equitable and practical methods of selecting members. Where interests or uses are identifiable with certain associations or organizations without excluding similar nonrepresented uses it may be practical to ask for a nomination from the association or organization. The association would of course, be free to hold an election to determine its nominee. Where interests to be represented on a board on the basis of its charter are not readily associated with a particular organization or association, it may be more practicable to appoint members on the basis of their reputation and past demonstrated ability and willingness to advise the Bureau. Many individuals have so demonstrated their capability during public meetings concerning planning for management of the public lands.

The majority of those objecting to the creation of district multiple use boards indicated a belief that the Federal Advisory Committee Act did not affect or supersede section 18 of the Act of June 28, 1934 as amended (43 USC 3150–1), which authorized creation of grazing district advisory boards. The Department has, however, determined that Section 14 of the Federal Advisory Committee Act terminated all Bureau of Land Management advisory boards on January 5, 1975. Others suggested that grazing district boards be reestablished as formerly constituted, and that other interest representatives be added. Such enlargement of the boards would tend to make

them unwieldy, more costly, and single-interest dominated in contradiction of the balance requirements of the Federal Advisory Committee Act.

In the opinion of some commenters, the proposed amendment necessitates preparation of an environmental impact statement. Since the role of all advisory boards is solely advisory, it is determined that this amendment is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

Several commenters expressed concern over centralization of State and regional and O. and C. advisor appointment authority within the offices of the Director, Bureau of Land Management, and the Secretary of the Interior. This provision has been changed so that members of State and regional multiple use advisory boards will be appointed by the Bureau's State Directors. The O. and C. Multiple Use Advisory Board will continue to be appointed by the Secretary.

Concern was expressed by some that the proposed amendment did not address allocation of State grazing receipts derived from section 10 of the Act of June 28, 1934, supra. Under several State statutes, grazing district boards act as ex officio advisors to the State or county in the allocation of State grazing receipts. Section 10 provides that such receipts will be expended as the various State legislatures may prescribe for the benefit of the county or counties in which the grazing districts producing such moneys are situated. Accordingly, previous Federal regulations have not addressed the allocation of State receipts. It may now be necessary for certain States to establish new procedures for expenditures of the funds.

The Secretary of the Interior has determined that establishment of the advisory boards described below is in the public interest in connection with performance of duties required of the Department of the Interior by law.

The proposed amendment is hereby adopted as set forth below and will become effective June 17, 1975, to allow for immediate organization of Advisory Boards so they may meet and make their services available to the Secretary and Director on matters pertaining to resources and uses of the public lands.

Chapter II, Title 43 of the Code of Federal Regulations is amended as follows:

PART 1780—COOPERATIVE RELATIONS

1. Subpart 1784 is amended by adding § 1784.5 through 1784.7 to read as follows:

Subpart 1784—Advisory Boards

Sec.
1784.5 National Advisory Boards.
1784.6 State and Regional Advisory Boards.
1784.7 District Advisory Boards.

* * * * *

§ 1784.5 National Advisory Boards.

(a) *National Advisory Board.* (1) *Functions and duties.* The National Advisory Board shall consider and make recommendations to the Secretary of the Interior, through the Director, Bureau of Land Management, on policies and problems of a national scope related to resources and uses of the public lands under the jurisdiction of the Bureau of Land Management.

(2) *Membership.* Each State Multiple Use Advisory Board shall select from its members, at a meeting of each new term, one member to represent livestock on the National Advisory Board. Additionally, each State Multiple Use Advisory Board shall select from its members, at a meeting of each new term, one wildlife representative to serve on the National Advisory Board as follows: in odd numbered calendar years, members from Arizona, Colorado, Idaho, Montana, California, and Alaska; in even numbered years, members from New Mexico, Utah, Wyoming, Oregon, Nevada, and Alaska. The State Directors for the Bureau of Land Management shall submit to the Director of the Bureau of Land Management a list of nominees selected from nonlivestock and nonwildlife interests in their States. From this list and from other sources as he may determine, the Secretary of the Interior shall appoint 20 members to the National Advisory Board as follows: 1 representative from the State of Washington, 1 representative from the State of Alaska, 2 mining representatives, 2 forestry representatives, 2 leasable mineral representatives, 3 outdoor recreation representatives, 2 urban-suburban representatives (including real estate development), 1 environmental quality representative, 1 public information representative, 2 county government representatives, 1 State government representative, 1 soil and water conservation representative, and 1 public utilities representative.

(3) *Meetings.* The Board shall meet at the call of the Director, Bureau of Land Management, and shall elect its own officers. The Federal representative at all meetings shall be the Director, Bureau of Land Management, or his authorized representative.

(4) *Administrative Support.* Administrative support of the Board shall be the responsibility of the Director, Bureau of Land Management.

§ 1784.6 State and Regional Advisory Boards.

(a) *State Multiple Use Advisory Boards.* (1) *Functions and duties.* The State Multiple Use Advisory Boards shall consider and make recommendations to the State Director to whom they report on policies and problems of State or regional scope related to resources and uses of lands administered by the Bureau of Land Management in the State or States within their respective areas of jurisdiction.

(2) Areas of jurisdiction:

Board:	*States of jurisdiction*
Alaska	Alaska.
Arizona	Arizona.
California	California.
Colorado	Colorado.
Idaho	Idaho.
Montana	Montana, North Dakota, South Dakota.
Nevada	Nevada.
New Mexico	New Mexico, Oklahoma, Texas.
Oregon	Oregon, Washington.
Utah	Utah.
Wyoming	Wyoming, Kansas, Nebraska.
Eastern States	Arkansas, Iowa, Louisiana, Minnesota, Missouri, and all States east of the Mississippi River.

(3) *Membership.* From recommendations by District Managers, statewide or regional organizations and associations, and from other sources as he may determine, the State Director to whom the Board will report shall appoint a board of not more than 12 members that is balanced in terms of the points of view represented and the functions to be performed by the Board.

(4) *Meetings.* State multiple use advisory boards shall meet at the call of the State Director to whom the board reports and shall elect their own officers. The Federal representative at all meetings shall be that State Director or his authorized representative.

(5) *Administrative Support.* The administrative support of a State multiple use advisory board shall be the responsibility of the State Director to whom it reports.

(b) *O. and C. Multiple Use Advisory Board (Oregon).* (1) *Functions and duties.* The O. and C. Multiple Use Advisory Board shall consider and make recommendations to the Oregon State Director on policies and problems related to resources and uses of the Revested Oregon and California Railroad and Reconveyed Coos Bay Wagon Road Grants Lands administered by the Bureau of Land Management.

(2) *Membership.* From recommendations by the Oregon State Director, Director, Bureau of Land Management, and from other sources as he may determine, the Secretary shall appoint a board of not more than 12 members that is balanced in terms of the points of view represented and the functions to be performed by the board.

(3) *Meetings.* The O. and C. Multiple Use Advisory Board shall meet at the call of the Oregon State Director and shall elect its own officers. The Federal representative at all meetings shall be the Oregon State Director or his authorized representative.

(4) *Administrative Support.* The administrative support of the O. and C. Multiple Use Advisory Board shall be the responsibility of Oregon State Director.

§ 1784.7 District Advisory Boards.

(a) *District Multiple Use Advisory Boards.* (1) *Functions and duties.* A District Multiple Use Advisory Board shall

consider and make recommendations to the District Manager to whom it reports on policies and problems of District scope related to resources and uses of lands administered by that District Manager.

(2) *Membership.* The District Manager to whom the board reports shall, with the concurrence of the State Director, appoint to the board such members resulting in a total membership that is balanced in terms of the points of view represented and the functions to be performed by the board. The membership of each District Multiple Use Advisory Board shall not exceed ten.

(3) *Meetings.* District Multiple Use Advisory Boards shall meet at the call of the District Manager to whom the board reports and shall elect their own officers. The Federal representative at all meetings shall be that District Manager or his authorized representative.

(4) *Administrative support.* The administrative support of a District Multiple Use Advisory Board shall be the responsibility of the District Manager to whom it reports.

PART 4110—GRAZING ADMINISTRATION

2. In Subpart 4114, the heading is revised to read:

Subpart 4114—Local Associations of Stockmen

§§ 4114.3–1—4114.3–4 [Deleted]

§ 4114.4–3 [Amended]

3. Sections 4114.1 through 4114.3–4 and paragraph (c) of § 4114.4–3 are deleted.

§ 4115.2–1 [Amended]

4. Section 4115.2–1 is amended as follows: (a), (b), and (c) are revised to read as follows:

(a) *Filing of applications; consideration of annual changes in grazing use.* Each year a date will be set by the authorized officer prior to which all annual applications for grazing use must be filed; applications filed after such date may be rejected for that year on the basis of late filing. When grazing is approved, a bill will be issued and payment of fees due will be made in accordance with paragraph 4115.2–1(k).

(b) *Proposed decisions; protests.* If the authorized officer's decision on an application for grazing use is to any extent adverse, a proposed decision will be served upon the applicant setting forth the reasons for the action, including reference to the pertinent provisions of the regulations. Such proposed decision shall allow a period of 15 days after receipt for the filing of a protest in person or in writing with the authorized officer. In the absence of a protest, the proposed decision shall become the final decision of the authorized officer without further notice.

(c) *Final decision on protests.* Upon the timely filing of a protest, the authorized officer will reconsider the application for grazing use in the light of such protest. In so doing, he is authorized to seek advice and recommendations from the District Multiple Use Advisory Board. At the conclusion of his review of the protest, the authorized officer will issue a final decision which shall be served on the applicant and all known parties of interest.

* * * * *

In (e)(8)(ii) the words "after recommendation by the advisory board" are deleted.

In paragraphs (e)(1) and (e)(11) the words "after reference to the advisory board" are deleted.

§ 4115.2–2 [Amended]

Section 4115.2–2 is amended in paragraphs (a)(2) and (b)(3) by deleting the words "after reference to the advisory board".

§ 4115.2–5 [Amended]

5. Section 4115.2–5(a)(3) is amended by deleting the words "after reference to the advisory board".

JUNE 10, 1975.

KENT FRIZZELL,
Acting Under Secretary of the Interior.

[FR Doc.75–15550 Filed 6–13–75;8:45 am]

Title 45—Public Welfare

CHAPTER XIV—NATIONAL INSTITUTE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 1460—STATE DISSEMINATION GRANTS PROGRAM

Regulations for Grant Awards

Notice of proposed rulemaking was published in the FEDERAL REGISTER on March 20, 1975 (40 FR 12671, March 20, 1975), setting forth certain policies, procedures and requirements for the award of Federal funds under the State Dissemination Grants Program.

Interested persons were given thirty days in which to submit written comments, suggestions, or objections regarding the proposed rule. No comments on the proposed rule have been received, and the proposed regulations are therefore adopted with only minor technical and typographical changes to read as set forth below.

Effective date. These regulations are effective June 16, 1975.

Dated: May 21, 1975.

EMERSON J. ELLIOTT,
Acting Director, Secretary of Health, Education,

Approved: June 10, 1975.

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

(Catalog of Federal Domestic Assistance Program No. 13.575, Educational Research and Development)

Sec.
1460.1 Scope.
1460.2 Purpose.
1460.3 Definitions.
1460.4 Applicant eligibility.
1460.5 Types of awards; funding requirements.
1460.6 Evaluation criteria.

AUTHORITY: Secs. 405 and 406(a)(1) of the General Education Provisions Act, as amended (20 U.S.C. 1221e).

§ 1460.1 Scope.

(a) This part establishes procedural and substantive requirements and criteria governing the submission and review of applications for funds under the State Dissemination Grants Program.

(b) Applications submitted, and assistance provided, under this part, shall be subject to applicable provisions of subchapter A of this chapter (General Provisions for NIE grants relating to fiscal, administrative and other matters), except to the extent that such provisions are inconsistent with, or expressly made inapplicable by, the provisions in this part.

§ 1460.2 Purpose.

The State Dissemination Grants Program will make awards to support State educational agencies (SEA's) that wish to establish or enhance their dissemination activities related to utilization of the results of educational research and of new and improved knowledge, products, and practices in education. It is expected that the awards will result in several benefits to SEA's and to the national education dissemination capacity, including an:

(a) Increase in the number of practitioners who have convenient access to knowledge resources;

(b) Increase in the exchange of information between knowledge producers and knowledge users;

(c) Increase in the capacity of SEA's to facilitate knowledge utilization by their constituents through:

(1) Systematic efforts to improve generalized dissemination capacity for serving education communities within the States and

(2) Planning and short-range development efforts to establish a generalized dissemination capacity in the SEA;

(d) Increase in general understanding of effective dissemination functions in SEA's.

§ 1460.3 Definitions.

As used in this part:

"Inter-State project" means a set of activities assisted under this part designed to develop or improve the dissemination programs of State educational agencies in more than one State and in which the SEA's collaborate to achieve common objectives.

"Intra-State project" means a set of activities assisted under this part designed to develop or improve the dissemination program of a single SEA.

"State educational agency" or "SEA" means the officer or agency primarily

responsible for the State supervision of public elementary and secondary schools.

§ 1460.4 Applicant eligibility.

(a) Applications will be considered under this part only if submitted in response to specific public announcements to be issued periodically by the Director. Each announcement may cover more than one type of award, as described in paragraphs (a) and (b) of § 1460.5.

(b) Only SEA's are eligible for grants made pursuant to this part.

(c) In response to a public announcement issued pursuant to paragraph (a) of this section, an SEA may submit as many applications as it wishes for intra-State projects but may submit or (pursuant to paragraph (d)(1)(i) of this section) participate in only one inter-State project application.

(d)(1) With respect to inter-State projects which are to be substantially carried out by only one SEA, the SEA proposing to carry out the project shall submit an application to the Director which documents: (i) A commitment to participate in the project by the SEA for each State to be served by the project and (ii) the manner in which each such SEA will participate in the project.

(2) Participation by SEA's other than the SEA-applicant (or grantee) in a project subject to this paragraph may include, but need not be limited to, the receipt of activities or services provided by the applicant (or grantee) SEA such as planning and conducting dissemination activities in the State, training for SEA staff, and technical assistance.

(3) Any inter-State award made for a project described in this paragraph will be made solely to the applicant SEA.

(e)(1) With respect to inter-State projects other than those described in paragraph (d) of this section, the SEA's which propose to carry out the project shall apply jointly to the Director pursuant to the provisions of § 1403.7 of this chapter.

(2) Awards made for applications submitted pursuant to this paragraph shall be in accordance with the provisions of § 1403.7 (c) and (d) of this chapter.

(f)(1) A SEA will receive no more than one award (including any joint award under paragraph (e) of this section) under each public announcement issued pursuant to paragraph (a) of this section.

(2) A SEA which receives an intra-State award may also participate in one inter-State award to another SEA, as provided in paragraph (d)(1)(i) of this section, under each public announcement issued pursuant to paragraph (a) of this section.

(g) Applications for inter-State projects must, in accordance with § 1403.5 of this chapter, specify the name of the applicant, as provided in paragraph (d) of this section, or of the applicants, as provided in paragraph (e) of this section.

(h) Any SEA which, in response to a public announcement issued pursuant to paragraph (a) of this section, submits more than one application pursuant to paragraph (c) of this section, or which both submits an application or applications and participates in another application submitted by another SEA pursuant to paragraph (d) of this section, must rank all such applications in priority order.

§ 1460.5 Types of awards; funding requirements.

Two types of awards will be made pursuant to this part: Capacity Building Grants and Special Purpose Grants.

(a) *Capacity Building Grants.* (1) These are awards to develop or enhance a comprehensive SEA program for the dissemination of the findings of educational research and of new and improved practices and products in education, subject to the funding requirements in subparagraphs (2) through (7) of this paragraph.

(2) A SEA may take one of two approaches in its application for a Capacity Building Grant:

(i) A general approach which, from the beginning of the project, attempts to provide all potential clients with access to whatever resources they need, or

(ii) An approach which builds general capacity from a base of specialized services. For example, a project might initially serve only science teachers and gradually expand project scope to serve all education practitioners. In another case, services might initially be limited to providing only information drawn from publications but then be expanded to provide a full range of information based on documents, data, products, and practices.

(3) Applications for awards under this paragraph must contain:

(i) A comprehensive dissemination project plan which covers a three to five year period, although each award will be for a one-year grant period. References to "project" or to "project period" in connection with Capacity Building grants under this paragraph and paragraph (a) of § 1460.6 refer to activities to be carried out over the three to five year period specified in the project plan required by this subparagraph;

(ii) A funding pattern which provides for the gradual increase of State support, with full State assumption of all costs at the end of the project period.

(4)(i) Funds will be awarded only to build capacity for dissemination activities which supplement current State dissemination operations. Support will not be provided for the maintenance of existing dissemination activities.

(ii) Applications must demonstrate that the proposed project will supplement the State's current dissemination activities by identifying:

(A) Relevant resources already available;

(B) How these resources will be utilized to improve dissemination services;

(C) How grant funds will be used to complement existing resources to achieve specified project objectives; and

(D) How the new dissemination program resulting from the project will be incorporated into the existing SEA structure.

(5) Proposed objectives set forth in the project plan required by paragraph (a)(3) of this section must be attainable and stated in operational terms, with reference to such elements as the type of dissemination services to be developed, the quantity of services, and the target populations to whom the services will be rendered.

(6) Each capacity building award will be for a one-year funding period, as part of the three-to-five year plan submitted by the applicant pursuant to paragraph (a)(3) of this section. Subject to the project period provided for in such plans, continuation awards may be made to a grantee depending upon the availability of funds, project performance, and continued need of the grantee for assistance under this part.

(7) Each application must show an SEA contribution, in funds or in kind, to be included from the commencement of the project, in accordance with 45 CFR Part 1407.

(b) *Special purpose grants.* These are awards (generally not to exceed one year in duration) to support relatively low-cost, one-time efforts to deal with specific dissemination problems, subject to the provisions of subparagraphs (1) through (3) of this paragraph. Examples of special purpose projects include training for key staff in necessary dissemination skills and development of a comprehensive State dissemination plan.

(1) Awards shall not support the salaries of full-time professional or clerical staff or capital outlay expenditures.

(2) Salary costs of regular SEA staff properly attributable to the carrying out of the project will be considered an in kind SEA contribution to the project, in accordance with Part 1407 of this chapter.

(3) Ad hoc employment of consultants or other short term personnel is an allowable expense.

(c) *Funds allocated between types of awards.* The Director will allocate available funds between the two types of awards described in paragraphs (a) and (b) of this section on the basis of the quantity and quality of applications received.

§ 1460.6 Evaluation criteria.

Applications for assistance under this part will be evaluated in accordance with the criteria and procedures described below. The relative weight of each of the major evaluation criteria is indicated by the points assigned.

(a) *Capacity building grants (potential score—200 points).* (1) Significance of the proposed project (0–50 points), as measured by the following factors:

(i) The likely contribution of the project to the improvement of educational practice or the resolution of significant educational problems in the State;

(ii) The likely progress toward achieving SEA objectives for a comprehensive dissemination capacity;

(iii) The contribution which the proposed project is expected to make toward improving equality of educational opportunity in the State.

(iv) The aid that the proposed project will give users in rational consideration of alternative approaches to improving educational practice or solving educational problems.

(v) The potential contributions of the project to general knowledge or understanding of effective educational dissemination practice.

(2) Technical adequacy of the work plan (0–75 points), as measured by the following factors:

(i) The extent to which the application relates proposed activities to pertinent dissemination theory and practice;

(ii) The clarity and explicitness of the statement of project objectives;

(iii) The logic and rationale for selecting these objectives;

(iv) The probable attainability of these objectives;

(v) The appropriateness of the proposed activities to the objectives of the SEA dissemination project and to the purposes of the State Dissemination Grants program as specified in § 1460.2.

(vi) The soundness of the management plan and time schedule; and

(vii) The appropriateness of SEA reporting and evaluation procedures.

(3) Capability of the SEA to perform the proposed activities (0–50 points), as measured by the following factors:

(i) The qualifications of proposed project staff with respect to training and relevant experience;

(ii) The quality of discussion and analysis in the application; and

(iii) The adequacy of the SEA commitment and arrangements for the project in terms of plans for:

(A) The use of State funds in combination with Federal funds;

(B) The continuation of proposed dissemination activities after the expiration of Federal funds; and

(C) Administration and organization of the project within the SEA.

(4) Reasonableness of the budget for the work to be done in light of anticipated benefits (0–25 points).

(b) *Special Purpose Grants (potential score—100 points).* (1) Significance of the project (0–25 points), as measured by the following factors:

(i) The likely magnitude of the improvement in State dissemination activities or readiness;

(ii) The likely contribution of the project to the improvement of educational practice or the resolution of significant educational problems in the State; and

(iii) The contribution the project is expected to make to:

(A) General understanding of effective educational dissemination practice or

(B) Improvement of the equality of educational opportunity.

(2) The technical adequacy of the work plan (0–40 points), as measured by the following factors:

(i) The appropriateness of proposed activities to the objectives of the project and to the purposes of the State Dissemination Grants Program as specified in § 1460.2;

(ii) The soundness of the management plan and time schedule;

(iii) The appropriateness of State reporting and evaluation procedures; and

(iv) The extent to which the application, particularly in proposed approach, exhibits knowledge of, and relates proposed activities to, pertinent dissemination theory and practice.

(3) The capability of the SEA to perform proposed activities (0–20 points), as measured by the following factors:

(i) The qualifications of project staff with respect to training and relevant experience and

(ii) The adequacy of SEA resources and commitment.

(4) Reasonableness of the budget for the work to be done in light of anticipated results (0–15 points).

(c) *Review procedures.* (1) All applications submitted in accordance with this part will be evaluated by the Director through officers and employees of the Institute. In this evaluation, the Director will also seek the expert opinion of employees of other agencies and organizations, such as State educational agencies, academic institutions, and professional associations, including representatives of women's and minority groups and of the educationally disadvantaged. Final determinations on awards will be made by the Director.

(2) In evaluating applications, the Director will first consider the technical merits of the proposed projects in accordance with the evaluation criteria set forth in paragraphs (a) and (b) of this section. In the case of any SEA for which more than one application has been found to be technically qualified, the Director will then consider the priority rankings submitted pursuant to § 1460.4(h).

(d) *Inapplicability of general provisions criteria.* Criteria for review of applications set forth in § 1403.10(b) of this chapter shall be inapplicable to applications submitted pursuant to this part.

[FR Doc.75-15553 Filed 6-13-75;8:45 am]

Title 47—Telecommunications

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

PART 83—CERTIFIED PERSONS REQUIRED BY THE GREAT LAKES RADIO AGREEMENT

Order Regarding Waiver

In the Matter of temporary waiver of § 83.157(a) to allow stations on vessels on Great Lakes to be operated with a Restricted Permit.

By the Chief, Safety and Special Radio Services Bureau and the Chief, Field Operations Bureau:

1. The Great Lakes Agreement, 1973 (GLA, 1973), ratifications were exchanged May 6, 1974, and entered into force May 6, 1975. The Commission's Report and Order implementing GLA, 1973, was released May 1, 1975. GLA, 1973, has different criteria for its applicability than did GLA, 1952, which it replaces. Consequently, many more vessels are subject to GLA, 1973, than were subject to the 1952 version. For example, passenger vessels carrying more than six passengers for hire are now subject to GLA whereas before, the Agreement was applicable to passenger vessels over 65 feet. These changes coming with short notice and during the boating season have resulted in several requests for temporary waiver of various GLA requirements to allow time to come into compliance. This Order has under consideration the operator requirements.

2. GLA requires that there shall be on board at least one operator whose qualifications for radiotelephone operation for safety purposes on the Great Lakes have been certified by each of the Contracting Governments for citizens of its own country on vessels of that country or for vessels of other countries as possessing the following qualifications:

(a) General knowledge of practical radiotelephone operating procedure;

(b) Ability to send correctly and receive correctly by radiotelephone using the English language; and

(c) Knowledge of the International Radio Regulations and specifically of that part of those Regulations relating to the safety of life.

It was felt that a Restricted Radiotelephone Operator Permit (RP) would not give the Commission as much assurance that (a), (b) and (c), were being met as if a higher permit were required. Accordingly, a requirement that the required operator have a radiotelephone third-class operator permit or higher (§ 83.157(a)) was established.

3. It is recognized that many operators of radio stations aboard vessels now subject to GLA, 1973, do not have the required third-class permit. These operators must now prepare for and take the examination for the radiotelephone third-class operator permit. In addition, there is a 60-day waiting period for retaking the examination, in the event the test is not passed.

4. For the most part, the operators concerned have operated radio and vessels on the Great Lakes for a number of years. They are experienced individuals who have not had sufficient notice and time to comply with our administrative requirements. It is unlikely, therefore, that any adverse impact on maritime safety on the Great Lakes should result from allowing persons with Restricted Permits to operate a ship radiotelephone station during a short temporary period. Further, we do not view this as an abrogation of our treaty obligations inasmuch as the class of permit is not specified in GLA but left up to each administration.

5. In view of the foregoing, *it is ordered*, That, pursuant to §§ 0.311 and 0.331 of the Commission's rules, § 83.157 (a) is waived until September 3, 1975, to allow the required operator aboard vessels subject to GLA, 1973, to operate the

station with a Restricted Radiotelephone Operator Permit.

Adopted: June 3, 1975.

Released: May 14, 1975.

[SEAL] CHARLES A. HIGGINBOTHAM,
Chief, Safety and Special Radio Services Bureau.

C. PHYLL HORNE,
Chief,
Field Operations Bureau.

[FR Doc.75-15563 Filed 6-13-75;8:45 am]

[FCC 75-665]

PART 73—RADIO BROADCAST SERVICES

PART 74—EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST, AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

Re-regulation of Radio and Television Broadcasting

1. As a result of its continuing study concerning the re-regulation of radio and television, the Commission has under consideration the matter of amending certain provisions in Parts 73 and 74 of its Rules. These amendments will update certain rules, delete parts of others which are no longer necessary, and make corrections and revisions where indicated.

2. The following rule changes are made for the reasons indicated:

(a) In § 73.60, Frequency measurements, the rule requires that the "carrier frequency of the transmitter shall be measured as often as necessary to assure that it is maintained within the proper tolerance . . ." and " . . . the measurement shall be made at least once each calendar month with not more than 40 days expiring between successive measurements." In contradiction, § 73.114, Maintenance log, in paragraph (a) (1) (iii) requires that "a notation of the results of all frequency measurements . . ." be made weekly.

1. These are clearly conflicting requirements. The "weekly" measurement requirement in the Maintenance log section is part of a list of weekly entries required in paragraph (a) (1), which reads "(1) An entry each week of the following shall be made where applicable:". It's quite possible the earliest rule writer added "where applicable" to the weekly requirements, with the frequency measurements required monthly (per § 73.60) in mind. Clarification is required, however, to remove continuing confusion on the part of licensees as reported directly by them and as reflected in Field Operations Reports on this matter.

(b) The remote control operation rules for the AM, FM and NCE-FM [1] services requires, in part, that any malfunction of the remote control equipment which results in inaccurate meter readings is cause for immediate cessation of the remote control operation (73.67(a)(3); 73.275(a)(3) and 73.573(a)(3)). Compliance results in immediate termination of transmitter operation until the station operator arrives at the transmitter site and operates via direct control. The TV rule (§ 73.676(c)), provides that malfunction of telemetry equipment "shall result in actuation of automatic circuitry." which will terminate operation of the transmitter not more than one hour from the time of telemetry failure. It is plain that the rule for the aural services is more stringent than the TV rule in that it does not provide a grace period in which to assume direct control of the transmitter or remedy the malfunction. There is no compelling reason for this difference in the rules for the aural and TV services.

1. Therefore the rules for the AM, FM and NCE-FM services are relaxed and, instead of "immediate cessation of operation by remote control," will allow a period of up to one hour before remote control operation must be terminated.

(c) In February 1973, the rules regarding antenna (phase) monitors became effective (§ 73.69). These requirements state that AM stations, with directional antennas, shall have in operation at the transmitter a type-approved antenna monitor. Calibration checks of these monitors must be made weekly and a notation made in the maintenance log (§ 73.114(a)(1)(v)). This requirement to calibrate is not specifically stated in § 73.69, and is added, to insure complete clarity and to conform to the maintenance log rule.

1. Accordingly, the rule is revised to include these monitor calibration requirements.

(d) When § 73.69 became effective, the Commission, in recognition of the fact that immediate compliance by all stations was not practicable, appended a Note to the rule setting forth a schedule of dates wherein various categories of stations would be required to have a type approved antenna monitor in operation. Note (2) therein states: "Each station electing to utilize other than first class radiotelephone operators for routine transmitter duty (see § 73.93) shall meet this requirement by June 1, 1974." The supply of these monitors has been, and continues to be, limited. Delivery of monitors is still considerably behind licensee orders placed well before the June 1, 1974, deadline for installation. Also licensees who decided to use lower class operators subsequent to June 1, 1974 find their orders for monitors unfilled. In March 1974, the Commission, aware of some licensees inability to get delivery by the June 1, 1974 date, issued a Public Notice, mailed to all AM broadcasters, stating that the licensee of a station would not be held accountable for failure to install the monitor if such failure resulted after reasonable efforts had been made to obtain timely delivery of this equipment from a supplier. The Public Notice directed licensees in this circumstance to file with the Commission in Washington a copy of the confirmed order for the monitor, and to retain an additional copy in the station's file, to be made available for inspection by a field engineer of the FCC. This procedure will continue to apply to licensees who elected to utilize a lower class operator for routine transmitter duty and have been unable to meet antenna monitor installation requirements to date. The procedure will also apply to licensees who made the decision after June 1, 1974 to use lesser grade operators, ordered their antenna monitor, and are still awaiting delivery. Note (3) in this section allows certain stations to employ any monitor manufactured after January 1, 1965 in lieu of a type approved antenna monitor, until June 1, 1975, when the type approved monitor must be installed. The same delivery problem applies here and realizing this we advance the effective date of installation of type approved monitors one year, to June 1, 1976, for stations affected by this Note.

1. Notes (2) and (3) of § 73.69 are amended accordingly.

(e) In § 73.93(d), the rule requires compliance with paragraphs (f) and (g) of this section. That same reference to (f) and (g) is absent in paragraphs (c) and (e). However stations referred to therein must also comply with (f) and (g). So, quite often the inference is drawn that the requirements of (f) and (g) apply only to non-directional stations, authorized in excess of 10 kilowatts as described in (d), and not to the class and type stations described in paragraphs (c) and (e).

1. Since paragraphs (f) and (g) stand alone and clearly refer to paragraphs (c), (d) and (e), we remove the confusing implication described above, and for clarification delete the cross-reference to paragraphs (f) and (g) now contained only in paragraph (d).

(f) In § 73.93, Operator requirements, the intent of paragraph (e)(3) is to have the licensee make directional antenna partial proof measurements within one year of first employing 1st class radiotelegraph, 2nd class and 3rd class operators at the station for routine transmitter operation. Additionally, per § 73.93(h), the licensee is directed to designate one of his first class radiotelephone operators as chief operator when such lesser grade operators are used. This combination of paragraphs (e) and (h) awkwardly requires the licensee to complete the partial proof measurements "within one year of the date on which the Commission is notified * * * of the designation of a chief operator * * *", an event occasioned only by the employment of the lesser grade operators. Rewording, for purposes of clarity is in order, emphasizing that the use of lower grade operators triggers the requirement to make partial proof measurements, which in turn triggers the further requirement to notify the Commission of their use and of the appointment of a 1st class radiotelephone operator as chief, to supervise them.

1. Therefore, suitable editorial changes are made in paragraph (e) to state that within a year of the date on which lesser grade operators are first employed and

[1] NCE-FM—noncommercial educational FM.

a first class radiotelephone operator is designated as chief operator, the station will complete a partial proof measurement.

(g) Also in § 73.93, Note 1 states: the effectiveness of paragraph (e)(2) of this section is suspended until June 1, 1974.

1. Since the effect date of this Note is now past, the Note is revised to refer to § 73.69, Note (2). (The effective date of June 1, 1974 in this Note, refers to installation of a type-approved antenna (phase) monitor. New compliance requirements regarding installation of this monitor are described in paragraph 2(d) of this Order, above.)

(h) Maintenance log rules for AM, FM and NCE-FM require detailed statements be entered in the log showing that the station's transmitter has been inspected. In one of the statements the inspecting operator must "specify the amount of time, exclusive of travel time to and from the transmitter, which was devoted to such inspection duties". (§§ 73.114(b); 73.284(b) and 73.584(b).) The remote control operation rule for TV makes the same requirement (§ 73.676(h)). Such entries serve no real purpose. Obviously, this amount-of-time statement in no way reflects upon the operator's technical skills or the thoroughness of his inspection.

1. The requirement is excised from the AM, FM and NCE-FM maintenance log rules, and from the TV remote control operation rule for lack of importance as a requirement in the regulatory scheme and for creating wasteful and needless administrative paper and work loads, for both the Commission staff and the licensee.

(i) In the maintenance log rules for AM, FM, NCE-FM and TV, we allow the transmitter inspecting operator to take inspection data "in rough form and later transcribe(d) into the log . . ." (§§ 73.114(c); 73.284(c); 73.584(c) and 73.672(b).) However the rule also requires that all portions of the "original memorandum shall be preserved as part of the complete log." These "original memoranda" include match covers, kleenex boxes, shirt cuffs, along with assorted sized scraps of paper. The inspector isn't interested in inspecting scribbled readings and notes on such "original memorandum". Many operator's handwriting is legible only to himself; and finally, there is no way to inspect a properly completed maintenance log entry and determine if its genesis was an "original memoranda". Also they add clutter to the licensee's files.

1. Such "original memorandum" need no longer "be preserved as a part of the complete (maintenance) look". The rule for AM, FM, NCE-FM, and TV is changed accordingly.

(j) The operating log rules also allow the same recording of original data in "rough form" as the maintenance log rules; and require the preservation of all portions of such "original memoranda" with the operting log. For the same reasons set forth above, this retention of rough data requirement is excised from the operating log rules in §§ 73.113(c); 73.283(c); 73.583(c); and 73.671(c).

(k) In § 73.265(d) and § 73.565(d)—Operator requirements, in FM and NCE-FM, the rules require compliance with paragraph (e) of the sections. That same reference to (e) is absent in paragraph (c). However, stations referred to in (c) must also comply with (e). So, quite often, the inference is drawn that the requirements of (e) apply only to stations authorized in excess of 25 kilowatts as described in (d), and not to stations authorized for power less than 25 kilowatts as described in (c).

1. Since paragraph (e) stands alone and clearly refers to paragraphs (c) and (d), we remove the confusing implication described above, and for clarification delete the cross-reference to paragraph (e) now contained only in (d).

(l) The operator rules for NCE-FM stations (§ 73.565) state that, adjustment of the transmitting system shall be performed only by an operator holding the class of license specified according to the station's authorized transmitter output power. An operator with a first-class radiotelephone license is required in stations with power authorization of more than 1 kilowatt; an operator with a first-class or second-class radiotelephone license is required if the station is authorized to operate with power of more than 10 watts, but not in excess of 1 kilowatt; an operator with a first-class or second-class radiotelephone or radiotelegraph license is required if the station is authorized to operate with not more than 10 watts. Paragraph (e) of this section is in conflict with these requirements since it states that routine operation of the transmitting apparatus may be performed by lower grade operators, but unless performed under the immediate and personal supervision of an operator holding a *first-class radio-telephone* license, these lower grade operators may only adjust specified external controls. In still another paragraph of this section, the proviso allowing lower grade operators to adjust, inspect and maintain lower power transmitters, again overlooks the use of operators of a class specified by the station's authorized transmitter power as supervisors and the rule, in paragraph (f) states that the emissions of the station shall be terminated when the transmitting apparatus is operating improperly and a *first-class radiotelephone* operator is not present.

1. Requiring the use of first-class radiotelephone operators, rather than the allowable use of operators of a class specified for the station's authorized transmitter power, is changed and corrected. The subject paragraphs, (e) and (f) which are in conflict with paragraphs (b) (1), (2) and (3) of § 73.565 are amended accordingly.

(m) In Subpart G—Emergency broadcast system, Section 73.961 (Tests of the Emergency Broadcast System Procedures) specifies that required EBS tests be entered in the station's operating log. The operating log sections of the AM, FM, NCE-FM and TV rules are silent on this logging requirement. This omission has created confusion on the part of licensees. It leaves the operating log requirements incomplete by failing to note in the body of the operating log rules that EBS tests must be noted therein.

1. Additions are therefore made to the operating log rules for AM, FM, NCE-FM and TV, which require notation of EBS tests pursuant to § 73.961, Tests of the Emergency Broadcast System Procedures.

(n) Rules regarding the marking (painting) and lighting of antenna structures, and the licensee's and permittee's responsibilities thereunder, appear in 28 different sections of the Commission's rules in parts 17, 73 and 74. The responsibilities of licensees with respect to tower painting and lighting, and tower inspection are clearly defined as being the direct obligation of the licensee who uses it for his antenna. This philosophy of direct and sole responsibility carries over into towers supporting multiple antennas all of which are not owned by the same licensee. In this case, the rules require that if a common tower is used for antenna or antenna supporting purposes by two or more licenses (or permittees) of AM, FM or TV stations, or by one or more such licensees and one or more licensees of any other service, each shall be responsible for painting, lighting and inspecting the tower. It is quite common for two or more licensees to share a tower for these antennas. And in such cases, each licensee is responsible for marking (painting), lighting and inspecting the tower, for logging such inspections as required in the operating and maintenance logs, and for service and maintenance and such notifications as may be required. This procedure obviously creates a sizeable duplication of effort when each licensee whose antenna is on such a multiply mounted tower meets his responsibilities as the rules require. Adhering to our rules also creates additional work for our field inspectors when each station whose antenna is on the commonly used tower must be inspected for rule conformance.

1. This requirement for duplicative action by licensees is being revised herein. Comments from licensees involved in shared-tower situations, and from Commission personnel, urge this change, attesting to its reasonableness. We will therefore permit, effective with this Order, one licensee or permittee to be designated by the shared-tower users, as the licensee or permittee responsible for conforming to all requirements of tower marking (painting) and lighting on behalf of himself and the co-users. This licensee (permittee) will be designated by agreement between all the users, and request for approval and a copy of the agreement must be sent to the Commission in Washington, and a copy of the Commission's approval and of the agreement must be retained in each licensee's (permittee's) station file, available for inspection by FCC field engineers.

2. As stated above, reference to this requirement appear in 28 different sections of Parts 17, 73 and 74. We will take the opportunity via this Order to prune and streamline the rules as follows:

(i) New § 73.1213, in Subpart H (Rules Applicable in Common to Broadcast Stations), is added. Section 73.1213 will be titled "Antenna structure, marking and lighting", supplanting §§ 73.65, 73.270, 73.570, and 73.662, Antenna structure, marking and lighting, for AM, FM, NCE–FM, and TV stations. The headnote will be retained for these four sections in our rules for the time being, and the content of the paragraphs will be transferred to Subpart H, new § 73.1213, with the sections reduced to reading, under the headnote: "See § 73.1213".

(ii) In Part 74, § 74.22, Use of common antenna structure, will be revised to conform with (n) 1., above. Also in the separate subparts of Part 74 (Subparts A, B, C, D, E, F, G, I, L), the rule sections titled "Painting and lighting of antenna structures (or, in one subpart, Marking and Lighting of antenna structures) refer to Part 17 for conditions under which painting and lighting are required. Effective with this Order, reference will also be made to § 74.22, Use of common antenna structure, as revised here. These sections in the 9 subparts (§§ 74.167; 74.267; 74.367; 74.466; 74.566; 74.666; 74.767; 74.967; and 74.1267) will have headnotes re-titled "Antenna structure, marking and lighting", conforming them to the headnotes in the Part 73 sections pertaining to this subject (AM–73.65; FM-73.270; NCE–FM–73.570; TV–73.-663).

(iii) In part 73, three rule sections refer to towers on which multiple antennas, belonging to different licensees, are attached. These sections are:

(a) 73.45 Radiating system, paragraph (f);

(b) 73.316 Antenna systems, paragraph (k);

(c) 73.685 Transmitter location and antenna system, paragraph (j).

Each of these paragraphs is excised from the rules, being supplanted by the new § 73.1213.

3. We conclude that, for the reasons set forth above, adoption of these amendments will serve the public interest. Prior notice of rule making, effective date provisions, and public procedure thereon are unnecessary, pursuant to the Administrative Procedure and Judicial Review Act provisions of 5 U.S.C. (b)(3)(B), inasmuch as these amendments impose no additional burdens and raise no issue upon which comments would serve any useful purpose.

4. Therefore, *it is ordered*, That pursuant to sections 4(i) and 303(j) of the Communications Act of 1934, as amended, Parts 73 and 74 of the Commission's Rules and Regulations are amended as set forth below, effective June 18, 1975.

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

Adopted: June 3, 1975.

Released: June 13, 1975.

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

§ 73.45 [Amended]

1. In § 73.45 paragraph (f) is deleted.

2. Section 73.65 is revised to read as follows:

§ 73.65 Antenna structure, marking and lighting.

See § 73.1213.

3. Section 73.67(a)(3) is amended to read as follows:

§ 73.67 Remote control operation.

(a) * * *

(3) A malfunction of any part of the remote control system resulting in improper control shall be cause for the immediate cessation of operation by remote control. A malfunction of any part of the remote control system resulting in inaccurate meter readings, shall be cause for terminating operation by remote control no longer than 1 hour after the malfunction is detected.

* * * * *

4. In § 73.69, new paragraph (d) is added and Note (2) and (3) are revised as follows:

§ 73.69 Antenna (phase) monitors.

(d) The antenna monitor shall be calibrated once each calendar week according to manufacturer's instructions and a notation entered in the maintenance log.

NOTE: * * *

(2) Each station electing to utilize licensed operators other than first-class radiotelephone operators for routine transmitter duty (see § 73.93) shall meet this requirement by June 1, 1974. (Supply of type approved antenna monitors has been limited to the extent that not all licensees have been able to obtain delivery and install monitors by the June 1, 1974 deadline. Licensees deciding to use lower grade operators subsequent to June 1, 1974, have likewise been unable to obtain delivery. Therefore, such licensees will not be held accountable for failure to install the antenna monitor on evidence that timely efforts have been made to procure a monitor, and failure is due to non-delivery of equipment by suppliers. Each such licensee shall file a copy of its confirmed order with the Commission in Washington and retain a copy in the station file to be made available for inspection by FCC field engineers.)

(3) Each station operating by remote control, when adopting the schedule specified in § 73.114(a)(9)(iii) for observations at the transmitter, shall install a type-approved antenna monitor and provide phase indications at the remote control point, for observation and logging pursuant to § 73.113(a)(3)(ii): *Provided*, That, in lieu of a type-approved monitor, the station may, until June 1, 1976, employ any monitor, manufactured after January 1, 1965, which is designed to afford phase indications on a device located external to the monitor, and which incorporates any necessary facilities whereby alternative RF inputs to the monitor may be selected by external switching.

* * * * *

5. In § 73.93, paragraphs (d), (e)(3) and Note 1 are amended to read as follows:

§ 73.93 Operator requirements.

* * * * *

(d) A station using a nondirectional antenna during periods of operation with authorized power in excess of 10 kilowatts, may employ first-class radiotelegraph operators, second-class radiotelegraph or radiotelephone operators, or radio-telegraph or radiotelephone operators with third-class permits endorsed for broadcast station operation, for routine operation of the transmitting system, if the station has in full-time employment at least one first-class radiotelephone operator.

(e) * * *

(3) Within 1 year of the date on which lesser grade operators are first employed and a chief operator has been designated, pursuant to paragraph (h) of this section, the station shall complete a partial proof of performance, as defined in Note 2 at the end of this section, and shall complete subsequent partial proofs of performance at 3 year intervals thereafter. A skeleton proof of performance, as defined in Note 3 at the end of this section, shall be completed during each year that a partial proof of performance is not required. Not less than 10, nor more than 14 months shall elapse between the completion dates of successive proofs of performance. The results of such proofs shall be prepared and filed in the same manner as required in equipment performance measurements pursuant to paragraph (b) of § 73.47.

* * * * *

Note 1: See § 73.69, NOTE: (z).

* * * * *

6. In § 73.113, new paragraph (a)(1)(v) is added and paragraph (c) is amended to read as follows:

§ 73.113 Operating log.

(a) * * *

(1) * * *

(v) A notation of tests of the Emergency Broadcast System procedures pursuant to the requirements of Subpart G of this Part and the appropriate station EBS checklist.

* * * * *

(c) In preparing the operating log, original data may be recorded in rough form and later transcribed into the log.

* * * * *

7. In § 73.114, paragraph (a)(1)(iii) and paragraphs (b) and (c) are amended to read as follows:

§ 73.114 Maintenance log.

(a) * * *

(1) * * *

(iii) A notation of the results of frequency measurements, if any are made, including date performed and description of method used. (This measurement must be made at intervals of not more than 40 days. See § 73.60.)

* * * * *

(b) Upon completion of the inspection required by § 73.93(j), the inspecting operator shall enter a signed statement that the required inspection has been made, noting in detail the tests, adjustments, and repairs which were accomplished in order to insure operation in accordance with the provisions of this subpart and in the current instrument of authorization of the station. If complete repair could not be effected the statement shall set forth in detail the items of equipment concerned, the manner and degree in which they are defective, and the reasons for failure to make satisfactory repairs.

(c) The inspecting operator shall sign and date the maintenance log at the conclusion of each inspection. In preparing the maintenance log, original data may be recorded in rough form and later transcribed into the log.

* * * * *

8. In § 73.265, paragraph (d) is amended to read as follows:

§ 73.265 Operator requirements.

* * * * *

(d) A station with authorized transmitter output power in excess of 25 kilowatts may employ first-class radiotelegraph operators, second-class radiotelegraph or radiotelephone operators, or operators with third-class radiotelegraph or radiotelephone permits endorsed for broadcast station operation for routine operation of the transmitting system if the station has in full-time employment at least one first-class radiotelephone operator and complies with the following:

* * * * *

9. Section 73.270 is revised to read as follows:

§ 73.270 Antenna structure, marking and lighting.

See § 73.1213.

10. Section 73.275(a)(3) is amended to read as follows:

§ 73.275 Remote control operation.

(a) * * *

(3) A malfunction of any part of the remote control system resulting in improper control shall be cause for the immediate cessation of operation by remote control. A malfunction of any part of the remote control system, resulting in inaccurate meter readings, shall be cause for terminating operation by remote control no longer than 1 hour after the malfunction is detected.

* * * * *

11. In § 73.283, new paragraph (a)(2) is added and paragraph (c) is amended as follows:

§ 73.283 Operating log.

(a) * * *

(2) A notation of tests of the Emergency Broadcast System procedures pursuant to the requirements of Subpart G of this Part and the appropriate station EBS checklist.

* * * * *

(c) In preparing the operation log, original data may be recorded in rough form and later transcribed into the log.

* * * * *

12. In § 73.284, paragraphs (b) and (c) are amended to read as follows:

§ 73.284 Maintenance log.

* * * * *

(b) Upon completion of the inspection required by § 73.265(h) the inspecting operator shall enter a signed statement that the required inspection has been made noting in detail the tests, adjustments, and repairs which were accomplished in order to insure operation in accordance with the provisions of this subpart and the current instrument of authorization of the station. If complete repair could not be effected the statement shall set forth in detail the items of equipment concerned, the manner and degree in which they are defective, and the reasons for failure to make satisfactory repairs.

(c) The inspecting operator shall sign and date the maintenance log at the conclusion of each inspection. In preparing the maintenance log, original data may be recorded in rough form and later transcribed into the log.

* * * * *

§ 73.316 [Amended]

13. In § 73.316, paragraph (k) is deleted and paragraphs (l) and (m) are redesignated as paragraphs (k) and (l).

14. In § 73.565, paragraphs (d), (e) and (f) are amended to read as follows:

§ 73.565 Operator requirements.

* * * * *

(d) A noncommercial educational FM station with authorized transmitter output power in excess of 25 kilowatts may employ first-class radiotelegraph operators, second-class radiotelegraph or radiotelephone operators, or operators with third-class radiotelegraph or radiotelephone permits endorsed for broadcast station operation for routine operation of the transmitting system if the station has in full-time employment at least one first-class radiotelephone operator and complies with the following:

(e) Subject to the conditions set forth in paragraphs (c) and (d) of this section, routine operation of the transmitting system may be performed by an operator holding a first-class radiotelegraph license, a second-class radiotelegraph or radiotelephone license, or a third-class radiotelegraph or radiotelephone permit endorsed for broadcast operation. Unless, however, performed under the immediate and personal supervision of an operator of a class specified in paragraph (b) of this section, the operator holding a lower class license may make adjustments only of external controls, as follows:

(f) It is the responsibility of the station licensee to insure that each operator is fully instructed in the performance of all the above adjustments, as well as in other required duties, such as reading meters and making log entries. Printed step-by-step instruction for those adjustments which the lesser grade operator is permitted to make, and a tabulation or chart of upper and lower limiting values of parameters required to be observed and logged, shall be posted at the operating position. The emissions of the station shall be terminated immediately whenever the transmitting system is observed operating beyond the posted parameters, or in any other manner inconsistent with the rules or the station authorization, and the above adjustments are ineffective in correcting the condition of improper operation, and an operator of the class specified in paragraph (b) of this section is not present.

* * * * *

15. Section 73.570 is revised to read as follows:

§ 73.570 Antenna structure, marking and lighting.

See § 73.1213.

16. Section 73.573 is amended to read as follows:

§ 73.573 Remote control operation.

(a) * * *

(3) A malfunction of any part of the remote control system resulting in improper control shall be cause for the immediate cessation of operation by remote control. A malfunction of any part of the remote control system, resulting in inaccurate meter readings, shall be cause for terminating operation by remote control no longer than 1 hour after the malfunction is detected.

* * * * *

17. In § 73.583, new paragraph (a)(2) is added and paragraph (c) is amended to read as follows:

§ 73.583 Operating log.

(a) * * *

(2) A notation of tests of the Emergency Broadcast System procedures pursuant to the requirements of Subpart G of this Part and the appropriate station EBS checklist.

* * * * *

(c) In preparing the operating log, original data may be recorded in rough form and later transcribed into the log.

* * * * *

18. In § 73.584, paragraphs (b) and (c) are amended to read as follows:

§ 73.584 Maintenance log.

* * * * *

(b) Upon completion of the inspection required by § 73.565(h), the inspecting operator shall enter a signed statement that the required inspection has been made noting in detail the tests, adjustments, and repairs which were accomplished in order to insure operation in accordance with the provisions of this subpart and in the current instrument of authorization of the station. If complete repair could not be effected the statement shall set forth in detail the items of equipment concerned, the manner and degree in which they are defective, and the reasons for failure to make satisfactory repairs.

(c) The inspecting operator shall sign and date the maintenance log at the conclusion of each inspection. In preparing the maintenance log, original data may be recorded in rough form and later transcribed into the log.

* * * * *

19. Section 73.662 is revised to read as follows:

§ 73.662 Antenna structure, marking and lighting.

See § 73.1213.

20. In § 73.671, new paragraph (a)(2) is added and paragraph (c) is amended to read as follows:

§ 73.671 Operating log.

(a) * * *

(2) A notation of tests of the Emergency Broadcast System procedures pursuant to the requirements of Subpart G of this part and the appropriate station EBS checklist.

* * * * *

(c) In preparing the operating log, original data may be recorded in rough form and later transcribed into the log.

* * * * *

21. In § 73.672, paragraph (b) is amended to read as follows:

§ 73.672 Maintenance log.

* * * * *

(b) The inspecting operator shall sign and date the maintenance log at the conclusion of each inspection. In preparing the maintenance log, original data may be recorded in rough form and later transcribed into the log.

* * * * *

22. In § 73.676, paragraph (h) is amended to read as follows:

§ 73.676 Remote control operation.

* * * * *

(h) Upon completion of the calibration, testing, and inspection required by paragraphs (e) and (g) of this section, the inspecting operator shall enter a signed statement in the maintenance log that the required tests and inspection have been made, noting in detail the tests, adjustments, and repairs which were made to insure proper operation. If complete repair could not be effected, the statement shall set forth in detail the items of equipment concerned, the nature of the defect and the reasons for failure to make the needed repairs.

* * * * *

§ 73.685 [Amended]

23. In § 73.685 paragraph (j) is deleted.

24. New § 73.1213 is added and reads as follows:

§ 73.1213 Antenna structure, marking and lighting.

(a) The provisions of Part 17 of this Chapter (Construction, Marking and Lighting of Antenna Structures), require certain antenna structures be painted and/or lighted in accordance with the provisions of that Part. (See §§ 17.47 through 17.56.)

(b) The licensee or permittee of an AM, FM, or TV broadcast station, if the sole occupant of the antenna and/or the antenna supporting structure, is responsible for conforming to the requirements of §§ 17.47 through 17.56 of this Chapter.

(c) If a common tower is used for antenna and/or antenna supporting purposes by more than one licensee or permittee of an AM, FM, or TV station or by one or more such licensees or permittees and one or more licensees or permittees of any other service, each licensee or permittee shall be responsible for painting and lighting the structure when obstruction marking and lighting are required by Commission rules. However, each such licensee or permittee utilizing a common tower may, with the approval of the Commission in Washington, designate one of the licensees or permittees as responsible for painting and lighting the structure. Pursuant to Commission approval, such designated licensee or permittee shall be solely responsible for conforming to all Commission requirements of Part 17 of this Chapter regarding obstruction marking and lighting of antenna structures. (See §§ 17.47 through 17.56). Requests for such approval shall be submitted in letter form, accompanied by copies of agreements between all participating licensees or permittees. A copy of the agreement and the Commission approval must be retained in each licensee's or permittee's station file, available for inspection by FCC representatives. In the event of default by the designated licensee of his responsibility, each of the licensees or permittees shall again be individually responsible for conforming to the requirements of the rules, pending Commission approval of a new agreement.

25. Section 74.22 is revised to read as follows:

§ 74.22 Use of common antenna structure.

The simultaneous use of a common antenna structure by more than one station authorized under this part, or by one or more such stations and one or more stations of any other service may be authorized, *Provided*, That each licensee or permittee using such structure shall be responsible for painting and lighting of the structure when obstruction marking is required by the Commission. However, each such licensee or permittee utilizing a common structure may, with the approval of the Commission in Washington, designate one of the licensees or permittees as responsible for painting and lighting the structure. Pursuant to Commission approval, such designated licensee or permittee shall be solely responsible for conforming to all Commission requirement of Part 17 of this Chapter regarding obstruction marking and lighting of antenna structures. (See §§ 17.47 through 17.56.) Requests for such approval shall be submitted in letter form, accompanied by copies of agreements between all participating licensees or permittees. A copy of the agreement and the Commission approval must be retained in each licensee's or permittee's station file, available for inspection by FCC representatives. In the event of default by the designated licensee of his responsibility, each of the licensees or permittees shall again be individually responsible for conforming to the requirements of the rules, pending Commission approval of a new agreement.

26. Sections 74.167, 74.267, 74.367, 74.466, 74.566, 74.666, 74.767, 74.967 and 74.1267 are all amended to read identically as below:

§ 74.—— Antenna structure, marking and lighting.

The painting and lighting of antenna structures employed by stations licensed under this subpart, where required, will be specified in the authorization issued by the Commission. § 74.22 and Part 17 of this Chapter set forth the conditions under which painting and lighting will be required and the responsibility of the licensee with regard thereto.

[FR Doc.75-15569 Filed 6-13-75;8:45 am]

[FCC 75-668; Docket No. 20332; RM 2417]

PART 87—AVIATION SERVICES

Removal of Station Identification From Non-Federal Aeronautical Navigation Aids

In the matter of amendment of § 87.115 of the Commission's rules to allow, when required by the Federal Aviation Administration, the removal of the station identification from non-Federal aeronautical navigation aids which have Air Traffic Control procedures associated with them.

1. A Notice of Proposed Rule Making in the above-captioned matter was released on January 28, 1975, and was published in the FEDERAL REGISTER on January 30, 1975 (40 FR 4453). The time for filing comments and reply comments has expired, and only one comment was filed. That comment was by the Aircraft Owners and Pilots Association and supported the proposed rule changes. We conclude, therefore, that the rules should be changed as proposed.

2. The rule change will allow non-Federal aeronautical navigation aid facilities in the National Airspace System to remove their station identification when required by Federal Aviation Regulations. The Federal Aviation Administration now requires removal of the station identification from their own facilities during certain maintenance activities; this rule change will make the requirement uniform throughout the National Airspace System. Removal of the station identification will inform pilots that adjustments to the equipment are being made and the facility may be unreliable.

3. Accordingly, *it is ordered*, That Part 87 of the rules is amended as indicated below and effective July 18, 1975. Authority for the promulgation of these rules is contained in section 303(r) of the Communications Act of 1934, as amended.

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

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

Adopted: June 3, 1975.

Released: June 10, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

Part 87 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. Section 87.115 is amended by revising paragraph (a) and adding a new paragraph (j), as follows:

§ 87.115 Station identification.

(a) Transmissions without station identification, except as provided in paragraphs (h), (i) and (j) of this section, or transmissions with false identification are prohibited.

* * * * *

(j) When required by Federal Aviation Regulations (FAR), the station Aviation Regulations (FAR), the station identification may be removed from those radionavigation stations licensed under this part which are authorized by the Federal Aviation Administration for public use under Instrument Flight Rules (IFR) conditions.

2. Section 87.503 is amended to read as follows:

§ 87.503 Scope of service.

Air navigation aid facilities are usually operated by the Federal Aviation Administration. The Commission may issue licenses to operate radionavigation land stations in the same frequency bands where an applicant justifies the need for aeronautical radionavigation service and the Government is not prepared to render this service. Radionavigation land stations which provide aeronautical radionavigation service will be authorized only where the applicant meets all requirements specified by the Federal Communications Commission after consultation with the Federal Administration. Certain radionavigation stations licensed under this part may become part of the National Airspace System and be authorized by the Federal Aviation Administration for public use under IFR conditions.

[FR Doc.75-16560 Filed 6-13-75;8:45 am]

Title 49—Transportation

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 74-21; Notice 2]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Windshield Zone Intrusion

This notice establishes a new Motor Vehicle Safety Standard No. 219, 49 CFR 571.219, that regulates the intrusion of vehicle parts from outside the occupant compartment into a defined zone in front of the windshield during a frontal barrier crash test.

The notice of proposed rulemaking on which this issuance is based was issued on May 20, 1974 (39 FR 17768). An earlier notice had been issued on August 31, 1972 (37 FR 17763), proposing a standard that would prohibit penetration of the protected zone by any part of a vehicle outside of the occupant compartment during a 30-mph frontal impact into a fixed barrier. After further study and an analysis of comments submitted in response to that notice, the NHTSA determined that the initial rule was unnecessarily stringent since its near-total ban on intrusion had the effect of prohibiting entrance into the protected zone or contact with the windshield by small particles such as paint chips and glass which do not represent a danger to the vehicle occupants if they enter the zone and impact the windshield opening with a limited amount of force.

Consequently, in the notice published on May 20, 1974, the proposed standard on windshield zone intrusion was amended to permit penetration by particles, to a depth of no more than one-quarter inch into a styrofoam template in the shape of the protected zone and affixed to the windshield, during a 30-mph frontal barrier crash.

In addition, the amended proposal published May 20, 1974, provided that contact by vehicle parts with the windshield opening in the area below the protected zone, during a 30-mph barrier crash test, would not be prohibited provided that the inner surface of that portion of the windshield is not penetrated. The procedure for determining the lower edge of the protected zone was also revised.

Standard No. 219, *Windshield Zone Intrusion*, reflects some minor changes incorporated for clarification following publication of the proposed rule on May 20, 1974. First, open-body-type vehicles with fold-down or removable windshields have been added to forward control vehicles as vehicle types to which the standard does not apply. A structurally unsupported windshield, essential to the utility of this vehicle type, typically does not remain in place during a 30-mph frontal barrier crash test, hence the test is impracticable for this type of vehicle.

In addition, the standard provides that its prohibitions against penetration by particles to a depth of more than one-quarter inch into the styrofoam template and penetration of the inner surface of the portion of the windshield below the protected zone do not apply to windshield molding and other components designed to be normally in contact with the windshield. This provision was contained in the proposed standard published August 31, 1972 but omitted from the proposal published May 20, 1974.

The standard as adopted also specifies that the 6.5-inch-diameter rigid sphere employed to determine the lower edge of the protected zone shall weigh 15 pounds, the approximate weight of the head and neck of an average driver or passenger.

Comments submitted by Wayne Corporation and Sheller-Globe Corporation, manufacturers of funeral coaches and ambulances, urged that the standard for windshield zone intrusion contain an exception for such vehicles in view of the low incidence of accidents involving funeral coaches and ambulances, the low volume of production of such vehicles, and the high cost of barrier crash testing. The NHTSA has determined that these arguments are without merit. The manufacturers have presented no evidence to support the contention that funeral coaches and ambulances are involved in fewer accidents in proportion to their numbers than other vehicles. Furthermore, several comments criticizing the allegedly prohibitive costs of compliance with the standard appear to have erroneously assumed that every manufacturer must conduct barrier crash tests. The performance requirement for windshield zone intrusion is set out in S5. of the standard. A manufacturer of funeral coaches and ambulances may, for example, assure itself that the requirement is met by barrier crashing the conventional chassis which is a component of the special vehicle, modified to simulate the dynamic characteristics of the funeral coach or ambulance. Or, the manufacturer may use the design characteristic of the vehicle taking into account the modifications it makes, or information supplied by the chassis manufacturer.

Low volume of production is not an appropriate basis for an exemption. As the NHTSA has maintained in past proceedings where the same argument was advanced, the appropriate means to avoid application of a standard on hardship grounds is a temporary exemption under 49 CFR Part 555.

Finally, the NHTSA is continuing to promote compatibility and economy in barrier crash testing by adopting vehicle loading and dummy restraint requirements in Standard No. 219 identical to those set out in proposed amendments to Standard No. 301, *Fuel System Integrity*, 49 CFR 571.301 (40 FR 17036, April 16, 1975). It has therefore required that 50th-percentile test dummies be placed in the seating positions whose restraint system is required to be tested by a dummy under Standard No. 208, *Occupant Crash Protection*, 49 CFR 571.208, and that they be restrained only by the means that are installed in the vehicle at the respective seating positions.

In consideration of the foregoing, 49 CFR Part 571 is amended by the addition of a new Standard No. 219, 49 CFR 571.219, *Windshield Zone Intrusion*, to read at 49 CFR 1.51)

Effective date. September 1, 1976.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.51)

Issued on June 9, 1975.

JAMES B. GREGORY,
Administrator.

§ 571.219 Standard No. 219; Windshield zone intrusion.

S1. *Scope.* This standard specifies limits for the displacement into the windshield area of motor vehicle components during a crash.

S2. *Purpose.* The purpose of this standard is to reduce crash injuries and fatalities that result from occupants contacting vehicle components displaced near or through the windshield.

S3. *Application.* This standard applies to passenger cars, and to multipurpose passenger vehicles, trucks and buses of 10,000 pounds or less gross vehicle weight rating. However, it does not apply to forward control vehicles or open-body-type vehicles with fold-down or removable windshields.

S4. *Definitions.* "Windshield opening" means the outer surface of the windshield glazing material.

S5. *Requirement.* When the vehicle traveling longitudinally forward at any speed up to and including 30 mph impacts a fixed collision barrier that is perpendicular to the line of travel of the vehicle, under the conditions of S7, no part of the vehicle outside the occupant compartment, except windshield molding and other components designed to be normally in contact with the windshield, shall penetrate the protected zone template, affixed according to S6, to a depth of more than one-quarter inch, and no such part of a vehicle shall penetrate the inner surface of that portion of the windshield below the protected zone defined in S6.

S6. *Protected zone template.*

S6.1 The lower edge of the protected zone is determined by the following procedure (see Figure 1).

(a) Place a 6.5-inch diameter rigid sphere, weighing 15 pounds, in a position such that it simultaneously contacts the inner surface of the windshield glazing and the surface of the instrument panel, including padding. If any accessories or equipment such as the steering control system obstruct positioning of the sphere, remove them for the purposes of this procedure.

(b) Draw the locus of points on the inner surface of the windshield contactable by the sphere across the width of the instrument panel. From the outermost contactable points, extend the locus line horizontally to the edges of the glazing material.

(c) Draw a line on the inner surface of the windshield below and one-half inch distant from the locus line.

(d) The lower edge of the protected zone is the longitudinal projection into the windshield opening of the line determined in S6.1(c).

S6.2 The protected zone is the space enclosed by the following surfaces, as shown in Figure 1:

(a) The windshield opening in its pre-crash configuration.

(b) The locus of points 3 inches outward along perpendiculars drawn to each point on the windshield opening.

(c) The locus of lines forming a 45° angle with the windshield opening at each point along the top and side edges of the windshield opening and the lower edge of the protected zone determined in S6.1, in the plane perpendicular to the edge at that point.

S6.3 A template is cut or formed from Styrofoam, type DB, cut cell, to the dimensions of the zone as determined in S6.2. The template is affixed to the windshield so that it delineates the protected zone and remains affixed throughout the crash test.

S7. *Test conditions.* The requirement of S5 shall be met under the following conditions:

S7.1 The protected zone template is affixed to the windshield in the manner described in S6.

S7.2 The hood, hood latches, and any other hood retention components are engaged prior to the barrier crash.

S7.3 Adjustable cowl tops or other adjustable panels in front of the windshield are in the position used under normal operating conditions when windshield wiping systems are not in use.

S7.4 The parking brake is disengaged and the transmission is in neutral.

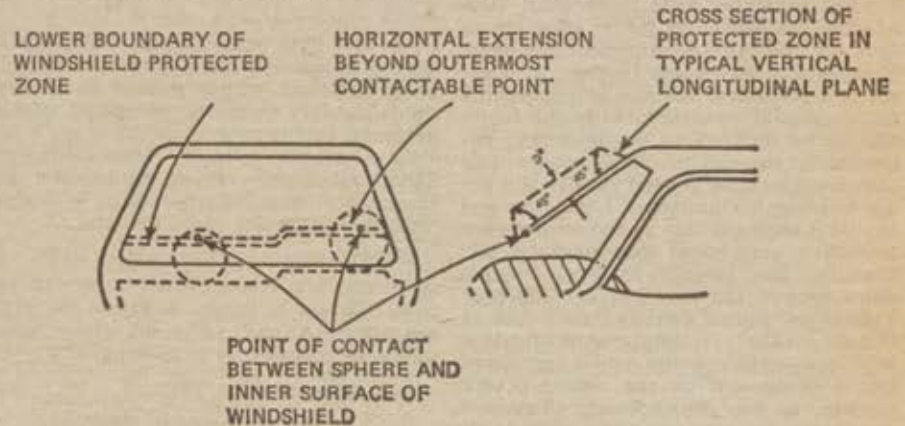
S7.5 Tires are inflated to the vehicle manufacturer's specifications.

S7.6 The fuel tank is filled to any level from 90 to 95 per cent of capacity.

S7.7 The vehicle, including test devices and instrumentation, is loaded as follows:

(a) Except as specified in S7.6, a passenger car is loaded to its unloaded vehicle weight plus its rated cargo and luggage capacity weight, secured in the luggage area, plus a 50th-percentile test dummy as specified in Part 572 of this chapter at each front outboard designated seating position and at any other position whose protection system is required to be tested by a dummy under the provisions of Standard No. 208. Each dummy is restrained only by means that are installed for protection at its seating position.

(b) Except as specified in S7.6, a multipurpose passenger vehicle, truck or bus is loaded to its unloaded vehicle weight, plus 300 pounds or its rated cargo and luggage capacity, whichever is less, secured to the vehicle, plus a 50th-percentile test dummy as specified in Part 572 of this chapter at each front outboard designated seating position and at any other position whose protection system is required to be tested by a dummy under the provisions of Standard No. 208. Each dummy is restrained only by means that are installed for protection at its seating position. The load is distributed so that the weight on each axle as measured at the tire-ground interface is in proportion to its GAWR. If the weight on any axle when the vehicle is loaded to its unloaded vehicle weight plus dummy weight exceeds the axle's proportional share of the test weight, the remaining weight is placed so that the weight on that axle remains the same. For the purposes of this section, unloaded vehicle weight does not include the weight of work-performing accessories.



WINDSHIELD PROTECTED ZONE
Figure 1

[FR Doc.75-15529 Filed 6-13-75;8:45 am]

[Docket No. 74-42; Notice 2]

PART 577—DEFECT NOTIFICATION

Miscellaneous Amendments

This notice amends 49 CFR Part 577, *Defect Notification*, to require that bilingual notification be sent to owners in certain cases, and to clarify the wording manufacturers are required to use to indicate their determination that a safety-related defect exists.

A notice of proposed rulemaking on this subject was published on November 25, 1974, (39 FR 41182) and an opportunity afforded for comment. The Center for Auto Safety had questioned the efficacy of defect notification campaigns in Puerto Rico conducted in the English language since the primary language of that Commonwealth is Spanish. A National Highway Traffic Safety Administration (NHTSA) survey in Puerto Rico confirmed that there was a need for bilingual defect notification. It was proposed that whenever the address of the purchaser is in either the Commonwealth

of Puerto Rico or the Canal Zone the notification be sent in both the English and Spanish languages.

The notice also proposed clarifying § 577.4(e)(1) so that the second paragraph of a notification letter could no longer be written to reflect a manufacturer's belief that the cause of a defect is an item other than that which he manufactured.

Only Chrysler Corporation and Firestone Tire and Rubber Company commented on bilingual notification. Both stated that it was not necessary for the Canal Zone. Firestone also felt that the requirement to translate the notification would delay its mailing, and voiced the belief that NHTSA must express the exact wording in Spanish for § 577.4(a) and (b). Chrysler commented that it had been providing bilingual notification to owners of automobiles purchased in Puerto Rico but that extensive and burdensome data-processing reprograming would be required to identify owners of vehicles originally purchased on the mainland and later taken to Puerto Rico.

The NHTSA believes that the language problem is a significant factor in the below-average response to notification campaigns in Puerto Rico, and that owner response rate to campaigns in the Canal Zone will improve if notifications are provided in Spanish as well as English. Information from the Census Bureau indicates that more than 50% of the residents of each area speak Spanish as their primary language. Translation may delay mailing to these areas a few days, but this is deemed inconsequential compared with the benefits to be derived by an improved response to campaigns. This agency does not consider that it need specify the exact wording in Spanish of § 577.4(a) and (b). If it appears that manufacturers are providing ambiguous statements it will consider the matter further. Finally, since section 153(a)(1) of the National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1413(a)(1), requires notification to be sent to the person who is registered under State law as the owner of the vehicle to be campaigned, Chrysler's comments on reprograming of data do not appear to have merit.

This notice also amends § 577.4(b)(1), which presently requires the second sentence of the notification to state that the manufacturer has determined that a defect which relates to motor vehicle safety exists in its motor vehicles or motor vehicle equipment. Certain notification letters have characterized the defect as existing in a vehicle or item of equipment not manufactured by the manufacturer making the determination. The intent of the section is that a manufacturer of motor vehicles would state its determination that the defect exists in the motor vehicle it manufactures, while a manufacturer of motor vehicle equipment would state its determination that the defect exists in the motor vehicle equipment it manufactures. If the manufacturer believes the cause of the defect to be an item other than that which he manufactured, that information can be imparted in the other parts of the notification, but not in the second paragraph where the content is specifically prescribed.

Kelsey-Hayes Company and Skyline Corporation commented on the proposal to clarify § 577.4(b)(1). Both objected to it, feeling that the present regulation is adequate and that the mandatory statement may be prejudicial. However, in the opinion of this agency, manufacturers with limited experience in composing notification letters have in many cases misinterpreted § 577.4(b)(1). Clarification of the sentence should eliminate mistakes.

In consideration of the foregoing, Part 577 of Title 49, Code of Federal Regulations, *Defect Notification*, is amended as follows:

1. The following sentence is added to the introductory paragraph immediately preceding paragraph (a) of § 577.4:

§ 577.4 Notification initiated by manufacturer.

* * * Whenever the address of the purchaser is in either the Commonwealth of Puerto Rico or the Canal Zone, the notification shall be sent in both the English and Spanish languages.

* * * * *

2. § 577.4(b)(1) is revised to read:

§ 577.4 Notification initiated by manufacturer.

* * * * *

(b)(1) The statement: "(Manufacturer's name or division) has determined that a defect which relates to motor vehicle safety exists in (identified motor vehicles, in the case of notification sent by a motor vehicle manufacturer; identified motor vehicle equipment, in the case of notification sent by a motor vehicle equipment manufacturer)."

Effective date: September 14, 1975.

(Sec. 108, 112, 113, 119, Pub. L. 89-563, 80 Stat. 718; sec. 2, 4, Pub. L. 91-265, 84 Stat. 262 (15 U.S.C. 1397, 1401, 1402, 1407); delegation of authority at 49 CFR 1.51.)

Issued on June 10, 1975.

JAMES B. GREGORY,
Administrator.

[FR Doc.75-15530 Filed 6-13-75;8:45 am]

Title 50—Wildlife

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Crescent Lake National Wildlife Refuge, Nebraska

The following special regulation is issued and is effective on June 16, 1975.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

NEBRASKA

CRESCENT LAKE NATIONAL WILDLIFE REFUGE

Public hunting of antelope and deer on the Crescent Lake National Wildlife Refuge, Nebraska is permitted only on the area designated by signs as open to hunting. This open area, comprising approximately 40,900 acres, is delineated on maps available at Refuge Headquarters, Ellsworth, Nebraska, and from the Regional Director, U.S. Fish and Wildlife, 10597 West Sixth Avenue, Denver, Colorado 80215. Hunting of antelope and deer shall be in accordance with all applicable State regulations covering the hunting of antelope and deer subject to the following conditions:

(1) Vehicle entrance and travel will be permitted only on designated well-defined trails. No vehicle travel is permitted beyond posted points, or off the designated trails in the hills or meadows.

(2) No overnight camping is permitted.

(3) No open fires are permitted.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas, generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 31, 1975.

RONALD L. PERRY,
Refuge Manager, Crescent Lake National Wildlife Refuge.

JUNE 5, 1975.

[FR Doc.75-15549 Filed 6-13-75;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 599]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

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

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

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

Until July 1, 1975, the statutory requirement for the purchase of flood insurance does not apply until and unless the community enters the program and

the special flood hazards have been identified. However, on July 1, 1975, or one year after the identification of the community as flood prone, whichever is later, the requirement will apply to all identified special flood hazard areas within the United States, so that, after that date, no such financial assistance can legally be provided for acquisition or construction in these areas unless the community has entered the program and flood insurance has been purchased.

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

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

§ 1914.4 List of Eligible Communities.

* * * * *

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	State map repository	Local map repository
*	*	*	*	*	*	*
California	Humboldt	Eureka, city of	June 9, 1975, Emergency	May 24, 1974		
Iowa	Audubon	Brayton, city of	do			
Do.	Shelby	Kirkman, city of	do			
Indiana	White	Monon, town of	do	May 31, 1974		
Kansas	Brown	Horton, city of	do	Feb. 15, 1974		
Maine	Somerset	Pittsfield, town of	do	Sept. 6, 1974		
Massachusetts	Middlesex	Melrose, city fo	do	June 28, 1974		
Minnesota	Hennepin	Minnetonka Beach, city of	do	June 7, 1974		
Montana	Phillips	Malta, city of	do	May 3, 1974		
New Hampshire	Cheshire	Walpole, townjof	do	May 24, 1974		
New Jersey	Bergen	Carlstadt, borough of	do	Apr. 12, 1974		
New York	Oneida	Annsville, town of	do	June 28, 1974		
Do.	do	Augusta, town of	do	Sept. 13, 1974		
Do.	St Lawrence	Canton, town of	do	Nov. 22, 1974		
Do.	Orange	Highlands, town of	do	Nov. 1, 1974		
Do.	do	Newburg, city of	do	Mar. 15, 1974		
Do.	Allegany	Rushford, town of	do	Sept. 16, 1974		
North Carolina	Haywood	Unincorporated areas	do			
North Dakota	Sheridan	Goodrich, city of	do	Nov. 22, 1974		
Ohio	Cuyahoga	Bratenahl, village of	do	May 10, 1974		
Do.	Summit	Clinton, village of	do	Feb. 8, 1974		
Do.	Defiance	Defiance, City of	do	May 17, 1974		
Do.	Sandusky	Fremont, city of	do	Mar. 15, 1974		
Do.	Trumbull	Hubbard, city of	do	Apr. 12, 1974		
Do.	Darke	New Madison, village of	do	Apr. 5, 1974		
Do.	Summit	Tallmadge, city of	do	Mar. 1, 1974		
Do.	Wayne	West Salem, village of	do	Apr. 5, 1974		
Oklahoma	Woods	Waynoka, city of	do	May 24, 1974		
Oregon	Grant	Prairie, city of	do	Oct. 18, 1974		
Pennsylvania	Potter	Allegany, township of	do	Jan. 17, 1975		
Do.	Wayne	Damascus, township of	do	Oct. 6, 1974		
Do.	Potter	Hector, township of	do	Jan. 17, 1975		
Do.	Berks	Maiden Creek, township of	do	Aug. 2, 1974		
Do.	Wyoming	Tunkhannock, township of	do	Oct. 18, 1974		
South Carolina	Bamberg	Denmark, town of	do	May 17, 1974		
Texas	Comanche	Comanche, city of	do	July 26, 1974		
Utah	Iron	Parowan, city of	do	Aug. 16, 1974		
West Virginia	Wirt	Elizabeth, town of	do	Apr. 5, 1974		
Do.	Kanawah	Glasgow, town of	do	Mar. 8, 1974		
Do.	Boone	Madison, town of	do	June 14, 1974		
Do.	Mingo	Unincorporated areas	do	Dec. 20, 1974		
Do.	Preston	Newburg, town of	do	Nov. 15, 1974		
Wisconsin	Shawano	Bonduel, village of	do	May 24, 1974		
Do.	Green Lake	Markesan, city of	do	May 10, 1974		
Do.	Dodge	Neosho, village of	do	May 17, 1974		

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	State map repository	Local map repository
Arkansas	Woodruff	Augusta, city of	June 6, 1975, Emergency	Nov. 30, 1973		
Do.	Polk	Hatfield, town of	do.	Feb. 14, 1975		
Do.	Conway	Morrilton, city of	do.	Nov. 2, 1973		
California	Placer	Lincoln, city of	do.	May 24, 1974		
Do.	Los Angeles	Lynwood, city of	do.	June 21, 1974		
Connecticut	Litchfield	Litchfield, town of	do.	do.		
Florida	Walton	DeFuniak Springs, city of	do.	Nov. 22, 1974		
Do.	Clay	Orange Parks, town of	do.	May 31, 1974		
Illinois	Cumberland	Neoga, city of	do.	Nov. 29, 1974		
Do.	Champaign	Champaign, city of	do.	May 3, 1974		
Do.	McHenry	Huntley, village of	do.	Mar. 29, 1974		
Do.	Lee	Unincorporated areas	do.	Jan. 10, 1975		
Do.	Piatt	Monticello, city of	do.	Dec. 17, 1973		
Do.	Du Page	Warrenville, city of	do.	May 24, 1974		
Indiana	Porter	Dune Acres, town of	do.	Dec. 28, 1973		
Iowa	Muscatine	Fruitland, city of	do.			
Do.	do.	Nichols, city of	do.	Nov. 8, 1974		
Kansas	Wyandotte	Bonner Springs, city of	do.	Dec. 28, 1973		
New York	Washington	Granville, village of	do.	Nov. 22, 1974		
Do.	Nassau	Massapequa Park, village of	do.	June 21, 1974		
North Carolina	Buncombe	Black Mountain, town of	do.	Mar. 8, 1974		
Ohio	Franklin	Grandview Heights, city of	do.	May 17, 1974		
Do.	Licking	Granville, village of	do.	June 7, 1974		
Oregon	Benton	Philomath, city of	do.	Feb 22, 1974 Feb. 7, 1975		
Pennsylvania	Potter	Ulysses, borough of	do.	Dec. 27, 1974		
Texas	Hale and Lubbock	Abernathy, city of	do.	May 10, 1974		
Do.	Tarrant	Keller, city of	do.	Feb. 1, 1974		
West Virginia	Mercer	Bramwell, town of	do.	May 24, 1974		
Wisconsin	Sawyer	Radisson, village of	do.	Sept. 6, 1974		

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	State map repository	Local map repository
Arkansas	Jackson	Tupelo, city of	June 4, 1975, Emergency			
Do.	Lawrence	Walnut Ridge, city of	do.	May 10, 1974		
California	Los Angeles	Pico Rivera, city of	do.	June 28, 1974		
Do.	Santa Cruz	Unincorporated areas	do.	Aug. 16, 1974		
Georgia	Decatur	Bainbridge, city of	do.	May 24, 1974		
Do.	Franklin	Carnesville, city of	do.	do.		
Do.	Liberty	Hinesville, city of	do.	Apr. 12, 1974		
Do.	Wayne	Jesup, city of	do.	May 31, 1974		
Idaho	Madison	Sugar City, city of	do.	Dec. 7, 1973		
Do.	Clearwater	Weippe, city of	do.	May 17, 1974		
Illinois	Fulton	Canton, city of	do.	June 14, 1974		
Do.	Montgomery	Litchfield, city of	do.	May 17, 1974		
Do.	Coles	Mattoon, city of	do.	Mar. 1, 1974		
Indiana	Wabash	Lafontaine, town of	do.			
Do.	Morgan	Mooresville, town of	do.	Feb. 1, 1974		
Iowa	Decatur	Lamoni, city of	do.			
Do.	Polk	Wyhandale, city of	do.	May 24, 1974		
Kentucky	Rowan	Morehead, city of	do.	do.		
Do.	Washington	Springfield, city of	do.	May 31, 1974		
Do.	Letcher	Whitesburg, city of	do.	Jan. 23, 1974		
Minnesota	Winona	St. Charles, city of	do.	May 24, 1974		
Mississippi	Coahoma	Lyon, town of	do.	Aug. 30, 1974		
Missouri	Adair	Newtinger, city of	do.	June 7, 1974		
Do.	Wayne	Piedmont, city of	do.	Mar. 29, 1974		
Nebraska	Buffalo	Amherst, village of	do.	Jan. 31, 1975		
Do.	Valley	Arcadia, village of	do.			
Do.	Cuming	Beemer, village of	do.	Dec. 17, 1973		
Do.	Butler	Bruno, village of	do.	Nov. 22, 1974		
Do.	Nance	Genoa, city of	do.	June 14, 1974		
Do.	Cass	Louisville, village of	do.	May 10, 1974		
Do.	York	McCool Junction, village of	do.	Nov. 8, 1974		
Do.	Pawnee	Pawnee City, city of	do.	Oct. 25, 1974		
Do.	Nemaha	Peru, city of	do.	June 28, 1974		
Do.	Jefferson	Steele City, village of	do.	Feb. 21, 1975		
New Hampshire	Grafton	Ashland, town of	do.	June 28, 1974		
New York	Albany	Berne, town of	do.	do.		
Do.	Genesee	Byron, town of	do.	Dec. 6, 1974		
Do.	Otsego	Otego, village of	do.	June 28, 1974		
Do.	Chenango	Oxford, village of	do.			
North Carolina	Beaufort	Aurora, city of	do.	May 3, 1974		
Do.	Moore	Unincorporated areas	do.			
Do.	Wayne	Goldsboro, city of	May 29, 1975, Emergency	June 7, 1974		
North Dakota	Dunn	Halliday, city of	June 4, 1975, Emergency	Nov. 22, 1974		
Do.	Barnes	Kathryn, city of	do.	do.		
Ohio	Washington	Marietta, city of	do.	Dec. 7, 1973		
Do.	Summit	Silver Lake, village of	do.	Feb. 8, 1974		
Oklahoma	Grear	Mangum, city of	do.	May 17, 1974		
Do.	Craig	Vinita, city of	do.	May 24, 1974		
Oregon	Umatilla	Athena, city of	do.	Nov. 2, 1973		
Do.	Yamhill	Dayton, city of	do.	Jan. 23, 1974		
Do.	Washington	Forest Grove, city of	do.	Mar. 1, 1974		
Do.	Coos	North Bend, city of	do.	June 28, 1974		
Pennsylvania	Mercer	Hempfield, township of	do.	Aug. 30, 1974		
Do.	Lehigh	Slatington, borough of	do.	Apr. 12, 1974		
Do.	Chester	Spring City, borough of	do.	Dec. 28, 1973		
Texas	Harris	Hedwig Village, city of	do.			
Do.	Bosque	Meridian, city of	do.	May 3, 1974		
Do.	Newton	Unincorporated areas	do.			
Do.	Moore	Sunray, city of	do.	May 24, 1974		
Washington	Walla Walla	College Place, city of	do.	do.		
Do.	Pierce	Fircrest, town of	do.	June 28, 1974		
Do.	Lewis	Morton, city of	do.	May 24, 1974		
Do.	Pierce	Steilacoom, town of	do.	Aug. 9, 1974		

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	State map repository	Local map repository
*	*	*	*	*	*	*
Alabama	St. Clair	Ashville, town of	June 5, 1975	June 21, 1974		
Arizona	Maricopa	Youngtown, town of	do	Dec. 28, 1973		
Colorado	Mesa	Fruita, town of	do	Jan. 24, 1975		
Do	Montrose	Olathe, town of	do	June 28, 1974		
Florida	Manatee	Bradenton, city of	do	Mar. 1, 1974		
Idaho	Idaho	Stites, city of	do	Oct. 18, 1974		
Indiana	Madison	Frankton, town of	do	Dec. 17, 1973		
Louisiana	St. Landry Parish	Eunice, city of	do	May 31, 1974		
Do	Tangipahoa Parish	Ponchatoula, city of	do	Apr. 12, 1974		
Maine	Waldo	Frankfort, town of	do	Jan. 10, 1975		
Maryland	Worcester	Snow Hill, town of	do	Apr. 12, 1974		
Michigan	Cheboygan	Cheboygan, city of	do	June 28, 1974		
Do	Leelanau	Leelanau, township of	do	Dec. 6, 1974		
Minnesota	Waseca	Janesville, city of	do	May 3, 1974		
Do	Dakota	Randolph, city of	do	June 19, 1974		
Missouri	Mississippi	Charleston, city of	do	Mar. 29, 1974		
Do	Shannon	Eminence, city of	do	May 31, 1974		
Do	St. Louis	Oakland, city of	do	Nov. 1, 1974		
Do	Newton	Redings Mill, village of	do	Dec. 6, 1974		
Do	Oregon	Thayer, city of	do	Mar. 8, 1974		
New Jersey	Bergen	Closter, borough of	do	Sept. 6, 1974		
Do	Gloucester	Glassboro, borough of	do	June 28, 1974		
New Mexico	Grant	Central, village of	do	May 31, 1974		
New York	Monroe	Riga, town of	do	Mar. 8, 1974		
Oregon	Gilliam	Condon, city of	do	May 24, 1974		
Pennsylvania	Washington	Cross Creek, township of	do	Sept. 13, 1974		
Do	Tioga	Nelson, township of	do	Sept. 6, 1974		
Do	Lawrence	New Beaver, borough of	do	Jan. 31, 1975		
Do	Washington	Nottingham, township of	do	Jan. 17, 1975		
Do	Erie	Washington, township of	do	Oct. 18, 1974		
Do	Lancaster	West Donegal, township of	do	Aug. 30, 1974		
Texas	Tarrant	Edgecliff, village of	do	Dec. 28, 1973		
Do	Montgomery	Shenandoah, town of	do			
Virginia	Giles	Rich Creek, town of	do			
West Virginia	Braxton	Sutton, town of	do	Feb. 7, 1975		
Wisconsin	Douglas	Lake Nebagamon, village of	do	June 7, 1974		
Do	Marquette	Montello, city of	do	Dec. 28, 1973		

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

Issued: May 30, 1975.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.75-15444 Filed 6-13-75;8:45 am]

[Docket No. FI-599]

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

List of Communities With Special Hazard Areas

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

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

Until July 1, 1975, the statutory requirement for the purchase of flood insurance does not apply until and unless the community enters the program and the special flood hazard areas have been identified. However, on July 1, 1975, or one year after the identification of the community as flood prone, whichever is later, the requirement will apply to all identified special flood hazard areas within the United States, so that, after that date, no such financial assistance can legally be provided for acquisition and construction in these areas unless the community has entered the program and flood insurance has been purchased.

Prior to July 1, 1975, where a community is not participating in the National Flood Insurance Program as of the date of identification, the Federal Insurance Administrator finds that comment and public procedure are impracticable and unnecessary under the meaning of 5 U.S.C. 553(b) and the use of delayed effective dates in identifying communities with areas of special hazard would be contrary to the public interest, since this identification is merely for the purpose of informing the public of the location of areas with special flood hazards and has no binding effect on the sale of insurance or the commencement of construction. Therefore, notice to the public is unnecessary, and contrary to the public interest.

After July 1, 1975, or where a community has been participating in the National Flood Insurance Program, even though no areas with special flood hazards in the community had previously been identified, the identification makes mandatory the purchase of insurance. Therefore, the effective date of identification will be July 16, 1975 or the effective date of the Food Hazard Boundary Map, whichever is later.

This 30 days period does not supersede the statutory requirement that a community, whether or not participating in the program, be given the opportunity for a period of six months to establish that the community either is not seriously flood prone or that such flood hazards as may have existed have been corrected by floodworks or other flood control methods. The six months period shall be considered to begin on July 16, 1975 where the community is not participating prior to July 1, 1975. After July 1, 1975, or where the community is participating in the program, the six months period shall be considered to begin July 16, 1975 or the effective date of the Flood Hazard Boundary Map, whichever is later. Similarly, the one year period a community has to enter the program under section 201(d) of the Flood Disaster Protection Act of 1973 shall be considered to begin July 16, 1975 or the effective date of the Flood Hazard Boundary Map, whichever is later.

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

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

§ 1915.3 List of communities with special hazard areas.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Alabama	Baldwin	Daphne, city of	H 010005A 01	Alabama Development Office, Office of State Planning, State Office Bldg., 501 Dexter Ave., Montgomery, Ala. 36104. Alabama Insurance Department, Room 453, Administrative Bldg., Montgomery, Ala. 36104.	Mayor, City Hall, City of Daphne, Daphne, Ala. 36526.	June 7, 1974. Aug. 15, 1975.
Do	Jefferson	Brownville, town of.	H 010270 01	do	Town Board, Town of Brownville, Town Hall, Brownville, Ala. (No Zip).	Do.
Arizona	Cochise	Tombstone, city of.	H 040106 01 through H 040106 02	Arizona State Land Department, 1624 West Adams, Room 400, Phoenix, Ariz. 85007. Arizona Department of Insurance, P.O. Box 7066, 718 West Glenrosa, Phoenix, Ariz. 85011.	City Council, City Hall, Tombstone, Ariz. 85638.	Do.
Arkansas	Clay	St. Francis, city of.	H 050037A 01	Division of Soil and Water Resources, State Department of Commerce, 1020 West Capitol Ave., Arkansas Insurance Department, 400 University Tower Bldg., Little Rock, Ark. 72204.	City Council, St. Francis, Ark. 72464.	Aug. 16, 1974. Aug. 15, 1975.
Do	Crittenden	Norvell, town of	H 050368 01	do	Mayor and Town Council, Norvell, Ark. (No Zip).	Do.
Do	Arkansas	Almyra, town of	H 050380 01	do	Mayor and Town Council, Almyra, Ark. 72003.	Do.
Do	Sebastian	Bonanza, town of	H 050392 01	do	Mayor, Town Hall, Bonanza, Ark. (No Zip).	Do.
California	Kern	McFarland, city of.	H 060080A 01 through H 060080A 02	Department of Water Resources, P.O. Box 388, Sacramento, Calif. 95802. California Insurance Department, 107 South Broadway, Los Angeles, Calif. 90012.	Mayor, City Hall, McFarland, Calif. 93250.	June 28, 1974.
Do	Stanislaus	Modesto, city of	H 060387A 01 through H 060387A 03	do	Director of Public Works, P.O. Box 642, Modesto, Calif. 95354.	July 19, 1974. Aug. 15, 1975.
Colorado	Fremont	Coal Creek, town of.	H 080210 01	Colorado Water Conservation Board, Room 102, 1845 Sherman St., Denver, Colo. 80203. Colorado Division of Insurance, 106 State Office Bldg., Denver, Colo. 80203.	Town Manager, Municipal Bldg., Coal Creek, Colo. 81221.	Do.
Do	Crowley	Crowley, town of	H 080211 01	do	Town Manager, Municipal Bldg., Crowley, Colo. 81033.	Do.
Do	Grand	Grand Lake, town of.	H 080214 01	do	Mayor, Town Hall, Grand Lake, Colo. 80447.	Do.
Do	Crowley	Sugar City, town of.	H 080224 01	do	Mayor, Town Hall, Sugar City, Colo. 81076.	Do.
Do	Eagle	Eagle, town of	H 080238 01	do	Mayor and Town Council, Eagle, Colo. 81631.	Do.
Do	Grand	Granby, town of	H 080248 01	do	Mayor and Town Council, Granby, Colo. 80446.	Do.
Georgia	Jefferson	Louisville, city of.	H 130414 01 through H 130441 02	Department of Natural Resources, Office of Planning and Research, 270 Washington St., Atlanta, Ga. 30334. Georgia Insurance Department, State Capitol, Atlanta, Ga. 30334.	City Council, City Bldg., Louisville, Ga. 30434.	Do.
Idaho	Fremont	Parker, city of	H 160148 01	Department of Water Administration, State House, Annex 2, Boise, Idaho 83707. Idaho Department of Insurance, Room 206, Statehouse, Boise, Idaho 83707.	Mayor, City Hall, Parker, Idaho 83438.	Do.
Illinois	Adams	Quincy, city of	H 170003A 01 through H 170003A 06	Governor's Task Force on Flood Control, 300 North State St., P.O. Box 475, Room 1010, Chicago, Ill. 60610. Illinois Insurance Department, 525 West Jefferson St., Springfield, Ill. 62702.	City Engineer's Office, City Hall, 507 Vermont St., Quincy, Ill. 62301.	May 24, 1974. Aug. 15, 1975.
Do	Du Page	Burr Ridge, village of.	H 170071A 01 through H 170071A 02	do	Village President, 230 West 75th St., Burr Ridge, Ill. 60521.	Mar. 15, 1974. Aug. 15, 1975.
Do	do	Westmont, village of.	H 170220A 01 through H 170220A 02	do	Mayor, 31 West Quincy St., Westmont, Ill. 60559.	May 17, 1974. Aug. 15, 1975.
Do	do	Wayne, village of	H 170865 01 through H 170865 02	do	Village President, Wayne, Ill. 60184.	Do.
Do	Edwards	Albion, city of	H 170866 01	do	Mayor, City Hall, Albion, Ill. 62806.	Do.
Indiana	Posey	New Harmony, town of.	H 180210A 01	Division of Water, Department of Natural Resources, 608 State Office Bldg., Indianapolis, Ind. 46204. Indiana Insurance Department, 509 State Office Bldg., Indianapolis, Ind. 46204.	Mayor, and Town Council, New Harmony, Ind.	Feb. 1, 1974.
Do	Tippecanoe	West Lafayette, city of.	H 180254A 01 through H 180254A 02	do	Office of The Clerk-Treasurer, 609 West Navajo St., West Lafayette, Ind. 47906.	Dec. 7, 1973. Aug. 15, 1975.
Iowa	Cerro Gordo	Clear Lake, city of.	H 190059A 01 through H 190059A 04	Iowa Natural Resources Council, James W. Grimes Bldg., Des Moines, Iowa 50319. Iowa Insurance Department, Lucas State Office Bldg., Des Moines, Iowa 50319.	Mayor, City Hall, Clear Lake, Iowa 50428.	May 24, 1974. Aug. 15, 1975.
Do	Scott	Bettendorf, city of.	H 190240A 01 through H 190240A 09	do	Bettendorf City Planning Department, City of Bettendorf, 1609 State St., Bettendorf, Iowa 52722.	Feb. 1, 1974. Aug. 15, 1975.
Do	Lyon	George, city of	H 190447 01	do	Mayor, City Hall, George, Iowa 51237.	Do.
Do	Hancock	Goodell, town of	H 190733 01	do	Mayor and Town Council, Town Hall, Goodell, Iowa 50439.	Do.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Kansas	Crawford	Arcadia, city of	H 200384 01	Division of Water Resources, State Board of Agriculture, Topeka, Kans. 66612. Kansas Insurance Department, 1st Floor Statehouse, Topeka, Kans. 66612.	Mayor, City of Arcadia, Arcadia, Kans. 66711.	Do.
Do.	Barber	Hardtner, city of	H 200421 01	do.	Mayor, City Hall, Hardtner, Kans. 67052.	Do.
Do.	Chautauqua	Cedar Vale, city of.	H 200477 01	do.	Mayor, City Hall, Cedar Vale, Kans. 67024.	Do.
Do.	Barton	Claflin, city of	H 200481 01	do.	Mayor, City Hall, Claflin, Kans. 67525.	Do.
Do.	Ottawa	Delphos, city of	H 200487 01	do.	Mayor, City Hall, Delphos, Kans. 67436.	Do.
Do.	McPherson	Galva, city of	H 200497 01	do.	Mayor, City Hall, Galva, Kans. 67443.	Do.
Do.	Sedgwick	Garden Plain, city of.	H 200498 01	do.	Mayor, City Hall, Garden Plain, Kans. 67050.	Do.
Do.	Ellsworth	Kanopolis, city of	H 200511 01	do.	City Manager, City Hall, Kanopolis, Kans. 67454.	Do.
Do.	Osage	Overbrook, city of.	H 200546 01	do.	Mayor, City Hall, Overbrook, Kans. 66524.	Do.
Do.	Washington	Washington, city of.	H 200555 01	do.	Mayor, City Hall, Washington, Kans. 66968.	Do.
Do.	Woodson	Yates Center, city of.	H 200561 01	do.	Mayor, City Hall, Yates Center, Kans. 66783.	Do.
Louisiana	Grant Parish	Georgetown, village of.	H 220288 01	State Department of Public Works, P.O. Box 44155, Capitol, Station, Baton Rouge, La. 70804. Louisiana Insurance Department, Box 44214, Capitol Station, Baton Rouge, La. 70804.	Village President, Georgetown, La. 71432.	Do.
Do.	Caddo Parish	Ida, village of	H 220296 01	do.	Village President, Ida, La. 71044	Do.
Do.	Grant Parish	Pollock, village of.	H 220305 01	do.	Mayor, Village Hall, Pollock, La. 71367.	Do.
Do.	Allen Parish	Reeves, village of.	H 220307 01	do.	Mayor, Village Hall, Reeves, La. 70658.	Do.
Do.	Caldwell Parish	Clarks, village of	H 220320 01	do.	Village, President, Clarks, La. 71415	Do.
Do.	Vernon Parish	Hornbeck, village of.	H 220332 01	do.	Village President, Hornbeck, La. 71439.	Do.
Do.	De Soto Parish	Logansport, town of.	H 220336 01	do.	Town Council, Town Hall, Logansport, La. 71049.	Do.
Do.	Vernon Parish	Rosepine, village of.	H 220346 01	do.	Village President, Rosepine, La. 70659.	Do.
Do.	Sabine Parish	Zwolle, town of	H 220353 01	do.	Town Supervisor, Town Hall, Zwolle, La. 71486.	Do.
Michigan	Delta	Gladstone, city of.	H 260267A 01 through H 260267A 02	Water Resources Commission, Bureau of Water Management, Stevens T. Mason Bldg., Lansing, Mich. 48926. Michigan Insurance Bureau, 111 North Mosmer St., Lansing, Mich. 48913.	City Hall, 1100 Delta Ave., Gladstone, Mich. 49837.	June 14, 1974. Aug. 15, 1975.
Do.	Kalamazoo	Kalamazoo, city of.	H 260315A 01 through H 260315A 10	do.	Kalamazoo Buildings Department, 241 West South St., Kalamazoo, Mich. 49006.	Feb. 15, 1974. Aug. 15, 1975.
Do.	Barry	Johnstown, township of.	H 260355 01 through H 260355 12	do.	Township Supervisor, Johnstown Hall, Johnstown, Mich. No Zip.	Do.
Do.	Lake	Yates, township of.	H 260432 01 through H 260432 11	do.	Township Supervisor, Yates, Mich. No Zip.	Do.
Do.	Saginaw	Taymouth, township of.	H 260503 01 through H 260503 12	do.	Township Supervisor, Taymouth, Mich. No Zip.	Do.
Do.	Saginaw	Tittabawasse, township of.	H 260504 01 through H 260504 12	do.	Township Supervisor, Township Hall, Tittabawasse, Mich. No Zip.	Do.
Do.	Washtenaw	Ann Arbor, township of.	H 260535 01 through H 260535 10	do.	Ann Arbor, City Hall, 100 North 5th Ave., Ann Arbor, Mich. 48107.	Do.
Minnesota	Isanti	Isanti, city of	H 270199A 01	Division of Waters, Soils and Minerals, Department of Natural Resources, Centennial Office Bldg., St. Paul, Minn. 55101. Minnesota Division o. Insurance, R-210 State Office Bldg., St. Paul, Minn. 55101.	Mayor, City of Isanti, Isanti, Minn. 55040.	Jan. 9, 1974. Aug. 15, 1975.
Do.	Lac Qui Parle	Dawson city of	H 270241A 01	do.	City of Dawson, Municipal Bldg., Dawson, Minn. 56232.	Apr. 12, 1974.
Do.	Scott	Prior Lake, city of.	H 270432A 01 through H 270432A 02	do.	City Clerk, City Hall, Prior Lake, Minn. No Zip.	July 26, 1974. Aug. 15, 1975.
Do.	Anoka	Ham Lake, city of.	H 270674 01 through H 270674 12	do.	City Manager, City of Ham Lake, Ham Lake, Minn. No Zip.	Aug. 15, 1975.
Missouri	Mississippi	Charleston, city of	H 290231A 01 through H 290231A 02	Water Resources Board, P.O. Box 271, Jefferson City, Mo. 65101. Division of Insurance, P.O. Box 690, Jefferson City, Mo. 65101.	City Manager, City Bldg., Charleston, Mo. 63834.	Mar. 29, 1974.
Do.	St. Louis	Jennings, city of	H 290360A 01 through H 290360A 03	do.	Jennings City Hall, 2120 Hord Ave., Jennings, Mo. 63136.	Feb. 1, 1974. Aug. 15, 1975.
Do.	Nodaway	Graham, city of	H 290594 01	do.	Mayor, City Hall, Graham, Mo. 64455.	Aug. 15, 1975.
Do.	Pemiscot	Wardell, city of	H 290632 01	do.	Mayor, City Hall, Wardell, Mo. 63879.	Do.
Montana	Missoula	Missoula, city of	H 300049A 01 through H 300049A 05	Montana Department of Natural Resources and Conservation, Water Resources Division, Sam W. Mitchell Bldg., Helena, Mont. 59601. Montana Insurance Department, Capitol Bldg., Helena, Mont. 59601.	Missoula Planning Board, 201 West Spruce, Missoula, Mont. 59801.	Mar. 8, 1974. Aug. 15, 1975.
Do.	Sheridan	Westby, town of	H 300104 01	do.	Town Council, Westby, Mont. 59275	Aug. 15, 1975.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Nebraska	Dundy	Haigler, village of	H 310281 01	Nebraska Natural Resources Commission, P.O. Box 94725, State House Station, Lincoln, Nebr. 68509.	Chairman, Village Board, Haigler, Nebr. 69030.	Do.
Do.	Cass	Murray, village of	H 310305 01	do.	Chairman, Village Board, Murray, Nebr. 68409.	Do.
Do.	Custer	Arnold, village of	H 310342 01	do.	Chairman, Village Board, Arnold, Nebr. 69120.	Do.
Do.	Dodge	Dodge, village of	H 310363 01	do.	Village Board, City Hall, Dodge, Nebr. 68633.	Do.
Do.	Scotts Bluff	Morrill, village of	H 310391 01	do.	Village Board, City Hall, Morrill, Nebr. 69358.	Do.
North Carolina	Edgecombe	Battleboro, town of.	H 370088 01	North Carolina Office of Water and Air Resources, Department of Natural and Economic Resources, P.O. Box 27687, Raleigh, N.C. 27611. North Carolina Insurance Department, P.O. Box 26387, Raleigh, N.C. 27611.	Mayor, Town of Battleboro, Battleboro, N.C. 27809.	Do.
Do.	Wake	Garner, town of	H 370240A 01 through H 370240A 06	do.	Building Inspector, Town Hall, 111 Rand Mill Rd., Garner, N.C. 27529.	July 18, 1974.
Do.	Gaston	Lowell, town of	H 370823 01 through H 370823 02	do.	Mayor, Town of Lowell, Lowell, N.C. 28098.	Aug. 15, 1975.
North Dakota	Williams	Wildrose, city of	H 380211 01	State Water Commission, State Office Bldg., 900 East Boulevard, Bismarck, N. Dak. 58501. North Dakota Insurance Department, State Capitol, Bismarck, N. Dak. 58501.	City Manager, City of Wildrose, Wildrose, N. Dak. 58795.	Do.
Ohio	Lake	Willowick, city of	H 390324 01 through H 390324 02	Ohio Department of Natural Resources, Fountain Square, Columbus, Ohio 43224. Director of Insurance, State of Ohio, Department of Insurance, 115 East Rich St., Columbus, Ohio 43215.	Mayor, Municipal Office, 31280 Vine St., Willowick, Ohio 44094.	Do.
Do.	Licking	Newark, city of	H 390335A 01 through H 390335A 08	do.	City Engineer, 40 West Main St., Newark, Ohio 43055.	Nov. 28, 1973. Aug. 15, 1975.
Do.	Summit	Talmadge, city of	H 390533 01 through H 390533 05	do.	Mayor, City Hall, Talmadge Circle, Talmadge, Ohio 44278.	Do.
Do.	Wood	Bowling Green, city of.	H 390583 01 through H 390583 04	do.	Planning Commission, City Bldg., Bowling Green, Ohio 43402.	Do.
Oklahoma	Washita	Bessie, town of	H 400281 01	Oklahoma Water Resources Board, 2241 Northwest 40th St., Oklahoma City, Okla. 73112. Oklahoma Insurance Department, Room 408 Will Rogers Memorial Bldg., Oklahoma City, Okla. 73105.	Mayor, Town Hall, Bessie, Okla. 73622.	Do.
Do.	Ellis	Arnett, town of	H 400344 01	do.	Mayor, Town Hall, Arnett, Okla. 73832.	Do.
Oregon	Marion	Mt. Angels, city of.	H 410165A 01	Executive Department, State of Oregon, Salem, Oreg. 97310. Oregon Insurance Division, Department of Commerce, 158 12th St., NE., Salem, Oreg. 97310.	City Administrator, City Hall, 1 Garfield St., Mount Angels, Oreg. 97362.	May 17, 1974. Aug. 15, 1975.
Do.	Umatilla	Hermiston, city of.	H 410209A 01	do.	City Hall, City of Hermiston, 295 East Main St., Hermiston, Oreg. 97838.	Apr. 5, 1974. Aug. 15, 1975.
South Dakota	Roberts	Peever, town of	H 460139 01	South Dakota Planning Agency, State Capitol Bldg., Pierre, S. Dak. 57501. South Dakota Department of Insurance, Insurance Department, Pierre, S. Dak. 57501.	Town Mayor, Town of Peever, Peever, S. Dak. 57257.	Do.
Tennessee	Smith	South Carthage, town of.	H 470183A 01 through H 470183A 02	Tennessee State Planning Office, 660 Capitol Hill Bldg., Nashville, Tenn. 37219. Tennessee Department of Insurance and Banking, 114 State Office Bldg., Nashville, Tenn. 37219.	Town Council, Town Hall, South Carthage, Tenn. No ZIP.	Aug. 23, 1974. Aug. 15, 1975.
Texas	Brazoria	Angleton, city of	H 480064A 01 through H 480064A 05	Texas Water Development Board, P.O. Box 13087, Capitol Station, Austin, Tex. 78711. Texas Insurance Department, 1110 San Jacinto St., Austin, Tex. 78701.	City Administrator, P.O. Box 736, Angleton, Tex. 77515.	June 28, 1974.
Do.	Lipscomb	Follett, city of	H 480446A 01	do.	City Manager, City Bldg., Follett, Tex. 79034.	June 28, 1974. Aug. 15, 1975.
Do.	Ellis	Italy, town of	H 480800 01	do.	Town Manager, Town Hall, Italy, Tex. 76651.	Aug. 15, 1975.
Do.	Fannin	Trenton, town of	H 480814 01	do.	Mayor, Town Hall Trenton, Tex. 75490.	Do.
Do.	Knox	Knox City, city of.	H 480890 01	do.	Mayor, City Hall, Knox City, Tex. 79529.	Do.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Do.	Coke and Nolan	Blackwell, town of.	H 480068 01	do	Town Manager, Town of Blackwell, Blackwell, Tex. 79506.	Do.
Do.	Bexar	Balcones Heights, city of.	H 481094 01	do	Mayor, City Hall, Balcones Heights, Tex. No ZIP.	Do.
Utah	Tooele	Wendover, town of.	H 490222 01	Department of Natural Resources, Division of Water Resources, State Capitol Bldg., Room 434, Salt Lake City, Utah 84114. Utah Insurance Department, 115 State Capitol, Salt Lake City, Utah 84114.	Town Manager, Town Hall, Wendover, Utah 84083.	Do.
Virginia	Wythe	Unincorporated areas.	H 510180 01 through H 510180 31	Bureau of Water Control Management, State Water Control Board, 2d Floor, Davenport Bldg., 11 South 10th St., Richmond, Va. 23219. Virginia Insurance Department, 200 Blanton Bldg., P.O. Box 1157, Richmond, Va. 23209.	County Administrator, County Office Bldg., Wytheville, Va. 24382.	Do.
Washington	Chelan	do	H 530015A 01 through H 530015A 11	Department of Ecology, Olympia, Wash. 98501. Washington Insurance Department, Insurance Bldg., Olympia, Wash. 98501.	Director of Planning, Chelan County Regional, Planning Council, County of Chelan, Courthouse Annex, Wenatchee, Wash. 98801.	February 10, 1975. August 15, 1975.
Do.	Pierce	Fircrest, town of.	H 530141A 01	do	Town Administrator, Fircrest Town Hall, 115 Ramsdell St., Tacoma, Wash. 98466.	June 28, 1974.
Wisconsin	Dodge	Mayville, city of.	H 550103A 01 through H 550103A 04	Department, of Natural Resources P.O. Box 450, Madison, Wis. 53701. Wisconsin Insurance Department, 212 North Bassett St., Madison, Wis. 53701.	Mayor, City Hall, Mayville, Wis. 53050.	Nov. 30, 1973. Aug. 15, 1975.
Do.	Dunn	Menomonie, city of.	H 550123A 01 through H 550123A 05	do	City Manager, Courthouse, Menomonie, Wis. 54792.	June 28, 1974. Aug. 15, 1975.
Do.	Waukesha	Oconomowoc, city of.	H 550488A 01 through H 550488A 03	do	Mayor, City Hall, Oconomowoc, Wis. 53066.	May 17, 1974. Aug. 15, 1975.
Wyoming	Platte	Glendo, town of.	H 560062 01	Wyoming Disaster and Civil Defense Agency, P.O. Box 1709, Cheyenne, Wyo. 82001. Department of Insurance, State of Wyoming, State Office Bldg., Cheyenne, Wyo. 82001.	Town Council, Town Hall, Glendo, Wyo. 82213.	Do.
Do.	Goshen	Lingle, town of.	H 560064 01	do	Town Council, Town Hall, Lingle, Wyo. 82223.	Do.
Do.	Fremont	Shoshoni, town of.	H 560078 01	do	Town Council, Town Hall, Shoshoni, Wyo. 82649.	Do.

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

Issued: May 30, 1975.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.75-15445 Filed 6-13-75;8:45 am]

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-310]

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

List of Communities

Correction

On July 12, 1974, in 39 FR 25649, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map number and locations where Flood Hazard Boundary Maps were available for public inspection. This list included the City of Davenport, Scott County, Iowa, as an eligible community and included Map No. H 190242 10 which indicates that Lots No. 34 through 68, Cedar Vista Annex Second Addition, Section 22, Davenport, Iowa, subject to the conditions of the Iowa Natural Resources Council Order No. 70–142, July 7, 1970, specifying minimum elevations for construction, and recorded in Davenport Book A, Page 1 NW–¼ NW–¼ Section 22 in the office of the County Auditor of Scott County, Iowa, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Admnistration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area. Accordingly, effective June 21, 1974, Map No. H 190242 10 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area.

(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: June 3, 1975.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.75-15609 Filed 6-13-75;8:45 am]

[Docket No. FI 602]

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

List of Communities

Correction

On June 18, 1971, in 36 FR 11728, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map number and locations where Flood Insurance Rate Maps were available for public inspection. This list included Pinellas County, Florida, as an eligible community and included Map No. H 125139 05 which indicates that Building No. 1 through 27 and the "Clubhouse", Mission Oaks Condominium, Section 19, Township 30 South, Range 15 East, Pinellas County, Florida, as recorded in Book 17, Page 87, in the public records of Pinellas County, Florida, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is within Zone D, and not within the Special Flood Hazard Area. Accordingly, effective June 18, 1971, Map No. H 125139 05 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area.

(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: June 3, 1975.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.75-15610 Filed 6-13-75;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7360]

PART 9—TEMPORARY INCOME TAX REGULATIONS UNDER THE TAX REDUCTION ACT OF 1975

Temporary Regulations Relating to Special Elections

Preamble. The following temporary regulations relate to the amendment made to the Internal Revenue Code of 1954 by section 301(b)(3) of the Tax Reduction Act of 1975 (Pub. L. 94–12), relating to prohibition of immediate flow-through of the investment credit by certain regulated companies. Section 301(b)(3) of the Tax Reduction Act of 1975 amended section 46(f) (as redesignated from section 46(e) by the Tax Reduction Act of 1975) to add a new paragraph (8).

Paragraph (8) of section 46(f) provides that an election under section 46(f)(3) (relating to immediate flow-through) made before March 10, 1972, with respect to public utility property within the meaning of section 46(a)(6)(D) applies only to so much of the investment credit that would be allowable under section 38 if the Tax Reduction Act of 1975 had not been enacted. A taxpayer who previously elected to apply section 46(f)(3) may elect before June 28, 1975, to apply section 46(f)(3) with respect to the additional credit allowable under section 38 for such property by reason of the Tax Reduction Act. The election must be made at the taxpayer's own option and without regard to any requirement imposed by a regulatory agency described in section 46(c)(3)(B) having jurisdiction over the taxpayer.

If a taxpayer does not elect immediate flow-through under section 46(f)(3), the general rule of section 46(f)(1) (relating to rate base reduction), or if elected before March 10, 1972,t he special rule of section 46(f)(2) (relating to cost of service reduction), applies to the additional credit allowable by reason of the Tax Reduction Act for property described in section 46(a)(6)(D). If an election made before March 10, 1972, under section 46(f)(3) applies to all of the taxpayer's public utility property within the meaning of section 46(f)(5) other than nonregulated communication property described in the last sentence of section 46(c)(3)(B), such taxpayer may make a special election before June 28, 1975, to apply section 46(f)(2) to the additional credit allowable by reason of the Tax Reduction Act of 1975 for property described in section 46(a)(6)(D).

The regulations provide the manner in which an election may be made and provide rules to determine the amount of the additional credit allowed by reason of the Tax Reduction Act of 1975.

The regulations provide that the mere inclusion of qualified progress expenditures in qualified investment does not result in additional credit, because the qualified progress expenditure provision is only a timing mechanism which accelerates the taxable year that the qualified investment is taken into account. The qualified investment would otherwise be taken into account in the taxable year the property is placed in service. However, any increase in qualified investment because of the removal of the 4/7 limitation in section 46(c)(3)(B), any increase in the amount of the credit from 7 percent to 10 or 11 percent, and any increase in credit allowed because of the alternative limitation provided in section 46(a)(6) is treated as additional credit allowed by the Tax Reduction Act, even where such increases relate to qualified progress expenditures.

Adoption of regulations. To prescribe the temporary regulations relating to the amendment made to the Internal Revenue Code of 1954 by section 301(b)(3) of the Tax Reduction Act of 1975 which shall remain in effect until superseded by permanent regulations, the following regulations are hereby adopted:

§ 9.1 Investment credit—public utility property elections.

(a) *Applicability of prior election under section 46(f)*—(1) *In general.* Except as provided in paragraph (a)(2) of this section, an election made before March 10, 1972 (hereinafter referred to as a 1972 election) under section 46(f) (redesignated from section 46(e) by the Tax Reduction Act of 1975) applies to the credit allowable for a taxable year with respect to public utility property described in section 46(f)(5) by reason of sections 301 and 302 of the Tax Reduction Act of 1975.

(2) *1972 immediate flow-through election.* A 1972 election under section 46(f)(3) (hereinafter referred to as an election for immediate flow-through) does not apply to the additional credit allowed under section 38 with respect to limited property (public utility property described in section 46(c)(3)(B) to which section 167(l)(2)(C) applies, other than nonregulated communication property of the type described in the last sentence of section 46(c)(3)(B) by reason of the Tax Reduction Act of 1975. However, a 1972 election for immediate flow-through does apply to the additional credit allowed for a taxable year with respect to property described in section 46(f)(5)(B). See paragraph (b) of this section for a new election under section 46(f)(3) with regard to the additional credit with respect to limited property allowed by reason of the Tax Reduction Act of 1975. See paragraph (a)(3) of this section for determination of additional credit. For purposes of this section the phrase "determined as if the Tax Reduction Act had not been enacted" means the following amendments shall be disregarded in determining credit allowable or allowed: (i) The increase in the amount of credit from 7 percent to 10 or 11 percent under section 46(a)(1)(A), (B), and (D), (ii) the increase in the amount of qualified investment from 4/7 to 7/7 under section 46(a)(1)(C) and (c)(3)(A), (iii) the increase in the dollar limitation from $50,000 to $100,000 on used property under section 48(c)(2), and (iv) the increase in the limitation based on tax under section 46(a)(6) for certain public utilities. In determining the amount of credit attributable to limited property possible disallowance under section 46(f) shall be disregarded.

(3) *Additional credit allowed*—(i) *Credit earned in taxable year.* The amount of additional credit allowed for credit earned for limited property for taxable year is an amount equal to the excess of—

(A) The credit allowed by section 38 for the taxable year (determined without regard to section 46(b)) multiplied by a fraction, the numerator of which is the amount of credit earned for limited property for the taxable year and the denominator of which is the amount of credit earned for all section 38 property for the taxable year, over

(B) The amount of normal credit allowed for limited property for the taxable year (determined without regard to section 46(b)). The amount of normal credit allowed for limited property is the amount of credit that would be allowed for the taxable year determined as if the Tax Reduction Act had not been enacted multiplied by a fraction, the numerator of which is the amount of credit earned for limited property for the taxable year determined as if the Tax Reduction Act had not been enacted and the denominator of which is the credit earned for all section 38 property for the taxable year determined as if the Tax Reduction Act had not been enacted.

(ii) *Carryover or carryback to taxable year.* The amount of additional credit allowed for limited property attributable to a carryover or a carryback of any unused credit to any taxable year in an amount equal to the excess of—

(A) The amount of credit allowed by section 38 for the taxable year by reason of section 46(b) multiplied by the fraction contained in paragraph (a)(3)(i)(A) of this section for the unused credit year, over

(B) The amount of unused normal credit allowed for limited property for the taxable year. The amount of unused normal credit allowed for limited property is the amount of unused credit that would be allowed for the taxable year under section 38 by reason of section 46(b), taking into account the amount of unused credit that would be

allowed for any preceding year, determined as if the Tax Reduction Act had not been enacted, multiplied by the fraction contained in paragraph (a)(3)(i)(B) of this section for the unused credit year.

(b) *New election*—(1) *In general.* A taxpayer who made a 1972 election for immediate flow-through under section 46(f)(3) with respect to limited property may elect to apply section 46(f)(3) to the additional credit allowed by the Tax Reduction Act of 1975 with respect to such property, or, if eligible, may make the election in paragraph (b)(2) of this section to apply section 46(f)(2) to such additional credit. The election to apply section 46(f) (2) or (3) must be made before June 28, 1975, in the manner provided in paragraph (c) of this section. If the taxpayer does not make a new election, section 46(f)(1) shall apply to additional credit for limited property. However, if the taxpayer made a 1972 election under section 46(f)(2) with respect to property to which section 46(f)(3) does not apply, then section 46(f)(2) shall apply to such additional credit notwithstanding any prohibition in section 46(f)(3) to the contrary.

(2) *Special section 46(f)(2) election.* A taxpayer who:

(i) Made a 1972 election under section 46(f)(3),

(ii) Did not make an election to apply section 46(f)(2) with respect to property to which section 46(f)(3) does not apply, and

(iii) Did not acquire property to which section 46(f)(1) applied in any taxable year ending before January 1, 1975, may elect to apply section 46(f)(2) to the additional credit allowed by the Tax Reduction Act of 1975 with respect to limited property notwithstanding any prohibition in section 46(f)(3) to the contrary.

(c) *Method of making election.* A taxpayer may make an election described in paragraph (b) of this section by filing a statement before June 28, 1975, with the district director or director of the internal revenue service center with whom the taxpayer ordinarily files its income tax return. For rules with respect to taxpayers filing consolidated returns, see § 1.1502-77(a) of part 1 of this chapter. The statement shall contain the following information: (1) the name, address, and taxpayer identification number of the taxpayer, and (2) the election which the taxpayer is making under paragraph (b) of this section. If a taxpayer is electing flow-through under section 46(f)(3), the statement shall also contain a written recitation that the election is made at the taxpayer's own option and without regard to any requirement imposed by an agency described in section 46(c)(3)(B) having jurisdiction over the taxpayer. The recitation shall be verified by a written declaration that it is made under the penalties of perjury.

Because of the need for immediate guidance with respect to the manner of making the election provided by section 301(b)(3) of the Tax Reduction Act of 1975 (Pub. L. 94-12), it is found impractical to issue this Treasury decision with notice and public procedure thereon under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

(Sec. 46(f) and 7805 of the Internal Revenue Code of 1954 (85 Stat. 503, 68A Stat. 917; 26 U.S.C. 46, 7805).)

[SEAL] DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved: June 12, 1975.

FREDERIC W. HICKMAN,
Assistant Secretary of the Treasury.

[FR Doc.75-15773 Filed 6-13-75;8:45 am]

proposed rules

FARM CREDIT ADMINISTRATION

[12 CFR Part 612]

PERSONNEL ADMINISTRATION

Proposed Rulemaking

Notice is hereby given that the Farm Credit Administration, by its Federal Farm Credit Board, has under consideration proposed amendments of its regulations as set forth below in tentative form. These amendments would (1) clarify the handling of political activities of employees of Farm Credit institutions; (2) clarify that all employees of Farm Credit institutions are required to devote their full business time to the effective accomplishment of their duties; (3) clarify what acts are prohibited for salaried employees of Farm Credit institutions; (4) provide for a policy to be adopted by each district bank board requiring the bank to adopt a procedure for handling conflicts of interest cases; (5) restate the circumstances for reporting of conflicts of interest transactions by interested personnel; (6) clarify the procedure for enforcing the conflicts of interest prohibition; (7) clarify the reporting of conflicts of interest cases by associations; (8) reidentify the office to which reports shall be made of credit extended to financing institutions under certain circumstances; (9) clarify the reporting of conflicts of interests which may be involved in a loan transaction requiring prior approval or advice from the Farm Credit Administration.

Prior to final adoption of such amendments, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing (10 copies) no later than July 18, 1975, to W. M. Harding, Governor, Farm Credit Administration, Washington, DC 20578. Copies of all communications received will be available for examination by interested persons in the Office of Director, Information Division, Office of Administration, Farm Credit Administration.

PART 612—PERSONNEL ADMINISTRATION

Chapter VI of Title 12 of the Code of Federal Regulations is amended by revising §§ 612.2060(a), 612.2150, 612.2160, 612.2170, 6122230, 612.2240, 612.2250, 612.2260, and 612..2270 These amendments are as follows:

§ 612.2060 Political activity.

(a) No salaried officer, employee, or agent of a Farm Credit institution shall hold a public office or be a candidate for such office unless the bank by which he is employed or which supervises his employer has, after investigation and consideration of all facts involved, determined in writing that such candidacy or holding of public office would not bring justified criticism on the grounds of political activities or partialities or in any other manner adversely affect the best interests of the borrowers or the operations and public image of the system or any institutions thereof. All determinations made hereunder shall be reported to the board of directors of the bank concerned and, in the case of a bank employee, shall be approved by the board.

* * * * *

§ 612.2150 Devotion of time to official duties.

Salaried officers, employees, and agents of Farm Credit institutions are required to devote the full business time for which they are employed to the effective accomplishment of the duties assigned them by the institutions in which they are employed. They are also expected to refrain from accepting employment or compensation for activities, even for services rendered outside of the business hours for which they are employed, which might embarrass the Farm Credit institution or the Farm Credit Administration or reflect adversely upon their ability to take an unbiased and impartial view of its operations.

§ 6112.2160 Prohibited acts for salaried employees.

A salaried officer, employee, or agent of any institution of the Farm Credit System:

(a) Shall not participate, directly or indirectly, in the deliberation upon, or the determination of, any question affecting his personal interests, those of any person related to him by blood, marriage, or adoption, or those of any partnership, association, or any business organization in which he is directly or indirectly interested. An act shall not be deemed enjoined by this paragraph (a) if the employing institution determines that the degree of interest or relationship in question is not substantial but so trivial as to create little probability that the officer's, employee's, or agent's impartiality of judgment and action has been affected, and such determination has been reported to the board of directors of the employing institution. Such report shall be reflected in the minutes of the board meeting;

(b) Shall not use for his own personal benefit or that of another person or, except in the performance of his official duties, divulge to another person any fact or information acquired, directly or indirectly, by virtue of his employment which is not generally available to the public;

(c) Shall not solicit, accept, or receive, directly or indirectly, any salary, fee, commission, honorarium, gift, or other benefit from any borrower or debtor of any Farm Credit institution, from any loan applicant or his representative, from any purchaser from or seller to any borrower or loan applicant, or from any person transacting business with a Farm Credit institution; Exceptions: Such officer, employee, or agent may,

(1) enter into bona fide transactions with borrowers, debtors, and loan applicants (or their representatives) of the institution by which he is employed,

(i) for services to be performed on a farm owned or rented by him or on other property in which he has an interest;

(ii) for the purchase of farm supplies and products to be used on a farm owned or rented by him;

(iii) for the sale of farm supplies and products produced on a farm owned or rented by him; or

(iv) for the rental of real property by or to him;

if such transactions are arranged in good faith as the result of arms-length negotiations, and, except for transactions in which the fair market value of services, supplies, or products does not exceed $500, have received the prior written authorization of the board of directors of the institution by which he is employed. All transactions shall be reported to the board and any action required of the board shall be reflected in the minutes of the board meeting and, if an officer, employee, or agent of an association is involved, the board action shall be reported to the bank officer designated pursuant to § 612.2170,

(2) accept food and refreshments of nominal value on infrequent occasions in the ordinary course of a luncheon or dinner meeting or other meeting where such officer, employee, or agent is in attendance,

(3) accept unsolicited advertising or promotional material such as pens, pencils, note pads, calendars, and other items of nominal value,

(4) accept any benefit otherwise enjoined by this paragraph (c) if the circumstances make clear that the motivating factor for the extension of such benefit is not based on the official responsibilities of such officer, employee, or agent or of the institution by which he is employed and, in any way, connected with any business activity he is engaged in, other than an activity referred to in subparagraph (1), and with any business of the other person or organization concerned, and that the offer of such benefit has been reported to and its acceptance has received the prior written authorization of the board of directors of the employing institution and, if an association officer, employee, or agent is involved, by the board of directors of the supervising bank. The action of the board shall be reflected in the minutes of the board meeting and brought to the attention of the bank officer designated pursuant to § 612.2170 (c).

(d) Shall not acquire, directly or indirectly (including acquisition by membership in syndicates, but not by will or inheritance):

(1) any lands or interests therein, including mineral interests, which are owned by any Farm Credit institution or which were thus owned at any time within the preceding 12 months,

(2) any mineral interests in lands which are mortgaged to any Farm Credit institution or which were thus mortgaged at any time within the preceding 12 months, but this shall not prohibit mineral interests being acquired incidentally with surface interests, or

(3) any interests in lands (including mineral interests being acquired incidentally with surface interests) which are mortgaged to any Farm Credit institution or which were thus mortgaged at any time within the preceding 12 months, without obtaining the specific prior approval of such institution's board of directors. Such action shall be reported in the minutes of the board meeting. As used in this paragraph (d), "mineral interests" means any interest in minerals, oil, or gas, including but not limited to, any right derived, directly or indirectly, from a mineral, oil, or gas lease, deed, or royalty conveyance;

(e) Shall not participate, directly or indirectly, in any transaction concerning the purchase or sale of corporate stocks or bonds, commodities, or other property for speculative purposes if such action might tend to interfere with the proper and impartial performance of his duties or bring discredit upon any Farm Credit institution. Employees are not prohibited by this paragraph from making bona fide investments. When an employee is uncertain as to whether a contemplated transaction would constitute a violation of this paragraph, he should seek the advice, in accordance with procedures adopted by the district bank, of the officer designated pursuant to § 612.2170 (c);

(f) Shall not have a business relation, directly or indirectly, with a borrower or loan applicant, except in an official capacity as employee of the Farm Credit institution, unless the board of directors of the institution by which he is employed, in carrying out the intention of this § 612.2160, has made a prior determination in writing that such business relation reasonably cannot be viewed as a scheme or device to influence a decision in which a Farm Credit institution has an interest and, if the employing institution is an association, such determination is reported to and concurred in by the board of directors of the supervising bank. The actions of the boards shall be reflected in the minutes of the board meetings and brought to the attention of the officer designated pursuant to § 612.2170(c). Examples of such a business relation include the purchase or sale of personal or real property, sale or placement of insurance, salesbarn activities, and auctioneering, appraisal, and other professional services but do not include the transactions described in paragraph (c) (1) and (4);

(g) Shall not purchase or acquire, directly or indirectly while he serves on a finance committee or subcommittee, except by will or inheritance, any interest in any obligations of the bank or banks for which he participated in establishing rates;

(h) Shall not also serve as an officer or director of an organization that transacts business with a Farm Credit institution, or of a financial institution unless the board of directors of the bank by which he is employed or which supervises his employer has determined that the involvement by such financial institution in the type of lending engaged in by the bank or his employer is so trivial as to create little probability of any significant impact upon the bank's or his employer's business, and has agreed in writing not to participate on the financial institution's loan committee or in the deliberation upon, or determination of, any question coming before the financial institution's board which has more than nominal significance to the bank or his employer. Such action shall be reported in the minutes of the board meeting;

(i) The provisions of §§ 612.2110 and 612.2120, and not this § 612.2160, apply to directors of Farm Credit banks and associations.

§ 612.2170 Prohibited acts procedures.

Under a policy of its board applicable to the acts prohibited by § 612.2160, each district bank shall adopt procedures which will assure that:

(a) the provisions of § 612.2160 are brought to the attention from time to time of all officers, employees, and agents of Farm Credit institutions and directors of associations in the district;

(b) all cases (i.e., violations and possible violations) arising under § 612.2160 involving officers, employees, or agents of the bank, or of associations under its supervision, are brought to the attention of the bank's board;

(c) an officer of the bank is designated (1) to receive reports of all cases arising under § 612.2160 involving officers, employees, or agents of the bank and of associations under its supervision, (2) to report promptly in writing to the Office of Examination cases arising under paragraphs (a) through (g) thereof, (3) to record actions taken to resolve every case involving § 612.2160, and (4) to submit a semiannual report in writing of such actions to the Office of Examination.

§ 612.2230 Report by personnel.

The director, officer, or employee involved or interested in any transaction to which §§ 612.2120 and 612.2160 are applicable shall report in writing to the appropriate officer of the interested bank or association and disclose his interest and status in the matter unless, in the case of a loan application, the application itself discloses such information. The interested bank or association is the one that is a party to the transaction and not the employing bank or association or the one on whose board the director serves, unless they happen to be the same.

§ 612.2240 Prohibited acts enforcement.

(a) The Office of Examination shall investigate any case involving an act prohibited by paragraphs (a) through (g) of § 612.2160 if it determines that such action is necessary or advisable. A copy of the investigation report shall be submitted to the president of the district bank concerned and to the officer designated as provided in § 612.2170(c).

(b) The bank shall, with regard to any prohibited act evidenced by the investigation report, take prompt action in a manner that will assure the integrity of the Farm Credit institution concerned and the confidence of the public in it.

(c) The board of directors of the bank shall, with regard to a case arising under paragraph (h) of § 612.2160, take prompt action to assure compliance therewith.

§ 612.2250 Reports of transactions with directors, officers, or employees.

The associations shall report transactions to which §§ 612.2120, 612.2160, 612.2210, and 612.2230 apply fully in writing to the officer of the supervising bank designated pursuant to § 612.2170(c).

§ 612.2260 Reports of credit extended to financing institutions.

Any bank or association extending credit to a financing institution not in the Farm Credit System upon the basis of any note or other obligation of a director, officer, or employee of a Farm Credit institution, including any obligation or any endorsement in which such director, officer, or employee has a personal financial interest, shall be reported to the Deputy Governor, Office of Credit and Operations at the time the transaction comes to the attention of the Farm Credit bank. This section shall not apply to the fulfillment of existing contracts with such institutions in accordance with their terms where there is no change in the parties of interest or the ownership of the related property, to the sales of surplus equipment and supplies in accordance with the rules of disposition of such property, or the discounting by a Federal intermediate credit bank of a PCA loan, or to the making of a loan by a bank for cooperatives except as such loans or discounts are required by other regulations to be submitted for prior approval.

§ 612.2270 Other reports to Farm Credit Administration.

In connection with any loan transaction required by regulations not contained in this Subpart B to be submitted to the Deputy Governor, Office of Credit and Operations, for prior approval or advice and counsel, if there is involved a violation or possible violation of a regulation in this Subpart B, a report of such violation or possible violation shall be included with the loan transaction submission. Such report shall not be in lieu of the report required by § 612.2170. All directors, officers, and employees shall be advised of the circumstances in which reports are required under this § 612.-2270.

(Secs. 5.6, 5.9, 5.18, 5.19, 5.26, 85 Stat. 616, 619, 621, 624)

W. M. HARDING,
Governor,
Farm Credit Administration.

[FR Doc.75-15527 Filed 6-13-75;8:45 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

WAR VETERANS ORGANIZATIONS

Proposed Tax Exemptions and Special Treatment of Unrelated Business

Notice is hereby given that the regulations set forth in tentative form in the attached appendix are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments pertaining thereto which are submitted in writing (preferably six copies) to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by July 17, 1975. Pursuant to 26 CFR 601.-601(b), designations of material as confidential or not to be disclosed, contained in such comments, will not be accepted. Thus, a person submitting written comments should not include therein material that he considers to be confidential or inappropriate for disclosure to the public. It will be presumed by the Internal Revenue Service that every written comment submitted to it in response to this notice of proposed rule making is intended by the person submitting it to be subject in its entirety to public inspection and copying in accordance with the procedures of 26 CFR 601.702 (d)(9). Any person submitting written comments who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by July 17, 1975. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER, unless the person or persons who have requested a hearing withdraw their requests for a hearing before notice of the hearing has been filed with the Office of the Federal Register. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] WILLIAM E. WILLIAMS,
Acting Commissioner of Internal Revenue.

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) in order to reflect the addition to the Internal Revenue Code of 1954 of sections 501(c)(19) and 512(a)(4) by the Act of August 29, 1972 (Pub. L. 92-418, 86 Stat. 656). Such Act added to the list of organizations exempt from taxation under section 501(a) certain war veterans organizations which are described in the added section 501(c)(19).

Section 512(a)(4) was added by such Act to permit such organizations to exclude from the tax on unrelated business taxable income any amounts attributable to payments for life, sick, accident, or health insurance with respect to members of such organizations or their dependents to the extent these amounts are set aside.

The proposed regulations provide rules under section 501(c)(19) describing this new category of exempt organization, and rules under section 512 relating to the insurance set aside.

Proposed amendments to the regulations. In view of the foregoing, the Income Tax Regulations (26 CFR Part 1) under sections 501 and 512 of the Internal Revenue Code of 1954, as amended, are amended as follows:

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

1. The following new sections are added immediately after § 1.501(c)(18)-1:

§ 1.501(c)(19) Statutory provisions; exemption from tax on corporations, certain trusts, etc.; war veterans organizations.

Sec. 501. *Exemption from tax on corporations, certain trusts, etc.* * * *

(c) *List of exempt organizations.* The following organizations are referred to in subsection (a):

* * * * *

(19) A post or organization of war veterans, or an auxiliary unit or society of, or a trust or foundation for, any such post or organization—

(A) Organized in the United States or any of its possessions,

(B) At least 75 percent of the members of which are war veterans and substantially all of the other members of which are individuals who are veterans (but not war veterans), or are cadets, or are spouses, widows, or widowers of war veterans or such individuals, and

(C) No part of the net earnings of which inures to the benefit of any private shareholder or individual.

[Sec. 501(c)(19) as added by the Act of August 29, 1972 (Pub. L. 92-418, 86 Stat. 656).]

§ 1.501(c)(19)-1 War veterans organizations.

(a) *In general.* (1) For taxable years beginning after December 31, 1969, a veterans post or organization which is organized in the United States or any of its possessions may be exempt as an organization described in section 501(c)(19) if the requirements of paragraphs (b) and (c) of this section are met and if no part of its net earnings inures to the benefit of any private shareholder or individual. Paragraph (b) of this section contains the membership requirements such a post or organization must meet in order to qualify under section 501(c)(19). Paragraph (c) of this section outlines the purposes, at least one of which such a post or organization must have in order to so qualify.

(2) In addition, an auxiliary unit or society described in paragraph (d) of this section of such a veterans post or organization and a trust or foundation described in paragraph (e) of this section for such post or organization may be exempt as an organization described in section 501(c)(19).

(b) *Membership requirements.* (1) In order to be described in section 501(c)(19) under paragraph (a)(1) of this section, an organization must meet the membership requirements of section 501(c)(19)(B) and this paragraph. There are two requirements that must be met under this paragraph. The first requirement is that at least 75 percent of the members of the organization must be war veterans. For purposes of this section the term "war veterans" means a person who has served in the Armed Forces of the United States during a period of war (including the Korean and Vietnam conflicts).

(2) The second requirement of this paragraph is that at least 97.5 percent of all members of the organization must be described in one or more of the following categories:

(i) War veterans,

(ii) Present or former members of the United States Armed Forces,

(iii) Cadets (including only students in college or university ROTC programs or at Armed Services academies), or

(iv) Spouses, widows, or widowers of individuals referred to in paragraph (b)(2)(i), (ii) or (iii) of this section.

(c) *Exempt purposes.* In addition to the requirements of paragraphs (a)(1) and (b) of this section, in order to be described in section 501(c)(19) under paragraph (a)(1) of this section an organization must be operated exclusively for one or more of the following purposes:

(1) To promote the social welfare of the community as defined in § 1.501(c)(4)-1(a)(2),

(2) To assist disabled and needy war veterans and members of the United States Armed Forces and their dependents, and the widows and orphans of deceased veterans,

(3) To provide entertainment, care, and assistance to hospitalized veterans or members of the Armed Forces of the United States,

(4) To carry on programs to perpetuate the memory of deceased veterans and members of the Armed Forces and to comfort their survivors,

(5) To conduct programs for religious, charitable, scientific, literary, or educational purposes,

(6) To sponsor or participate in activities of a patriotic nature,

(7) To provide insurance benefits for their members or dependents of their members or both, or

(8) To provide social and recreational activities for their members.

(d) *Auxiliary units or societies for war veterans organizations.* A unit or society may be exempt as an organization described in section 501(c)(19) and paragraph (a)(2) of this section if it is an auxiliary unit or society of a post or organization of war veterans described in paragraph (a)(1) of this section. A unit or society is an auxiliary unit or society of such a post or organization if it meets the following requirements:

(1) It is affiliated with, and organized in accordance with, the bylaws and regulations formulated by an organization described in paragraph (a)(1) of this section,

(2) At least 75 percent of its members are either war veterans, or spouses of war veterans, or are related to a war veteran within two degrees of consan-

guinity (i.e., grandparent, brother, sister, grandchild represent the most distant allowable relationships),

(3) All of its members are either members of an organization described in paragraph (a)(1) of this section, or spouses of a member of such an organization or are related to a member of such an organization, within two degrees of consanguinity, and

(4) No part of its net earnings inures to the benefit of any private shareholder or individual.

(e) *Trusts or foundations.* A trust or foundation may be exempt as an organization described in section 501(c)(19) and paragraph (a)(2) of this section if it is a trust or foundation for a post or organization of war veterans described in paragraph (a)(1) of this section. A trust or foundation is a trust or foundation for such a post or organization if it meets the following requirements:

(1) The trust or foundation is valid and existing under local law, is evidenced by a written document, and, if organized for charitable purposes, has a dissolution provision described in § 1.501(c)(3)-1(c)(4),

(2) The corpus or income cannot be diverted or used other than for the funding of a post or organization of war veterans described in paragraph (a)(1) of this section, for section 170(c)(4) purposes, or as an insurance set aside (as defined in § 1.512(a)-4(b)),

(3) The trust income is not unreasonably accumulated and, if the trust or foundation is not an insurance set aside, a substantial portion of the income is in fact distributed to such post or organization or for section 170(c)(4) charitable purposes, and

(4) It is organized exclusively for one or more of those purposes enumerated in paragraph (c) of this section.

2. Section 1.512(a)-1 is amended by revising paragraph (a) to read as follows:

§ 1.512(a)-1 Definition.

(a) *In general.* Except as otherwise provided in § 1.512(a)-3, § 1.512(a)-4, or paragraph (f) of this section, section 512(a)(1) defines "unrelated business taxable income" as the gross income derived from any unrelated trade or business regularly carried on, less those deductions allowed by chapter 1 of the Code which are directly connected with the carrying on of such trade or business, subject to certain modifications referred to in § 1.512(b)-1. To be deductible in computing unrelated business taxable income, therefore, expenses, depreciation, and similar items not only must qualify as deductions allowed by chapter 1 of the Code, but also must be directly connected with the carrying on of unrelated trade or business. Except as provided in paragraph (d)(2) of this section, to be "directly connected with" the conduct of unrelated business for purposes of section 512, an item of deduction must have proximate and primary relationship to the carrying on of that business. In the case of an organization which derives gross income from the regular conduct of two or more unrelated business activities, unrelated business taxable income is the aggregate of gross income from all such unrelated business activities less the aggregate of the deductions allowed with respect to all such unrelated business activities.

* * * * *

3. Section 1.512(a) is amended by adding a new paragraph (4) to section 512(a) and by revising the historical note. The new provisions read as follows:

§ 1.512(a) Statutory provisions; unrelated business taxable income; special rule applicable to organizations described in section 501(c)(19).

Sec. 512. *Unrelated business taxable income*—(a) For purposes of this title—

* * * * *

(4) *Special rule applicable to organizations described in section 501(c)(19).* In the case of an organization described in section 501(c)(19), the term "unrelated business taxable income" does not include any amount attributable to payments for life, sickness, accident, or health insurance with respect to members of such organization or their dependents which is set aside for the purpose of providing for the payment of insurance benefits or for a purpose specified in section 170(c)(4). If an amount set aside under the preceding sentence is used during the taxable year for a purpose other than a purpose described in the preceding sentence, such amount shall be included, under paragraph (1), in unrelated business taxable income for the taxable year.

(Sec. 512(a)(4) as added by the Act of August 29, 1972 (Pub. L. 92-418, 86 Stat. 656).)

4. A new § 1.512(a)-4 is added immediately before § 1.512(b) to read as follows:

§ 1.512(a)-4 Special rules applicable to war veteraans organizationss.

(a) *In general.* For taxable years beginning after December 31, 1969, this section provides special rules for the determination of the unrelated business taxable income of an organization described in section 501(c)(19). In general, the rules contained in sections 511 through 514 which are applicable to any organization listed in section 501(c) apply in determining the unrelated business taxable income of an organization described in section 501(c)(19). However, that amount which is paid by members to the organization for the purpose described in paragraph (b)(1) of this section, if set aside from other organizational monies and accounts in an insurance set aside, may be excluded from the unrelated business taxable income of the organization. The insurance set aside shall be used exclusively for providing insurance benefits, for the purposes specified in section 170(c)(4) of the Code, or for the reasonable costs of administering the insurance program that are directly related to such set aside. If an amount so set aside is used for any purposes other than those described in the preceding sentence, it shall be included in unrelated business taxable income, without regard to any modifications provided by section 512(b), in the taxable year in which it is withdrawn from such set aside. Amounts will be considered to have been withdrawn from an insurance set aside if they are used in any manner, such as security for a loan, inconsistent with providing insurance benefits, paying the reasonable costs of administering the insurance program or for section 170(c)(4) purposes.

(b) *Insurance set aside*—(1) *Purpose of payments by members.* Payments by members into an insurance set aside must be for the sole purpose of obtaining life, sick, accident or health insurance benefits from the organization or for the reasonable costs of administration of the insurance program, except that such purpose is not violated when excess funds from an experience gain are utilized for those purposes specified in section 170(c)(4). Funds for any other purpose may not be set aside in the insurance set aside.

(2) *Income from set aside.* In addition to the payments by members described in paragraph (b)(1) of this section, only income from amounts in the insurance set aside may be so set aside. Moreover unless such income is used for providing insurance benefits, for those purposes specified in section 170(c)(4), or for reasonable costs of administration, such income must be set aside within the period described in paragraph (b)(3) of this section in order to avoid being included as an item of unrelated business taxable income under section 512(a)(4).

(3) *Time within which income must be set aside.* Income from amounts in the insurance set aside generally must be set aside in the taxable year in which it would be includible in gross income but for this section. However, income set aside on or before the date prescribed for filing the organization's return of unrelated business taxable income (whether or not it had such income) for the taxable year (including any extension of time) may, at the election of the organization, be treated as having been set aside in such taxable year.

(4) *Computation of income from set aside.* Income from amounts in the insurance set aside shall consist solely of items of investment income from, and other gains derived from dealings in, property in the set aside. The deductions allowed against such items of income or other gains are those amounts which are related to the production of such income or other gains. Only the amounts of income or other gain which are in excess of such deductions may be set aside in the insurance set aside.

(5) *Requirements for set aside.* An amount is not properly set aside if the organization commingles it with any amount which is not to be set aside. However, adequate records describing the amount set aside and indicating that it is to be used for the designated purpose are sufficient. Amounts that are set aside need not be permanently committed to such use either under state law or by contract. Thus, for example, it is not necessary that the organization place these funds in an irrevocable trust. Although set aside income may be accumulated, any accumulation which is unreasonable in amount or duration is evidence that the income was not accumulated for the

purposes set forth. For purposes of the preceding sentence, accumulations which are reasonably necessary for the purpose of providing life, sick, health, or accident insurance benefits on the basis of recognized mortality or morbidity tables and assumed rates of interest under an actuarially acceptable method would not be unreasonable even though such accumulations are quite large and the time between the receipt by the organization of such amounts and the date of payment of the benefits is quite long. For example, an accumulation of income for 20 years or longer which is determined to be reasonably necessary to pay life insurance benefits to members, their dependents or designated beneficiaries, generally would not be an unreasonable accumulation. Income which has been set aside may be invested, pending the action contemplated by the set aside, without being regarded as having been used for other purposes.

[FR Doc.75-15603 Filed 6-13-75;8:45 am]

Internal Revenue Service

[26 CFR Parts 49, 301, and 601]

OBLIGATION TO EFFECT COLLECTION OF FACILITIES AND SERVICES EXCISE TAX

Withdrawal of Notice of Proposed Rule Making

The purpose of this document is to withdraw regulations proposed to be prescribed with respect to the amendment of the Facilities and Services Excise Tax Regulations (26 CFR Part 49) under section 4291 of the Internal Revenue Code of 1954, the Procedure and Administration Regulations (26 CFR Part 301) under section 6672 of the Internal Revenue Code of 1954, and the Statement of Procedural Rules (26 CFR Part 601), relating to clarification of the obligation of a person receiving payment for facilities or services to collect the facilities and services excise taxes, which were published in tentative form with a notice of proposed rule making in the FEDERAL REGISTER on July 28, 1972 (37 FR 15159).

The proposed amendment to § 301.6672-1 would have created a presumption of willful failure to collect in cases where payment is made before the service is rendered but the tax is not collected. If the service was rendered on credit and the tax was not collected at the time of payment, the presumption of willful failure to collect would have arisen unless the person rendering the service terminated the credit privileges of the payor within a reasonable period after having received the payment. Unless the person receiving the payment could overcome the presumption, such person would have become liable for the 100-percent penalty imposed by section 6672 of the Internal Revenue Code.

A number of written comments were received in response to the notice and a public hearing was requested and held on November 13, 1972. All written comments received and speakers who appeared at the public hearing opposed the proposed amendments.

The principal objections were that the proposed amendments would (1) require telephone companies to violate Federal and State telephone tariffs by terminating telephone service to customers solely because they fail to pay excise tax, and (2) shift primary responsibility and expense for collection of Federal excise taxes from the Internal Revenue Service to those providing taxable facilities and services.

In consideration of the foregoing, the regulations proposed to be prescribed with respect to the amendment of the Facilities and Services Excise Tax Regulations (26 CFR Part 49) under section 4291 of the Internal Revenue Code of 1954, The Procedure and Administration Regulations (26 CFR Part 301) under section 6672 of the Internal Revenue Code of 1954, and the Statement of Procedural Rules (26 CFR Part 601), relating to clarification of the obligation of a person receiving payment for facilities or services to collect the excise taxes, which were published in tentative form with a notice of proposed rule making in the FEDERAL REGISTER on July 28, 1972 (37 FR 15159), are hereby withdrawn.

[SEAL] DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

[FR Doc.75-15604 Filed 6-13-75;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 917]

FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

Limitation of Handling

This notice invites written comments relative to a proposal to continue, through May 31, 1976, the currently effective grade and size requirements on the handling of fresh California plums. The requirements are specified by Plum Regulation 11 (§ 917.438; 40 FR 22534) issued pursuant to Marketing Order No. 917. Said regulation currently prescribes that all California plums handled be of U.S. No. 1 grade except that additional tolerances for defects not considered serious, including healed cracks and gum spots, are permitted for specified varieties. It also specifies minimum sizes for certain named varieties in terms of the number of plums contained in an eight-pound sample. The proposal reflects the Plum Commodity Committee's objective which is to assure consumer satisfaction and orderly marketing of the 1975 California plum crop through a regulation which would cover the entire shipping and harvesting season for such plums.

Consideration is being given to the following proposals submitted by the Plum Commodity Committee, established pursuant to the amended marketing agreement and Order No. 917, as amended (7 CFR Part 917), regulating the handling of fresh pears, plums, and peaches grown in California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The proposal is to amend § 917.438 (Plum Regulation 11; 40 FR 22534) to continue the effective period of said regulation through May 31, 1976. The present regulation is effective through July 7, 1975.

All persons who submit written data, views, or arguments for consideration in connection with Plum Regulation 11 as published in the FEDERAL REGISTER on May 23, 1975 (40 FR 22534), or the proposed amendment published herein shall file the same, in quadruplicate, with the Hearing Clerk, United States Department of Agriculture, Room 112A, Washington, D.C. 20250, not later than June 25, 1975. Such a period for the submission of written material is reasonable in view of the expiration date of the existing regulation. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Under the proposal, the provisions of § 917.438 in paragraph (a), paragraph (b) preceding subparagraph (1) thereof, and paragraph (c) preceding Table I would be amended to read as follows:

§ 917.438 Plum Regulation 11.

Order. (a) During the period May 24, 1975, through May 31, 1976, no handler shall ship any lot of packages or containers of any plums, other than the varieties named in paragraph (b) hereof, unless such plums grade at least U.S. No. 1.

(b) During the period May 24, 1975, through May 31, 1976, no handler shall ship: * * *

(c) During the period May 24, 1975, through May 31, 1976, no handler shall ship any package or other container of any variety of plums listed in Column A of the following Table I unless such plums are of a size that an eight-pound sample, representative of the sizes of the plums in the package or container, contains not more than the number of plums listed for the variety in Column B of said table.

* * * * *

Dated: June 11, 1975.

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

[FR Doc.75-15586 Filed 6-13-75;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Parts 1909, 1910, 1911, 1914, 1915, and 1917]

[Docket No. N-75-374]

FLOOD PLAIN MANAGEMENT CRITERIA

Public Hearings

The purpose of this notice is to announce the locations and other information concerning the Public Hearings previously announced by publication on March 26, 1975, in the FEDERAL REGISTER, at 40 FR 13422.

Pursuant to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968), 42 U.S.C. 4001–4128, effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended by sections 408–410 of the Housing and Urban Development Act of 1969 (Pub. L. 91–152, December 24, 1969), the Flood Disaster Protection Act of 1973 (87 Stat. 980), section 816 of the Housing and Community Development Act of 1974 (87 Stat. 975), and the Secretary's Delegation of Authority to the Federal Insurance Administrator dated February 27, 1969 (34 FR 2680), as amended January 24, 1974 (39 FR 2787), the Federal Insurance Administrator is considering the revision of Parts 1909, 1910, 1911, 1914, 1915, and 1917. The revisions, which are based on experience gained in the operation of the program, set forth revised criteria for flood plain management required in connection with the National Flood Insurance Program and related changes based on those revisions.

The proposed revisions were published for comment in the FEDERAL REGISTER on March 26, 1975, at 40 FR 13420–13433. As of the date of this notice approximately 100 written comments have been received by formal submission to the Rules Docket Clerk or to the Administrator.

Section 1361 of the National Flood Insurance Act of 1968 requires the Federal Insurance Administrator to develop comprehensive criteria designed to encourage, where necessary, the adoption of adequate state and local measures which, to the maximum extent feasible will: (1) Constrict the development of land which is exposed to flood damage where appropriate, (2) guide the development of proposed construction away from locations which are threatened by flood hazard, (3) assist in reducing damage caused by floods, and (4) otherwise improve the long-range land management and use of flood-prone areas, and to work closely with and provide any necessary technical assistance to State, interstate, and local governmental agencies, to encourage the application of such criteria and the adoption and enforcement of such measures.

The effectiveness of the National Flood Insurance Program rests with the effectiveness of implementation of flood plain management criteria by those communities. Therefore, the policy of the Administrator is to promulgate standards based on both the best technical and scientific data made available on a nationwide basis, while at the same time recognizing that individual communities may elect to adopt stricter flood plain management criteria in order to protect lives and property. It is the policy of the Administrator to encourage communities to adopt stricter standards. Therefore, the public hearings have the additional purpose of providing the Administrator with information concerning special problems in flood plain management that may be necessary to protect property and provide for human safety.

Accordingly, the schedule for the public hearings is as follows:

Friday, June 27, 1975: GSA Auditorium, 19th and P Street NW., Washington, D.C.

Monday, June 30, 1975: Bayfront Park Auditorium, 499 Biscayne Boulevard, Miami, Florida.

Wednesday, July 2, 1975: Tulane University School of Medicine Auditorium, 1430 Tulane Avenue, New Orleans, Louisiana 70112.

Monday, July 7, 1975: Board of Supervisors' Hearing Room, Los Angeles County, Hall of Administration, 500 West Temple Street, Los Angeles, California.

Wednesday, July 9, 1975: Shawnee Mission West High School, 8800 West 85th Street, Overland Park, Kansas (Kansas City, Kansas).

Friday, July 11, 1975: Northwestern University, Downtown Campus, Thorne Hall Auditorium, 740 North Lakeshore Drive, Chicago, Illinois.

Monday, July 14, 1975: Pace University, Schimmell Center for the Arts Auditorium, Pace Plaza, Spruce Street at Williams Street, New York, New York 10038.

Time will be provided on the agenda for representatives of any organization or the general public subject to time limitations stated below. However, written statements may be filed before, during, or after the hearing and such statements will be entered into the transcript of the appropriate hearing.

Prepared statements filed at the registration table will be accepted in order. In general, those with prepared statements, or who wish to orally supplement their prepared statements will be scheduled prior to those who wish to present information but have no prepared written statements. Oral presentations will be limited to 10 minutes, subject to extension at the discretion of the Administrator, if time, and the number of persons wishing to present oral testimony, permits.

The agenda for the hearings will generally be as set forth below. However, all sessions are open to the general public, subject only to limitations based on available space.

AGENDA

MORNING AND AFTERNOON SESSIONS

Presentations by Federal, State and local officials, interest groups and organizations and the general public.

8:30 a.m.–9:30 a.m.—Registration.
9:30 a.m.—Opening statement—J. Robert Hunter.
9:45 a.m.–12 a.m.—Presentation of testimony.
12 a.m.–2 p.m.—Noon recess.
2 p.m.–4:30 p.m.—Continuation.

EVENING SESSION

Presentations by the general public.

6:30 p.m.–7 p.m.—Registration.
7 p.m.–7:15 p.m.—Opening statement—J. Robert Hunter.
7:15 p.m.–10 p.m.—Presentation of testimony, general public.

All communications concerning these hearings should be addressed to the Federal Insurance Administrator, Department of Housing and Urban Development 451 Seventh Street SW., Washington, D.C. 20410.

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

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.75–15519 Filed 6–13–75;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 75–SO–62]

PATTEN/PAN AVION MODELS LSR–174( ) AND LSR–174(2) EVACUATION SLIDES

Airworthiness Directive

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to Patten/Pan Avion Models LSR–174( ) and LSR–174(2) evacuation slides, S/N's 473 through 524. There has been a report of Patten/Pan Avion Model LSR–174(2) slide, P/N 1600–19, inflation hose failures during requalification tests conducted at low temperature extremes which resulted in slide non-inflation. The hose type which failed is utilized on both the Models LSR–174(2) (automatic) and LSR–174 ( ) (manual) inflation slides with single cylinder systems.

Since this condition is likely to exist or develop in other slides of the same design, the proposed airworthiness directive would require replacement of the inflation hoses on Patten/Pan Avion Models LSR–174( ) and LSR–174(2) slides.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Chief, Engineering and Manufacturing Branch, P.O. Box 20636, Atlanta, Georgia 30320. All communications received on or before July 7, 1975, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments in the Rules Docket, Room 275, 3400 Whipple Street, East Point, Georgia, for examination by interested persons.

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

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

PATTEN/PAN AVION

Applies to Pan Avion and Patten/Pan Avion Models, LSR-174( ) and LSR-174(2) Evacuation Slides, Serial Numbers 473 through 524.

Compliance required as indicated.

To prevent loss of pressure in the evacuation slide inflation system, within 500 hours' time in service after the effective date of this AD, unless already accomplished, replace the Patten/Pan Avion part numbers 1500-11A, Model LSR-174( ), and 1600-19, Model LSR-174(2), inflation hoses with part numbers 1500-54, Model LSR-174( ), and 1600-23, Model LSR-174(2), hoses in accordance with Patten/Pan Avion Service Bulletin 27-75 dated February 28, 1975, or later FAA approved revision.

Issued in East Point, Ga., on June 5, 1975.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.75-15517 Filed 6-13-75;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 75-SO-64]

TRANSITION AREA

Proposed

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Flemingsburg, Ky., transition area.

Interested persons may submit such written data, views or arguments as they desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before July 16, 1975, will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 645, 3400 Whipple Street, East Point, Ga.

The Flemingsburg transition area would be designated as:

FLEMINGSBURG, KY.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Fleming-Mason Airport (latitude 38°32'33" N., longitude 83°44'25" W.); within 3 miles each side of the 061° bearing from Flemingsburg RBN (latitude 38°32'17" N., longitude 83°44'49" W.), extending from the 6.5-mile radius area to 8.5 miles northeast of the RBN.

The proposed designation is required to provide controlled airspace protection for IFR operations at Fleming-Mason Airport. A prescribed instrument approach procedure to this airport, utilizing the Flemingsburg (Private) Nondirectional Radio Beacon, is proposed in conjunction with the designation of this transition area.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348 (a)) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on June 5, 1975.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.75-15518 Filed 6-13-75;8:45 am]

National Highway Traffic Safety Administration

[49 CFR Part 553]

[Docket No. 75-17; Notice 1]

RULEMAKING PROCEDURES

Initiation or Petition

This notice proposes to amend Title 49, Code of Federal Regulations, Part 553, *Rulemaking Procedures* by deleting those sections of the Part which set out procedures by which interested persons may petition the NHTSA to undertake rulemaking. In a notice published on May 16, 1975 (40 FR 21486), it was proposed that those procedures be incorporated in a new Part 552, *Petitions for Rulemaking, Defect, and Noncompliance Orders*, of Title 49, Code of Federal Regulations.

Part 553 would consequently be amended to provide (§ 553.11) that the National Highway Traffic Safety Administrator may initiate rulemaking on his own motion, on the recommendation of other agencies of the Federal Government, or on petition by any interested person after a determination in accordance with the proposed Part 552 that grant of the petition is advisable.

The amendment would also reverse the order of sections dealing with initiation of rulemaking and notice of proposed rulemaking, presently set out in §§ 553.11 and 553.13, respectively, to more closely follow the chronology of the rulemaking process.

Interested persons are invited to submit comments on the proposal. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

In light of the foregoing, it is proposed that 49 CFR Part 553, *Rulemaking Procedures* be amended as follows:

1. Section 553.11 would be revised to read as follows:

§ 553.11 Initiation of rulemaking.

The Administrator may initiate rulemaking either on his own motion or on petition by any interested person after a determination in accordance with Part 552 of this title that grant of the petition is advisable. The Administrator may, in his discretion, also consider the recommendations of other agencies of the United States.

2. Section 553.13 would be revised to read as follows:

§ 553.13 Notice of proposed rulemaking.

Unless the Administrator, for good cause, finds that notice is impracticable, unnecessary, or contrary to the public interest, and incorporates that finding and a brief statement of the reasons for it in the rule, a notice of proposed rulemaking is issued and interested persons are invited to participate in the rulemaking proceedings under applicable provisions of the Acts.

§§ 553.31 and 553.33 [Reserved].

3. Sections 553.31 and 553.33 would be revoked and reserved.

Comment closing date. July 16, 1975.

Proposed effective date. July 16, 1975.

(Sec. 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1407); delegations of authority at 49 CFR 1.51 and 49 CFR 501.8.)

Issued on June 10, 1975.

ROBERT L. CARTER,
Associate Administrator, Motor Vehicle Programs.

[FR Doc.75-15531 Filed 6-13-75;8:45 am]

CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Parts 1500, 1512]

BICYCLE BANNING AND SAFETY REGULATIONS

Proposed Amendments

The purpose of this document is to respond to petitions for amendment of the bicycle banning and safety regulations (16 CFR 1500.18(a)(12) and 16 CFR Part 1512); to respond to requests for interpretations of various sections of the regulations; and to propose amendments to those sections of 16 CFR Part 1512 pertaining to sharp edges, protrusions, control cable abrasion, attachment hardware, brakes for bicycles and sidewalk bicycles, pedals, tires, locking devices on wheels, frames, and reflectors.

BACKGROUND

The bicycle banning and safety regulations were proposed by the Commis-

sioner of Food and Drugs in the FEDERAL REGISTER of May 10, 1973 (38 FR 12300), under provisions of the Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.) and a delegation of authority from the Secretary of Health, Education, and Welfare (21 CFR 2.120).

On May 14, 1973, the authority to issue regulations under the Federal Hazardous Substances Act was transferred to the Consumer Product Safety Commission by section 30(a) of the Consumer Product Safety Act (86 Stat. 1231; 15 U.S.C. 2079(a)).

In the FEDERAL REGISTER of July 16, 1974 (39 FR 26100), the Commission promulgated 16 CFR Part 1512, a regulation prescribing safety requirements for bicycles, and 16 CFR 1500.18(a)(12), a regulation classifying certain bicycles as banned toys or articles intended for use by children.

Introduction or receipt in interstate commerce of any banned toy or article intended for use by children is prohibited by section 4 of the Federal Hazardous Substances Act (15 U.S.C. 1263). Additionally, section 6 of the act (15 U.S.C. 1265) authorizes seizure of any such toy or article introduced into interstate commerce, and section 15 of the act (15 U.S.C. 1274) and a regulation promulgated thereunder (16 CFR 1500.-202) require repurchase of any banned toy or other article intended for use by children that is introduced into interstate commerce.

REACTION TO PROMULGATION

After promulgation of the bicycle regulations on July 16, 1974, the Commission received more than 50 written communications thereon. Several of these stated that the effective date of the regulations (January 1, 1975) would not allow adequate time for redesign, retooling, testing, and production of complying bicycles, and requested extension of the effective date to July 1, 1975. Others objected to various provisions of the regulations and requested a public hearing under 16 CFR 1500.201. After consideration of these communications, the Commission concluded that 16 CFR 1500.201 was not applicable to the bicycle regulations and that it would treat these communications as petitions to amend the regulations. Although the Commission determined that a public hearing in accordance with 16 CFR 1500.201 was not required, it directed its staff to conduct a public meeting with all interested parties to receive information relevant to the petitions for amendment of the regulations.

After notice of the meeting was published in the FEDERAL REGISTER on September 3, 1974 (39 FR 31943), members of the Commission staff met with interested parties on September 9 and 10, 1974. Copies of all petitions concerning the bicycle regulations received after July 16, 1974, and a transcript of the presentations made at the public meeting are available for inspection in the Office of the Secretary, 10th Floor, 1750 K Street, NW, Washington, D.C.

RESPONSE TO PETITIONS

In the FEDERAL REGISTER of December 16, 1974 (39 FR 43536), the Commission published an order suspending the effective date of the bicycle regulations until further notice. On January 7, 1975 (40 FR 1493), the Commission proposed a new effective date for the regulations and proposed amendments to § 1512.5(c)(3), footbrake crank differential; § 1512.-6(e), requirements for handlebar and clamps; § 1512.9(a), requirements for chain guard; § 1512.18(h)(1), handlebar stem-to-fork clamp test; and § 1512.-19(e), instructions and labeling. A period of 30 days was provided for comment by interested parties on these proposals, and comments are presently being considered.

On January 16 and 24, 1975, members of the Commission staff attended public meetings with manufacturers of bicycles and components, and other interested parties, to discuss various petitioned changes in the regulations that were not included in the proposal of January 7, 1975. Additional public meetings on the same subject were conducted on February 3 and 19, March 19, and April 22, 1975. The Commission's responses to these requests for changes not covered by the previous proposal are as follows:

SIDEWALK BICYCLES

Five petitioners object to § 1512.2(b) which defines a "sidewalk bicycle" as a bicycle with a seat height of 635 mm (25 inches) or less when the seat is adjusted to its highest position. These petitioners urge amendment of § 1512.2(b) to define a sidewalk bicycle as a bicycle with a maximum seat height of 711 mm (28 inches) or less.

The petitioners state that the definition in § 1512.2(b) represents a substantial change from the sidewalk bicycle definition proposed on May 10, 1973, which defined a sidewalk bicycle as a bicycle with a seat height of less than 610 mm (24 in) when the seat is adjusted to its lowest position.

While the definition of sidewalk bicycle in promulgated § 1512.2(b) is slightly more limiting than that originally proposed, the proposal indicated that the classification of sidewalk bicycles would be based on seat height and gave a particular dimension as a basis for discussion. Because all interested parties were given an opportunity to comment on the proposed definition the Commission concludes that the petitioners were not denied administrative due process.

These petitioners also state that the maximum dimension for the seat height of a sidewalk bicycle in promulgated § 1512.2(b) was selected arbitrarily and without regard to the size of young children who use sidewalk bicycles.

The Commission's intention was and is that small bicycles ridden by very young children inside houses or on sidewalks not be subject to all requirements applicable to bicycles suitable for use by older children on streets. Available data indicate that many children 8 years old and older would be able to ride a bicycle with a maximum seat height of 711 mm (28 in). The Commission concludes that if the maximum seat height for a sidewalk bicycle were raised to 711 mm (28 in), older children would be attracted toward riding these bicycles on streets and therefore these sidewalk bicycles would need to be subject to the same safety requirements for bicycles. For these reasons, the Commission concludes that § 1512.2(b) should not be changed to increase the maximum seat height of sidewalk bicycles.

SHARP EDGES

Two petitioners request amendment of § 1512.4(b), which requires bicycles to have no unfinished sheared metal edges or sharp parts exposed to hands or legs, and further requires that sheared metal edges that are not rolled shall be finished to remove "any feathering or beveling of edges, or any burrs or spurs caused during the shearing process." One petitioner states that beveling is one form of finishing a metal edge and that the use of the word "beveling" in § 1512.4(b) is contradictory and unnecessary. In proposed § 1512.4(b) below, the word "beveling" has been deleted.

Another petitioner requests that § 1512.4(b) be restricted to sharp edges and sharp parts that are "directly exposed to arms and legs" and that the terms "sharp edges" and "sharp parts" be defined. The petitioner states that unless such a change is made, bicycles with features such as spoke protectors and front-wheel sprockets could be classified as banned articles.

The Commission concludes that restricting § 1512.4(b) to sharp edges and sharp parts "directly exposed to hands or legs" would result in less effective sharp-edge control and might cause confusion about its requirements. The Commission also concludes that the terms "sharp edges" and "sharp parts" are sufficiently clear that defining the terms is unnecessary. However, a proposal to add a sharp edge test to section 1512.18(a) is being considered and may be published in the FEDERAL REGISTER in the future.

ATTACHMENT HARDWARE

Section 1512.4(d) requires that screws, bolts, and nuts used on bicycles shall not loosen or break during the testing prescribed by Part 1512 and recommends the quality thread form specified in Handbook H-28, "Screw Thread Standards for Federal Services," issued by the National Bureau of Standards of the Department of Commerce. A petitioner states that this publication is not applicable to the metric standards used by foreign bicycle manufacturers and that this deficiency could be corrected by adding Recommendations 68, 262, and 263 of the International Standards Organization to the references suggested in § 1512.4(d). The proposed revision of § 1512.4(d) below so provides.

PROTRUSIONS

Section 1512.4(e) prohibits certain protrusions on bicycles. Five petitioners

contend that § 1512.4(e) is confusing and ambiguous and request addition of an illustration or examples of the kinds of prohibited protrusions.

A revision of § 1512.4(e) is proposed below to clarify its provisions and to add figure 4, an illustration of some prohibited and some permitted protrusions. The examples are typical but not all-inclusive. A clarifying revision of the exposed protrusion test in § 1512.18(b) is also proposed below.

Two petitioners complain that § 1512.4 (e) prohibits the use of accessories such as water bottles, saddle bags, pumps, cantilever brakes, and set screws.

The Commission does not intend to prohibit the use of such accessories unless the item or the device used to attach it to the bicycle presents a hazard to the rider. Section 1512.4(f) contemplates that protective caps can be used to cover devices used for mounting accessories if the accessories or mounting devices are protrusions prohibited by §1512.4(e); however, the protective caps themselves must not be protrusions. Accordingly, the proposed revision of § 1512.4(e) below includes a statement that exposed protrusions covered by protective caps shall meet the requirements of § 1512.4(e).

PROJECTIONS

Section 1512.4(g) prohibits the presence of any projections within a specified zone located between the handlebars and the seat. Five petitioners state that the present boundaries of the zone where projections are prohibited preclude the use of bolts and clamps to attach the seat to a bicycle and the use of caliper brakes on the rear wheel.

The Commission concludes that the boundaries of said zone should be redrawn to avoid such preclusion without increasing the risk of injury to bicycle riders from projections. A revision of § 1512.4(g) is proposed below to change the boundaries of the zone where projections are prohibited, to allow the presence of control cables and attaching clamps within this zone, and to provide specifically for application of § 1512.4(g) to both male and female model bicycles.

The Commission is aware that some bicycles can be converted to either a male or female type by the addition or removal of a top tube. Such bicycles will be tested for projections with the removable top tube in place and with it removed.

Several foreign bicycle manufacturers state that some "folding" or "take-apart" bicycles are currently manufactured that have a latch on the fort-to-crank tube located within the area where projections are prohibited by § 1512.4(g). These petitioners request exemption of the latch on such bicycles from § 1512.4 (g).

The Commission concludes that the requested exemption should not be proposed because "folding" or "take-apart" bicycles are available that would comply with proposed § 1512.4(e) and (g) below. The fact that such bicycles are being manufactured shows that the subject requirements proposed below are both technically feasible and practicable for application to "folding" and "take-apart" bicycles. Moreover, the Commission has information on groin injuries due to projections located between the handlebar and the seat.

A physician states that many cyclists involved in accidents are thrown into the area of the handlebar stem and suggests that the prohibited project should be redefined to preclude the presence of any projections behind the front of the frame, including the handlebar stem, that could be recessed.

Since the Commission does not have hazard information showing that cyclists are thrown into the area of the handlebar stem, there is no indication that a redefinition of projections in this area would prevent serious injury.

The Commission therefore declines to propose such an amendment. The Commission, however, intends to monitor reports of accidents involving bicycles and if they demonstrate that injuries of the kind described by the petitioner are occurring, the Commission will consider proposing such an amendment.

A petitioner states that the heading of § 1512.4(g), *"Projections,"* is confusing because of its proximity to § 1512.4(e), *"Protrusions,"* and requests that the heading of § 1512.4(g), be changed to *"Excluded Area."* The Commission agrees and the change is proposed below.

SCREW LENGTH

Section 1512.4(h) limits the length that a screw may extend beyond the nut or other threaded fastener to which it attaches. A brake manufacturer states that the limitation of one major diameter of a screw will virtually eliminate the use of adjusting screws on derailleur components. Four petitioners state that the § 1512.4(h) requirements are too restrictive because they limit the use of accessories and do not allow for variations in axle, brake, frame, and gear designs. Two other petitioners request that § 1512.4(h) be changed to exempt therefrom screws used in front and rear hubs.

The Commission concludes that the use of adjusting screws should be permitted in those locations on the bicycle where such screws are not exposed to the cyclist in the normal riding position, provided such screws comply with the requirements for protrusions in §§ 1512.4 (e) and 1512.18(b). A revision of § 1512.4 (h) to that effect is proposed below. Screws that are found to be protrusions may be covered by protective caps complying with § 1512.4(f).

CONTROL CABLE ABRASION

Section 1512.4(j) states that control cables shall not "rub or abrade" over fixed parts of the bicycle. Six petitioners state that requiring cables not to "rub" over fixed parts precludes use of cable guides, sometimes called "tunnels." They state that cables can rub over fixed parts without damage to the cable or hazard to the rider.

The Commission concludes that § 1512.4(j) is unnecessarily restrictive and proposes a revision below that deletes therefrom the words "rub or" so that only cables that abrade over fixed parts of the bicycle will be prohibited.

BRAKE PERFORMANCE

Section 1512.5 (b)(1), (c)(1), and (d) and § 1512.18 (d)(2)(vi) and (e)(3) require that the braking system of a bicycle be capable of stopping the bicycle within 4.57 m (15 ft) when the bicycle is traveling at either 16 km/h (10 mph) or 24 km/h (15 mph), depending on the highest gear ratio available on the bicycle. Some bicycle manufacturers state that the stopping distance should be increased because 4.57 m (15 ft) is unreasonable and impracticable. They also state that said stopping distance is shorter than the stopping distances proposed by various members of the International Standards Organization for an ISO standard for bicycles.

A manufacturer of brakes requests that the maximum stopping distance for bicycles equipped with footbrakes only be increased to 10.1 m (33.75 ft).

A manufacturer of bicycle accessories suggests that the Commission's brake performance tests should be performed twice on the bicycle at 40 km/h (25 mph) after riding it downhill.

A consumer states that the requirement that a bicycle equipped with a single brake must be able to stop within 4.57 m (15 ft) when traveling at a speed of 24 km/h (15 mph), if the highest gear ratio available on the bicycle will produce a speed of 24 km/h (15 mph) when the bicycle is cranked at 60 rpm, allows a bicycle to be manufactured with a maximum gear of 83 and states that for safety the maximum gear should be limited to 50. The consumer also states that a restriction of the maximum gear to 50 has been proposed for the ISO standard for bicycles.

After considering these petitions, the Commission concludes that the specified stopping distance of 4.57 m (15 ft) is both a reasonable and practical requirement. The Commission is aware that longer stopping distances have been proposed for an ISO bicycle standard and that some bicycle manufacturers cannot consistently meet the braking requirements. The Commission finds, however, that the brake performance requirements in Part 1512 are necessary to reduce unreasonable risks of injury associated with bicycles and that relaxing the requirements is not in the public interest. Studies conducted by the University of Iowa show that a bicycle is capable of safely stopping from speeds of 24 km/h (15 mph) in 4.57 m (15 ft) without pitchover. The Commission has determined that bicycles must be capable of emergency stops in the shortest possible distance without danger of pitchover and concluded that a stopping distance of 15 ft. from a speed of 24 km/h (15 mph) is a reasonable safety performance requirement. The Commission denies the manufacturer's request to change the stopping distance requirement of 4.57 m (15 ft). At the same time the Commission recognizes that there are certain variations in test methods which may affect the ability to comply with the stopping distance requirements. Variation in rider

weight as allowed for in § 1512.18(d)(2)(v), is a typical example for which compensating factors may be considered.

The Commission also finds that a maximum gear relates only to the test rider and that if a bicycle meets the brake performance requirements specified in Part 1512, no limitation on the maximum gear is necessary.

Proposed below is the addition of a footnote to § 1512.5 (c)(1) and (d) and § 1512.18 (d)(2)(vi) and (e)(3) that relates the concept of equivalent ground speed used throughout Part 1512 applicable to brake performance to the concept of gear development used in the proposed ISO bicycle standard.

Grip Dimension

Section 1512.5(b)(3) limits the distance between the hand lever and the handlebars of bicycles equipped with handbrakes. Three petitioners state that § 1512.5(b)(3) is unclear and request addition of a diagram to indicate the points from which measurements are taken to determine if the maximum grip dimension of the hand lever meets the requirements.

A clarifying revision of § 1512.5(b)(3) is proposed below with an added figure 5 to illustrate the points from which measurements are to be made in the determination of the maximum grip dimension.

As promulgated, § 1512.5(b)(3) limits the maximum grip dimension of bicycles equipped with handbrakes to 88 mm (3½ in). A petitioner requests increase of the maximum grip dimension to 102 mm (4 in). Another petitioner requests a maximum grip dimension of 102 mm (4 in) for bicycles equipped with hand lever extensions.

The Commission concludes that a limitation of 89 mm (3½ in) on the maximum grip dimension of hand lever extensions is necessary to ensure that cyclists, particularly women and children, will be able to grip the hand lever extensions safely when applying caliper brakes. Accordingly, the requested increase is not proposed below.

Brake Assembly Attachment

Section 1512.5(b)(4) states that brake assemblies shall be securely attached to the frame of a bicycle "by means of a locking device such as a lock washer and locknut or equivalent." Two petitioners state that the use of either a lock washer or a locknut would be adequate to attach a brake assembly securely to a frame and that use of both a lock washer and a locknut in combination to secure the same brake assembly would be redundant. In the proposed revision of § 1512.5(b)(4) below the phrase is changed to read "by means of a locking device such as a lock washer, locknut, or equivalent."

Brake Pads and Holders

Section 1512.5(b)(6) requires caliper brake pads to be replaceable and adjustable. A petitioner urges a requirement instead that caliper brake pads be permanently attached to the brake pad holders.

The Commission is not aware of serious injuries caused by caliper brake pads not permanently attached to the pad holders and therefore does not see that changing the requirement as requested is necessary. Moreover, such a change could result in substantially increased replacement costs. Section 1512.5(b)(6) does not preclude use of brake pads permanently attached to brake pad holders provided the pad and holder are replaceable and adjustable.

Hand Lever Location

Section 1512.5(b)(8) specifies that the rear brake shall be actuated by a control on the right handlebar and the front brake shall be actuated by a control on the left handlebar, unless the ultimate consumer specifies otherwise. A petitioner states that a brake system is available for bicycles that use one hand lever to actuate both front and rear brakes.

The revision of § 1512.5(b)(8) below provides that a bicycle equipped with a single hand lever that actuates both the front and rear brakes shall be manufactured so that the brake lever can be mounted on either the right or left handlebar in accordance with the preference of the ultimate consumer.

Brakes on Sidewalk Bicycles

Section 1512.5(e) prescribes that a sidewalk bicycle with a seat height of 559 mm (22 in) or greater with the seat in its lowest position shall be equipped with a footbrake meeting all the requirements of § 1512.5(c) except the footbrake force test specified by §§ 1512.5(c) and 1512.18(e)(2).

Two petitioners object that § 1512.5(e) and (c) would require a sidewalk bicycle with a seat height greater than 559 mm (22 in) to be equipped with a coaster brake and to be tested for stopping distance while ridden by an operator who weighs at least 68.1 kg (150 lb).

The Commission is aware that some sidewalk bicycles are manufactured with foot-actuated brakes that are not coaster brakes. The Commission does not intend to limit the design of sidewalk bicycle footbrakes to coaster brakes, provided that sidewalk bicycles equipped with such brakes meet the footbrake force test specified for sidewalk bicycles in § 1512.18(f). Additionally, the Commission does not intend to require sidewalk bicycles to meet the footbrake performance test specified in § 1512.5(c)(1).

Accordingly, proposed below are a revision of § 1512.5(c)(1) to exempt sidewalk bicycles from the footbrake performance test and a revision of § 1512.5(c)(2) to allow sidewalk bicycles to be equipped with footbrakes other than coaster brakes.

Handlebar Stem Insertion Mark

Section 1512.6(a) requires that the bicycle handlebar stem bear a permanent mark to indicate the minimum insertion depth of the handlebar stem into the fork assembly and also requires that the insertion mark not affect the structural integrity of the stem and that the stem strength be maintained for at least the length of one shaft diameter below the insertion mark.

One petitioner states that the required maintenance of the stem strength for a length of at least one shaft diameter below the insertion mark conflicts with the illustration of a handlebar stem in figure 2 of Part 1512 and recommends deletion of the requirement.

The Commission does not intend to require that the bicycle be tested with the handlebar stem inserted one shaft diameter below the insertion mark when performing the test illustrated in figure 2. Rather, a substantial change in the strength of the handlebar stem within one shaft diameter below the insertion mark must be avoided to provide a reasonable safety margin. Accordingly, the Commission finds no conflict between § 1512.6(a) and figure 2.

Handlebar Dimensions

Section 1512.6(c) requires that the inside distance between the ends of the bicycle handlebars shall not be less than 356 mm (14 in) nor more than 711 mm (28 in). A petitioner states that the specified minimum dimension is unnecessarily restrictive for smaller bicycles that have wheel diameters of 508 mm (20 in) to 610 mm (24 in), contending that such bicycles are ridden by children from 8 to 13 years old for whom a minimum inside dimension of 305 mm (12 in) between the handlebar ends would be appropriate.

Injury data indicate to the Commission that bicycles with wheel diameters of 508 mm (20 in) to 610 mm (24 in) are frequently ridden by children from 8 to 16 years old. Anthropometric data indicate that children from 8 to 16 years old can easily use handlebars 356 mm (14 in) apart. The Commission concludes that specification of a minimum distance of 356 mm (14 in) between the ends of the handlebars will generally allow safe control of the bicycle. Accordingly, the suggested change is not proposed below.

Pedal Construction

Section 1512.7(a) requires that bicycle pedals have "right-hand/left-hand symmetry." Two consumers state that this requirement is unreasonable and should be deleted. They cite tests of a bicycle equipped with pedal cranks that are not the same length on each side of the bicycle and claim that these tests show that pedal cranks of different lengths can improve the performance and safety of a bicycle in some cases.

Since the right-hand/left-hand symmetry requirement applies only to pedals and not to pedal cranks, the Commission finds a proposal on this issue unnecessary.

These petitioners also object to the requirement of § 1512.7(a) that the tread shall be an integral part of the pedal construction to the extent that removal of the tread material would substantially destroy the pedal. They contend that this requirement could result in the continued use of pedals after the tread has been worn off and request an amendment to allow use of pedals with replaceable tread material.

The Commission concludes that requiring the tread be an integral part of the pedal is necessary to reduce unreasonable risks of injury resulting from the tread suddenly separating from the pedal while the rider is pedaling. Further, when the tread of a pedal with an integral tread surface becomes badly worn, the pedal becomes sufficiently difficult to use to cause the consumer to replace the pedal.

Toe Clips

Section 1512.7(b) requires pedals intended to be used only with toe clips to have permanently attached toe clips. Fourteen petitioners object to this requirement. Some state that toe clips are manufactured in several sizes to fit the individual rider and that an improper fit can cause knee injuries. Others state that toe clips are relatively expensive components and observe that if toe clips are permanently attached to the pedal, replacement of the pedals would also require replacement of the toe clips. Some petitioners estimate that the replacement cost of pedals and toe clips might be approximately $50.

The Commission concludes that § 1512.7(b) should be amended to change the requirement from "permanently attached" to "securely attached" as proposed below.

Pedal Reflectors

Sections 1512.7(c) and 1512.16 (a) and (e) require that bicycles be equipped with reflectors on the front and rear surfaces of the pedals. A consumer comments that these sections appear to require pedal reflectors to be permanently attached and requests amendments allowing use of detachable pedal reflectors to accommodate competition riders.

Section 1512.16(e) states that the reflector element may be either integral with the construction of the pedal or mechanically attached. The Commission concludes that this requirement allows the use of detachable pedal reflectors and that the requested amendment is therefore unnecessary.

Tires

Section 1512.10 specifies that the manufacturer's recommended inflation pressure shall be molded into the sidewall of the tire and that the wheel-mounted tire shall be tested in accordance with § 1512.18(j). Tubular sew-up tires are exempt from § 1512.10 because they have sidewalls made of fabric (rather than rubber) which precludes the molding of information into the sidewall. Non-pneumatic tires are also exempt from § 1512.10 because they cannot be inflated.

A consumer requests exemption also of non-molded wired-on tires because, like tubular sew-up tires, they are manufactured in such a manner that nothing can be molded into the sidewall. The Commission agrees and the exemption is proposed below.

A foreign manufacturer requests the proper wording for stating the manufacturer's recommended inflation pressure. The Commission concludes that § 1512.10 should prescribe a standard statement, "INFLATE TO —— PSI," which is proposed below.

Wheel Rims

Section 1512.11(c) requires a bicycle's wheels to be rim-tested in accordance with § 1512.18(j). Sidewalk bicycles are exempt from § 1512.11(c).

A consumer suggests revocation of said exemption for sidewalk bicycles to promote safety. The Commission concludes, however, that the tests required for sidewalk bicycles by §§ 1512.17(b) and 1512.18(f) will insure adequate wheel strength for the intended use of such bicycles by very young children in the home and on sidewalks.

Locking Devices

Section 1512.12(a) requires that each wheel of a bicycle shall be secured to the frame with a positive locking device and specifies that locking nuts on threaded axles shall require rotation of at least 180° from finger-tight condition to full tightness. Three petitioners state that these requirements are too indefinite and also are impracticable for all bicycles because of variations in the design of axle-thread pitch, frames, hubs, and other components.

The Commission agrees and proposes below that § 1512.12(a) be revised to require locking nuts on threaded axles to be tightened to the manufacturer's specifications; to specify that the rear axle shall be pulled with a force of 1,780 N (400 lbf) in the direction of rear wheel removal without any relative motion between the axle and the frame; and to prescribe that the front-wheel locking device, other than a quick-release device, shall withstand applications of a torque in the direction of removal of 17 N–m (12.5 ft-lb).

Section 1512.12(b) requires that the levers on quick-release devices shall be adjustable for tightness and shall be clearly visible to the rider to indicate whether the levers are in a locked or unlocked position and also requires that the clamp action of quick-release devices shall emboss the frame or fork of the bicycle when locked. A foreign manufacturer asks whether quick-release devices manufactured with cambered levers would meet the requirements of § 1512.12(b).

The Commission finds that § 1512.12 (b) does not prohibit the use of a quick-release device with cambered levers provided the device meets the performance requirements thereof.

A petitioner states that the requirement of § 1512.12(c) for a positive retention device on the front wheel of a bicycle not equipped with a quick-release device could be confused with the requirement of § 1512.12(a) that each wheel shall have a positive locking device and requests that § 1512.12(a) be changed to specify that embossing hardware is an acceptable form of positive locking device.

The Commission concludes that such a change is unnecessary. In the context of § 1512.12, the distinction between the positive locking device required by § 1512.12(a) and the positive retention device required by § 1512.12(c) is sufficiently clear to avoid confusion. Any device meeting the requirements of § 1512.12(a) may be used on a bicycle and the Commission prefers not to specify a particular design.

Another petitioner states that the requirement for a positive retention device for the front hub of a bicycle not equipped with a quick-release device should appear in § 1512.13, which sets forth requirements for the front fork, rather than in § 1512.12(c).

Section 1512.13 prescribes requirements for the strength of the front fork whereas § 1512.12 prescribes requirements for wheel hubs. The Commission concludes that § 1512.12(c) is the appropriate section in which to state requirements for retention of front-wheel hubs of bicycles not equipped with quick-release devices.

Frame Strength

Section 1512.14 states that the fork and frame of the bicycle shall be tested in accordance with the frame test prescribed in § 1512.18(k)(2). For consistency with § 1512.18(k)(2) and to insure the ductility characteristics of the fork tubes, the Commission proposes to revise § 1512.14 to change the test requirements from "at least 39.5 J (350 in-lb) of energy" to "a load of 890 N (200 lbf) or at least 39.5 J (350 in-lb) of energy, whichever results in the greater force."

The Commission also observes that §§ 1512.14 and 1512.18(k)(2) do not specify the manner by which the frame is to be held during the frame test. The Commission finds that any type of rigidly constructed fixture would be suitable for holding the frame during the frame test. Such a fixture could be adjustable to accommodate frames of various sizes, and should support the bicycle frame at the front axle and at the intersection of the rear frame and axle. The load is applied in a direction opposite to the fork rake and measurements are taken of the loads and the deflections. A revision of § 1512.18(k)(2) below specifies the way the frame shall be supported during the test.

A petitioner states that the minimum strength requirements for the front fork and frame prescribed respectively by §§ 1512.13 and 1512.14 are impracticable and should be deleted. Accident reports indicate to the Commission that minimum strength requirements for the front fork and frame are necessary to avoid unreasonable risks of injury or death to bicycle riders that can result if the front fork or frame is too weak to withstand the shock and stress encountered in operating a bicycle. The Commission has performed the tests required by §§ 1512.13 and 1512.14 and found that the tests can be performed with repeatable results. This testing has also shown that the forks and frames of many bicycles currently offered for sale meet the requirements of §§ 1512.13 and 1512.14. Accordingly, deletion of the subject requirements is not proposed below.

REFLECTORS

Section 1512.16 requires that a bicycle be equipped with a front reflector, a rear reflector, reflectors on both the front and rear pedal surfaces, and either side reflectors or retroreflective tires.

A petitioner asks if § 1512.16 allows the use of off-axis reflectors. As promulgated, § 1512.16 does not specifically allow or prohibit the use of off-axis reflectors.

The Commission concludes that § 1512.16 should permit the use of combinations of reflectors off the center plane of the bicycle as long as each reflector meets all requirements of §§ 1512.16 and 1512.18 (m) and (n) and the combination of reflectors meets specified requirements for clear field of view, both vertically and horizontally. A proposed revision below of the introductory text of § 1512.16 so provides.

Section 1512.16 (c) and (d), which prescribes requirements for the alignment of the optical axis of the front and rear reflectors, requires that the front and rear reflectors, or the mounting apparatus for those reflectors, incorporate a provision to preclude assembly in other than the intended manner. Several petitioners state that this requirement could be interpreted as prohibiting the use of adjustable reflector mounts for the front and rear reflectors. Some of these petitioners state that this provision seems to require the front and rear reflectors, or the mounting apparatus for those reflectors, to be designed so that no one could possibly attach incorrectly the reflectors or reflector mounts to the bicycle, and state that such a requirement would be extremely difficult to meet.

The Commission does not intend to prohibit the use of adjustable reflector mounts provided the front and rear reflectors meet the requirements of §§ 1512.16 and 1512.18 (m) and (n) when attached to the bicycle. The Commission finds the subject requirement unnecessarily burdensome. Accordingly, the proposed revision of § 1512.16 (c) and (d) below provides that front and rear reflectors, or the mounts for those reflectors, shall incorporate a distinct preferred assembly method that will enable those reflectors to meet the requirements of § 1512.16 (c) and (d) when attached to the bicycle.

Section 1512.16 (c) and (d) specifies that the front and rear reflectors shall be tested in accordance with the reflector mount and alignment test, § 1512.18(m), to assure that the reflector alignment will not be affected when a force of 89 N (20 lbf) is applied to either the reflector or the mounting device at any point in any direction. The manner of applying the force is inconsistent with that specified in the procedure for the reflector mount and alignment test in § 1512.18(m)(1) which requires a force of 89 N (20 lbf) to be applied to the reflector mount in at least three directions selected as most likely to affect its alignment, with at least one of those directions selected to represent a force that would be expected in lifting the bicycle by grasping the reflector.

Accordingly, in the revision of § 1512.16 (c) and (d) proposed below, the manner of applying the force is deleted and the subject provision states only that the front and rear reflectors shall be tested in accordance with the reflector mount and alignment test of § 1512.18(m). A reference to § 1512.18(m)(2), which defines the criteria under which a reflector's optical axis is considered to be aligned, has been added to proposed § 1512.16 (c) and (d). Also, a clarifying revision of § 1512.18(m)(2) is proposed below.

A manufacturer of reflectors requests (1) that § 1512.16 (c) and (d) be changed to prescribe reflectance requirements for front and rear gravity-mount reflectors (reflectors which are attached to the bicycle by mounting devices that do not hold the reflector in a fixed vertical alignment, but rather depend on the force of gravity to establish the vertical alignment of the reflector) and (2) that § 1512.18(m)(2) be changed to provide that alignment of the optical axis of the reflector shall be measured after removal of the forces specified in the reflector mount and alignment test of § 1512.18(m). This petitioner states that gravity-mount reflectors afford visibility equal to that of fixed-mount reflectors but at a lower cost to manufacturers and, ultimately, to consumers.

The Commission declines to propose these amendments because it is not presently persuaded that gravity-mount reflectors provide the same degree of protection as fixed-mount reflectors to bicyclists operating under low-light conditions.

The requirements for reflectors prescribed by § 1512.16 are not applicable to sidewalk bicycles. A petitioner requests an amendment requiring sidewalk bicycles to be equipped with detachable reflectors. The Commission denies the request because sidewalk bicycles, which are intended to be ridden by young children inside the house and on sidewalks, are not meant for use after dark and on streets.

A petitioner requests deletion of reflector requirements and addition of requirements for lights on the front of the bicycle and on the rider's arms and legs. Another petitioner comments that reflectors alone do not afford adequate protection to bicycle riders at night. A third petitioner suggests requiring the bicycle frame to be painted with reflectorized paint.

The Commission concludes that the requirements for wide angle reflectors in § 1512.16 will provide an adequate level of visibility to motorists under lowlight conditions at minimal cost to the bicycle purchaser and with the least interference with the bicycle's operation. Part 1512 does not prohibit a bicyclist who desires greater visibility from equipping the bicycle with lights or using other reflecting devices.

A reflector manufacturer states that some materials used in the construction of reflectors become less efficient in time and suggests that the reflector requirements include tests for durability and resistance to weathering. The Commission does not have adequate data to determine that such requirements are necessary and therefore is not proposing the requested amendment at this time.

SIDE REFLECTORS

Section 1512.16(b) requires a bicycle to be equipped with retroreflective tires or with reflectors mounted on the spokes of each wheel. A materials manufacturer requests addition of a requirement that when spoke-mounted reflectors are so used they be mounted on the wheels of the bicycle by the manufacturer.

Section 1512.3 states that a bicycle shall meet the requirements of Part 1512 in the condition in which it is offered for sale to consumers and that a bicycle offered for sale to consumers in a disassembled or partially assembled condition shall meet the requirements of Part 1512 after assembly in accordance with the manufacturer's instructions.

Section 1512.19(a)(2) prescribes that a bicycle's required instruction manual shall contain assembly instructions for accomplishing complete and proper assembly. Additionally, § 1512.4(a) requires that a bicycle be manufactured such that the mechanical skills required of the consumer for assembly shall not exceed those possessed by an adult of normal intelligence and ability. The Commission concludes that the above-cited requirements are adequate to insure correct mounting of spoke reflectors and that requiring such reflectors to be attached by the bicycle manufacturer is unnecessary. Accordingly, the requested amendment is not proposed below.

SIDEWALK BICYCLE PROOF TEST

Sections 1512.17(b) and 1512.18(g) prescribe a test for sidewalk bicycles that (1) requires the sidewalk bicycle to be dropped three times onto a paved surface from a height of 0.3 m (1 ft) with weights attached to the seat surface and to the ends of the handlebars and (2) requires, with the weights removed, the bicycle to be allowed to fall from an upright position onto a paved surface three times on each side. If a fracture of the wheels, frame, seat, handlebars, or fork results, the sidewalk bicycle fails the test. A small manufacturer of sidewalk bicycles states that this requirement will impose a severe financial burden because of the acquisition of equipment necessary for the testing and requests an amendment to allow a manufacturer to submit models of his product to the Commission for testing.

The Commission concludes that the subject testing will not impose an unreasonable burden on small manufacturers since only a representative sidewalk bicycle may need to be tested to determine compliance with the regulation. Also the Federal Hazardous Substances Act does not provide for product certification by the Commission. Therefore, the Commission declines to propose the requested amendment. The Commission notes that sidewalk bicycles are exempt from the requirements of §§ 1512.17(a) and 1512.18(p), which prescribe a more stringent road test for bicycles.

GROUND CLEARANCE

Section 1512.17(c) requires that a bicycle, with the pedal horizontal and the pedal crank in the lowest position, be capable of being tilted at an angle of at least 25 degrees from vertical without the pedal or any part other than the tires contacting the ground plane. An association of bicycle manufacturers requests that the tilt angle be changed from 25 to 20 degrees. The petitioner states that the 25-degree specification would require redesign of smaller bicycles to raise the axis of the pedal crank in relation to the centerline of the wheels, which would decrease the stability of such bicycles. The petitioner also states that smaller bicycles are not capable of being ridden at an angle of 25 degrees from vertical.

The Commission concludes that ground clearance when the bicycle is at an angle of 25 degrees from vertical is necessary to provide an adequate margin of safety under reasonable operating conditions, including mounting, demounting, and maneuvering. Accordingly, the requested change is not proposed below.

TOE CLEARANCE

Sections 1512.17(d) requires bicycles not equipped with toe clips to have at least 88 mm (3½ in) clearance from the center of the pedal to the front tire or fender turned to any position. A foreign manufacturer requests reduction of the required clearance to 76 mm (3 in). This petitioner states that a clearance of 76 mm (3 in) would be compatible with requirements of some European countries.

The Commission concludes that a decrease of the pedal clearance from 88 mm (3½ in) to 76 mm (3 in) would interfere with the operation of the bicycle, would decrease the safety of the bicycle for the younger rider, and would restrict development of functional and safety features for the older more experienced rider.

Another petitioner requests information as to the points from which toe-clearance measurements are to be made. Measurement of toe clearance is made from the geometric center of the pedal's axle parallel to the longitudinal axis of the bicycle and to the front tire or fender, whichever can be positioned the closest. A revision of § 1512.17(d) is proposed below to clarify its provisions by adding figure 6, an illustration of the pedal clearance measurement.

HANDBRAKE TESTS

Section 1512.18(d) prescribes loading, rocking, and performance tests for bicycles equipped with handbrakes. The loading test procedure is set forth in § 1512.18(d)(2)(i), which contains a provision to the effect that the hand lever shall be loaded with a force of 445 N (100 lbf), unless the hand lever contacts the handlebar before a load of 445 N (100 lbf) can be achieved, in which case loading may be stopped at that point. Section 1512.5(b)(9) states that for testing purposes, hand lever extensions shall be considered to be hand levers.

Three petitioners state that hand lever extensions are designed so that they do not contact the handlebar surface no matter how much force is applied and state that, in some cases, § 1512.5(b)(9) imposes an impossible condition for conducting the loading and rocking tests in accordance with § 1512.18(d)(2)(i) and (iii).

A brake manufacturer suggests that when the Loading Test is performed on bicycles equipped with hand lever extensions, the hand lever should be loaded until a force of 445 N (100 lbf) is achieved or until the hand lever extension is in the same plane as the upper surface of the handlebar. This petitioner states that the greatest safety is achieved if the maximum force is applied when the hand lever extension is in this position.

The Commission concludes that the procedure for the handbrake loading test should be modified for testing bicycles equipped with hand lever extensions. Accordingly, § 1512.18(d)(2)(i) and (iii) proposed below provides that for testing bicycles equipped with hand lever extensions, the hand lever extension shall be loaded until a force of 445 N (100 lbf) is reached or the hand lever extension is in the same plane as the upper surface of the handlebars or the extension lever contacts the handlebars.

FOOTBRAKE FORCE TEST

Section 1512.18(e) prescribes a footbrake force test which requires that the brake be capable of producing a brake force that is linearly proportional (within 20 percent) when a force ranging from 89 N to 310 N (20 to 70 lbf) is gradually applied to the pedal, and further requires that the brake force be not less than 180 N (40 lbf) when 310 N (70 lbf) is applied to the brake pedal. Five petitioners request information about the equipment and technique used to conduct the footbrake force test.

The Commission suggests that the test could be conducted by mounting the bicycle in a fixture that would hold it in an upright position with the rear wheel off the ground. The pedal is loaded by placing weights in a container attached to the pedal in the braking position with the crank arm parallel to the ground. One end of a piece of thin, tape-like material is attached to the tire and the tape-like material is wrapped around the circumference of the tire a specified number of times. The other end is attached to a load dynamometer. After the appropriate weight is placed in the container, the dynamometer is pulled steadily away from the bicycle. A reading of the dynamometer is taken between one-half and one full revolution of the tire. This process is repeated for increments of pedal force from 89 N to 310 N (20 to 70 lbf), and the brake force is then plotted against the pedal force. It is further suggested that the test results be plotted: that a best-straight-line curve be obtained by using the least-square curve fit method; and that limit lines be drawn to indicate plus and minus 20 percent of the brake force, based on the measured brake load. All data points must fall within these limit lines. A revision of § 1512.18(e)(2) is proposed below to indicate the curve fitting method to be used.

Section 1512.18(e)(2) states that the braking force is measured during a steady pull and after one-half to one revolution of the wheel. A petitioner states that this requirement is imprecise and suggests that the brake force should be measured after five rotations of the wheel.

The Commission concludes that the procedure for the footbrake force test would be more definite if it specified that the measurement of braking force shall be taken after completion of one-half revolution and before completion of one revolution of the wheel. An amendment of § 1512.18(e)(2) to that effect is proposed below.

The petitioner also requests an explanation of the meaning of the phrase "a gradually applied pedal force" in § 1512.18(e)(2). The Commission observes that the phrase is intended to impose a limitation on the test method used in the footbrake force test to preclude the application of sudden pedal loads and to permit the use of incremental pedal forces when performing that test.

The same petitioner comments that the requirement that the brake must be capable of achieving at least 180 N (40 lbf) when 310 N (70 lbf) is applied to the pedal is unrealistically high for mass-produced brakes and suggests reducing the required brake force to 157.5 N (35 lbf). The petitioner also comments that front-to-rear sprocket ratio, wheel diameter, and crank length were not given adequate consideration when the requirements of the footbrake force test were established. The Commission concludes that the values for the brake and pedal forces prescribed in § 1512.18(e)(2) are realistic and practicable in view of existing technology. The suggested reduction is therefore not proposed below.

SIDEWALK BICYCLE FOOTBRAKE FORCE TEST

A footbrake force test is prescribed by § 1512.18(f) for sidewalk bicycles. This test specifies that the brake force transmitted to the rear wheel shall continually increase as the pedal force is increased from 44.5 N (10 lbf) to 225 N (50 lbf) and that the ratio of applied pedal force to braking force shall not be greater than two-to-one. A petitioner suggests that the range of pedal forces should begin at 89 N (20 lbf) rather than 44.5 N (10 lbf) because friction in the internal mechanism causes brakes used on sidewalk bicycles to be less efficient when low-value pedal forces are applied.

The Commission concludes that 44.5 N (10 lbf) is representative of the level of force that some younger children may exert in an emergency because of their limited strength and the angle of the pedal crank when they attempt to apply the brake. Accordingly, the suggested change is not proposed below.

RIM TEST

For the rim test, §§ 1512.18(j) and 1512.11 require that one wheel be removed from the bicycle, supported circumferentially, and subjected to a load

of 3000 N (450 lbf) applied to the axle for at least 30 seconds in a direction perpendicular to the plane in which the wheel is supported. After the load is removed, no spoke shall be missing and, when remounted on the bicycle in accordance with the manufacturer's instructions, the wheel must turn freely and must be aligned so that no less than 1.6 mm (1/16 in) clearance exists between the tire and the fork or any frame member when the wheel is rotated to any position.

A foreign manufacturer states that the subject rim test is impracticable and should be eliminated. Test data available to the Commission indicate that the requirements of §§ 1512.18(j) and 1512.11 can be met by many bicycles currently offered for sale. For this reason, the Commission declines to propose eliminating the rim test.

Two consumers suggest adding a wheel test to simulate the effect of striking a curb or hole in the road and submitted specific procedures for such a test. The Commission is evaluating the recommended test and will rule thereon when the evaluation is completed.

Section 1512.18(j)(1) states that if the wheel hub is offset, the load shall be applied in the direction of the offset. A manufacturer requests an explanation of "offset." The term "offset" is used to describe an unsymmetrical wheel constructed in such a manner that the plane that is perpendicular to the wheel hub and that contains the centerline of the rim of the wheel does not pass through the geometric center of the hub. (The geometric center of the hub is located midway between the hub flanges.)

Fork Test

Sections 1512.13 and 1512.18(k)(1) require for the fork test that the front fork shall be held in a test fixture illustrated in figure 1 of Part 1512 and subjected to a load applied at the point where the front wheel axle is attached, until a deflection of 64 mm (2½ in) is achieved. The front fork must be capable of absorbing at least 39.5 J (350 in-lb) of energy with a deflection of no more than 64 mm (2½ in) and with no resulting visible evidence of fracture.

A manufacturer states that use of the test fixture illustrated in figure 1 of Part 1512 will result in a less rigorous test than use of the test fixture illustrated in figure 1 of the regulation proposed May 10, 1973 (38 FR 12305), and urges amendment of Part 1512 to require use of the latter test fixture.

The Commission concludes from staff evaluations that use of the test fixture illustrated in figure 1 proposed on May 10, 1973, would improve the fork test and, accordingly, proposes below to substitute that one for the one promulgated July 16, 1974.

A component manufacturer requests that § 1512.13(k)(1) be amended to specify the relationship of the top surface of the fork to the clamp face of the test fixture illustrated in figure 1. The face of the top surface of the fork must be held tightly against the clamp face of the vee block part of the test fixture illustrated in proposed figure 1 below. The Commission finds adding an explanation to § 1512.18(k)(1) to that effect unnecessary.

The same petitioner requests that the fork test be changed to vary the amount of deflection required for the front fork depending upon the front fork's length. Available test data, however, indicate to the Commission that forks of varying lengths can meet the criteria of the test in § 1512.18(k)(1). The fork test is to establish that the fork will take a reasonable load of 39.5 J (350 in-lb) without fracture as specified in § 1512.13. Accordingly, the Commission concludes that the test is reasonable and practicable in its present form and declines to propose the requested amendment.

Frame Test

Section 1512.18(k)(2) states that for the frame test the fork, or one identical to that tested in accordance with the fork test, § 1512.18(k)(1), shall be placed on the bicycle when the frame test is performed. A manufacturer asks whether § 1512.18(k)(2) requires the use, when performing the frame test, of a fork other than the one tested by the fork test. If the fork used for the fork test is undamaged by that test, it may be replaced on the bicycle to conduct the frame test. Only if the original fork is damaged during the fork test should a new fork be used for the frame test.

Seat Adjustment Clamp

Section 1512.18(1) requires the bicycle seat clamp to be capable of preventing seat movement when a force of 668 N (150 lbf) is applied vertically to the seat and when a force of 222 N (50 lbf) is applied horizontally to the seat. A foreign manufacturer states that seat clamps used on bicycles they manufacture will not prevent movement when a force of 222 N (50 lbf) is applied horizontally to the seat and requests reduction of the specified force to 133 N (30 lbf).

The Commission observes that movement of the seat while the bicycle is in operation can cause instability and loss of control. Available test data indicate to the Commission that requiring the seat clamp to resist movement when a force of 222 N (50 lbf) is applied horizontally is necessary to insure that the seat will not move when subjected to forces that may be encountered in operation of the bicycle. For this reason, the Commission declines to propose the requested amendment.

Reflector Performance Test

The reflector performance test in § 1512.18(n)(2) makes reference to figure 3 of Part 1512 to illustrate entrance angles. A bicycle manufacturer comments that the definition of "entrance angle" in § 1512.18(n)(2)(ii) does not correspond with the illustration in figure 3. The Commission agrees and in addition finds § 1512.18(n)(2) confusing. Accordingly, the Commission proposes below to revise § 1512.18(n)(2)(iv) and (vii) and figure 3 to eliminate the contradiction between the definition of "entrance angle" and the illustration thereof in figure 3 and to clarify the reflector performance test.

A reflector manufacturer objects to the provision of § 1512.18(n)(2)(v) that requires reflectors not mounted on the bicycle in a fixed rotational position with respect to the bicycle to be rotated about the axis through 360 degrees to determine the minimum reflectance value in each position requiring measurement. The petitioner states that the regulation requires reflectors to be mounted on the bicycle at a specified orientation of the optical axes and, for that reason, requiring rotation of certain reflectors is unnecessary.

Section 1512.16 (c) and (d) does prescribe requirements for the alignment of optical axes of the front and rear reflectors; however, the regulations does not require reflectors to be designed for mounting on the bicycle in a fixed rotational position with respect to the bicycle. The regulation permits use of a reflector that screws into a mounting bracket with a bolt parallel to the optical axis of the reflector. Such a reflector is not necessarily mounted on the bicycle in a fixed rotational position with respect to the bicycle. For this reason, the Commission concludes that the provision objected to is necessary and declines to propose a change.

Retroreflective Tire Test

Procedures and criteria for testing tires with retroreflective sidewalls are in § 1512.18(o), which refers to three tables of Part 1512. A petitioner comments that § 1512.18(o)(2)(iii), which prescribes the procedure for measuring the reflective properties of the sidewall, is inconsistent with the title of Table 3, "Minimum acceptable values for the quantity 'A' defined in the retroreflective tire test procedure." The petitioner also requests rearrangement of tables 1 and 2.

Two other petitioners state that the last five sentences of § 1512.18(o)(2)(iv) are inconsistent with the first sentence because the reflectance factor P, as determined by the equation in § 1512.18(o)(2)(iv), results in lower values than those listed in table 3. These petitioners also state that P is appropriate to express the reflectance of a perfect white diffusing reflector and for that reason should not be used in § 1512.18(o).

The Commission concludes that § 1512.18(o)(1) should be amended as proposed below to correct errors; to revise the last sentence of § 1512.18(o)(2)(iii) to specify that the minimum value of "A" shall be greater than that listed in table 3; and to express the criteria in § 1512.18(o)(2)(iv) in terms of the reflectance factor "R" rather than P. The Commission concludes that tables 1 and 2 are satisfactory and should not be rearranged.

Road Test

Section 1512.18(p) prescribes a road test requiring the bicycle to be ridden at least 6.4 km (4.0 mi) and also requiring the bicycle to be ridden five times over a 30.5 m (100 ft) course, consisting of wooden cleats attached to the pavement,

at a speed of 24 km/h (15 mph). The bicycle must demonstrate stable handling, turning, and steering with no system or component failures and with no loosening or misalignment of the seat, handlebars, controls, or reflectors.

A manufacturer of bicycle accessories requests amendment of § 1512.18(p) to require the bicycle to be ridden two times over a 3.2 km (2.0 mi) course consisting of a series of curves on a 10 percent downhill grade, in addition to the required cleated course as specified.

The Commission concludes that the road test as promulgated is adequate to insure that bicycles will meet acceptable levels of performance. The requested change to include curves and hills in the road test would not improve the test unless the curves and hills were carefully designed and specified. To impose such a requirement would be unnecessarily costly and burdensome. Accordingly, the requested change is not proposed below.

An association of bicycle manufacturers requests addition of a provision allowing bicycles with low gear ratios and small diameter wheels to traverse the cleated course at a speed less than 24 km/h (15 mph) on those bicycles. The petition observes that the portions of Part 1512 that specify brake performance requirements (§§ 1512.5 and 1512.18 (d) and (e)) relate the speed at which the brake tests are performed to the maximum speed the bicycle can achieve at 60 revolutions of the crank per minute with the bicycle in its highest gear ratio.

The Commission conducted the road test using bicycles of various sizes, including some with 20-inch diameter wheels, and concludes that the requirement that the bicycle must traverse the cleated course at a speed of 24 km/h (15 mph) can be met. In view of these test results, the Commission desires the test to be applied uniformly to bicycles of all sizes (except sidewalk bicycles). Accordingly, the requested amendment is not proposed below.

Metric-English Equivalents

Throughout Part 1512, dimensions, temperatures, weights, levels of force and energy, etc., are expressed in metric terminology followed in parentheses by the equivalent values expressed in the English system terminology. Several petitioners point out that various Part 1512 sections contain metric values that are not the equivalent of the parenthetical English values that follow.

The Commission agrees. In the case of Part 1512 portions affected by the amendments proposed below, the metric-English equivalents have been corrected in the proposed revisions. In all other cases, the errors in the metric-English equivalents are listed below and the corrected equivalent values are stated. When the Commission takes final action on the amendments proposed below and on the proposed amendments and proposed effective date published on January 7, 1975, it will reissue Part 1512 to incorporate all amendments and corrections. The following list of corrections of metric-English equivalents is furnished for the convenience of interested parties until Part 1512 is reissued:

§ 1512.5(b)(1): 4.57 m (15 ft).
§ 1512.5(e)(2): 559 mm (22 in).
§ 1512.5(e)(3): 3.1 m (10 ft).
§ 1512.5(e)(3): 559 mm (22 in).
§ 1512.6(c): 711 mm (28 in).
§ 1512.16(b)(2): 50°±3° C (122°±5.4° F).
§ 1512.17(a): 30.5 m (100 ft).
§ 1512.17(d): 89 mm (3½ in).
§ 1512.18(b)(1): 254 mm (10 in).
§ 1512.18(b)(2): 7.9 mm (5/16 in).
§ 1512.18(e)(3): 4.57m (15 ft).
§ 1512.18(n)(1)(i): 50°±3° C (122°±5.4° F).
§ 1512.18(n)(2)(i): 30.5 m (100 ft).
§ 1512.18(p)(1): 30.5 m (100 ft).
§ 1512.18(q)(1): 13.6 kg (30 lb); 22.7 kg (50 lb).

Proposal

After consideration of all the petitions discussed above, the Commission concludes that the bicycle regulations should be amended as proposed below. Therefore, pursuant to provisions of the Federal Hazardous Substances Act (secs. 2(f)(1)(D), (q)(1)(A), (s), 3(e)(1), 74 Stat. 372, 374, 375, as amended 80 Stat. 1304–05, 83 Stat. 187–89; 15 U.S.C. 1261, 1262) and under authority vested in the Commission by the Consumer Product Safety Act (Pub. L. 92–573, sec. 30(a), 86 Stat. 1231; (15 U.S.C. 2079(a))), the Commission proposes to revise 16 CFR 1512.4(b), (d), (e), (g), (h), and (j), 1512.5(b)(3), (4), and (8), (c)(1) and 2), and d), 1512.7(b), 1512.10, 1512.12(a), 1512.14, 1512.16 introductory text and paragraphs (c) and (d), and 1512.18(b), (d)(2)(i), (iii), and (vi), (e)(2) and (3), (k)(1)(i) and (2)(i), (m)(2), (n)(2)(iv) and (vii), and (o)(1) and (2)(iii) and (iv) to read as follows:

PART 1512—REQUIREMENTS FOR BICYCLES

1. In § 1512.4, paragraphs (b), (d), (e), (g), (h) and (j) are revised as set forth below:

§ 1512.4 Mechanical requirements.

* * * * *

(b) *Sharp edges.* There shall be no unfinished sheared metal edges or other sharp parts on bicycles that are, or may be, exposed to hands or legs; sheared metal edges that are not rolled shall be finished so as to remove any feathering of edges, or any burrs or spurs caused during the shearing process.

* * * * *

(d) *Attachment hardware.* All screws, bolts, or nuts used to attach or secure components shall not fracture, loosen, or otherwise fail their intended function during the tests required in this part. All threaded hardware shall be of sufficient quality to allow adjustments and maintenance. Recommended quality thread form is specified in Handbook H28, "Screw Thread Standards for Federal Services," [1] issued by the National Bureau of Standards, Department of Commerce; recommended mechanical properties are specified in ISO Recommendation R898, "Mechanical Properties of Fasteners," and in ISO Recommendations 68, 262, and 263, "General Purpose Screw Threads." [2]

(e) *Protrusions.* The assembled bicycle shall be tested for exposed protrusions in accordance with the exposed protrusion test, § 1512.18(b). There shall be no exposed protrusions that do not have:

(1) The minor end dimension greater than 3.2 mm (⅛ in); and

(2) The major end dimension greater than 12.7 mm (½ in) with radii greater than 6.3 mm (¼ in).

(See figure 4 of this Part 1512 for examples of typical protrusions). Capped exposed protrusions shall meet the requirements of this paragraph (e).

* * * * *

(g) *Excluded area.* There shall be no protrusions located within the area bounded by (1) a line 89 mm (3½ in) to the rear of and parallel to the handlebar stem; (2) a line tangent to the front tip of the seat and intersecting the seat mast at the top rear stay; (3) the top surface of the top tube; and (4) a line connecting the front of the seat (when adjusted to its highest position) to the junction where the handlebar is attached to the handlebar stem. The top tube on a female bicycle model shall be the seat mast and the down tube or tubes that are nearest the rider in the normal riding position. Control cables no greater than 6.4 mm (¼ in) in diameter and cable clamps made from material no thicker than 1.6 mm (1/16 in) may be attached to the top tube.

(h) *Screw length.* Screw lengths (1) shall be such that the threads of the internally threaded fastener are fully engaged by the screw (or the threads of the internally threaded fastener are engaged for a length of more than one screw diameter) and (2) shall be limited to a maximum length of one major diameter of the screw beyond the internally threaded mating member. Screws that are exposed to any part of a rider's body in a normal riding position, however, shall be limited to a 3.2 mm (⅛ in) extension beyond the internally threaded mating member. Adjusting-type screws that meet the exposed protrusion requirements in § 1512.4(e) and that have no threaded ends exposed to a rider's body in the normal riding position are not required to be limited in length to one major diameter.

* * * * *

(j) *Control cable abrasion.* Control cables shall not abrade over fixed parts and shall enter and exit cable sheaths in a direction in line with the sheath entrance and exit so as to prevent abrading.

2. In § 1512.5, paragraphs (b)(3), (4), (8), (c)(1)(2) and (d) are revised as set forth below:

[1] Copies may be obtained from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

[2] Copies may be obtained from: American National Standards Institute, 1430 Broadway, New York, New York 10018.

§ 1512.5 Requirements for braking system.

* * * * *

(b) *Handbrakes.* * * *

(3) *Grip dimension.* The grip dimension (maximum outside dimension between the brake hand lever and the handlebars in the plane containing the centerlines of the handgrip and the hand brake lever) shall not exceed 89 mm (3½ in) at any point between the pivot point of the lever and lever midpoint; the grip dimension for sidewalk bicycles shall not exceed 76 mm (3 in). The grip dimension may increase toward the open end of the lever but shall not increase by more than 12.7 mm (½ in) except for the last 12.7 mm (½ in) of the lever. (See figure 5 of this Part 1512.)

* * * * *

(4) *Attachment.* Brake assemblies shall be securely attached to the frame by means of fasteners with locking devices such as a lock washer, locknut, or equivalent and shall not loosen during the rocking test, § 1512.18(d)(2)(iii). The cable anchor bolt shall not cut any of the cable strands.

* * * * *

(8) *Hand lever location.* The rear brake shall be actuated by a control located on the right handlebar and the front brake shall be actuated by a control located on the left handlebar. The left-hand/right-hand locations may be reversed in accordance with an individual customer order. If a single hand lever is used to actuate both front and rear brakes, it shall meet all applicable requirements for hand levers and shall be located on either the right or left handlebar in accordance with the customer's preference.

* * * * *

(c) *Footbrakes.* * * *

(1) *Stopping distance.* Bicycles equipped with footbrakes (except sidewalk bicycles) shall be tested in accordance with the performance test, § 1512.18(e)(3), by a rider of at least 68.1 kg (150 lb) weight and shall have a stopping distance of no greater than 4.57 m (15 ft) from an actual test speed of at least 16 km/h (10 mph). If the bicycle has a footbrake only and the equivalent ground speed of the bicycle is in excess of 24 km/h (15 mph) (in its highest gear ratio at a pedal crank rate of 60 revolutions per minute),[2] the stopping distance shall be 4.57 m (15 ft) from an actual test speed of 24 km/h (15 mph) or greater.

(2) *Operating force.* Footbrakes shall be actuated by a force applied to the pedal in a direction opposite to that of the drive force, except where brakes are separate from the drive pedals and the applied force is in the same direction as the drive force.

* * * * *

(d) *Footbrakes and handbrakes in combination.* Bicycles equipped with footbrakes and handbrakes shall meet all the requirements for footbrakes in § 1512.5(c), including the tests specified. In addition, if the equivalent ground speed of the bicycle is 24 km/h (15 mph) or greater (in its highest gear ratio at a pedal crank rate of 60 revolutions per minute)[2], the actual test speed specified in § 1512.18(e)(3) shall be increased to 24 km/h (15 mph) and both braking systems may be actuated to achieve the required stopping distance of 4.57m (15 ft).

* * * * *

3. In § 1512.7, paragraph (b) is revised as set forth below:

§ 1512.7 Requirements for pedals.

* * * * *

(b) *Toe clips.* Pedals intended to be used only with toe clips shall have toe clips securely attached to them and need not have tread surfaces. Pedals designed for optional use of toe clips shall have tread surfaces.

* * * * *

4. Section 1512.10 is revised as set forth below:

§ 1512.10 Requirements for tires.

The manufacturer's recommended inflation pressure shall be molded into or onto the sidewall of the tire with lettering no less than 3.2 mm (⅛ in) in height, in the following manner: "INFLATE TO —— PSI." After inflation to 110 percent of the recommended inflation pressure, the tire shall remain intact on the rim, including while being tested under a load of 2000 N (450 lbf) in accordance with the rim test, § 1512.18(j). Tubular sew-up tires, non-pneumatic tires, and non-molded wired-on tires are exempt from this section.

5. In § 1512.12, the introductory paragraph and (a), (a)(1), and (a)(2) are revised as set forth below:

§ 1512.12 Requirements for wheel hubs.

All bicycles (other than sidewalk bicycles) shall meet the following requirements:

(a) *Locking devices.* Wheels shall be secured to the bicycle frame with a positive lock device. Locking devices on threaded axles shall be tightened to the manufacturer's specifications.

(1) *Rear wheels.* There shall be no relative motion between the axle and the frame when a force of 1,780 N (400 lbf) is applied symmetrically to the axle for a period of 30 seconds in the direction of wheel removal.

(2) *Front wheels.* Locking devices, except quick-release devices, shall withstand application of a torque in the direction of removal of 17 N-m (12.54 ft-lb).

* * * * *

6. In § 1512.14, the introductory paragraph is revised to read as set forth below:

§ 1512.14 Requirements for frame.

The fork and frame assembly shall be tested for strength by application of a load of 890 N (200 lbf) or at least 39.5 J (350 in-lb) of energy, whichever results in the greater force, in accordance with the frame tests, § 1512.18(k)(2), without visible evidence of fracture or frame deformation that significantly limits the steering angle over which the wheel can be turned. Sidewalk bicycles are exempt from this section.

* * * * *

7. In § 1512.16, the introductory paragraph, (c) and (d) are revised as set forth below:

§ 1512.16 Requirements for reflectors.

Bicycles shall be equipped with reflective devices to permit recognition and identification under illumination from motor vehicle headlamps. The use of reflector combinations off the center plane of the bicycle (defined in § 1512.18(m)(2)) is acceptable if each reflector meets the requirements of this section and of § 1512.18 (m) and (n) and the combination of reflectors has a clear field of view of ±10° vertically and ±50° horizontally. Sidewalk bicycles are not required to have reflectors.

* * * * *

(c) *Front reflector.* The reflector or mount shall not contact the ground plane when the bicycle is resting on that plane in any orientation. The optical axis of the reflector shall be directed forward within 5° of the horizontal-vertical alignment of the bicycle when the wheels are tracking in a straight line, as defined in § 1512.18(m)(2). The reflectors and/or mounts shall incorporate a distinct, preferred assembly method that shall insure that the reflector meets the optical requirements of this paragraph (c) when the reflector is attached to the bicycle. The front reflector shall be tested in accordance with the reflector mount and alignment test, § 1512.18(m).

(d) *Rear reflector.* The reflector or mount shall not contact the ground plane when the bicycle is resting on that plane in any orientation. The reflector shall be mounted such that it is to the rear of the seat mast with the top of the reflector at least 76 mm (3.0 in) below the point on the seat surface that is intersected by the line of the seat post. The optical axis of the reflector shall be directed rearward within 5° of the horizontal-vertical alignment of the bicycle when the wheels are traveling in a straight line, as defined in § 1512.18(m)(2). The reflectors and/or mounts shall incorporate a distinct, preferred assembly method that shall insure that the reflector meets the optical requirements of this paragraph (d) when the reflector is attached to the bicycle. The rear reflector shall be tested in accordance with the reflector mount and alignment test, § 1512.18(m).

* * * * *

8. In § 1512.17, paragraph (d) is revised as set forth below:

§ 1512.17 Other requirements.

* * * * *

(d) *Toe clearance.* Bicycles not equipped with positive foot-retaining de-

[2] This is proportional to a gear development greater than 6.67 m (21.9 ft) in the bicycle's highest gear ratio. Gear development is the distance the bicycle travels, in meters, in one crank revolution.

vices (such as toe clips) shall have at least 88 mm (3½ in) clearance between the pedal and the front tire or fender (when turned to any position). The clearance shall be measured forward and parallel to the longitudinal axis of the bicycle from the center of either pedal to the arc swept by the tire or fender, whichever results in the least clearance. (See figure 6 of this Part 1512.)

9. In § 1512.18, paragraphs (b) (1), (2), (d)(2) (i), (iii), (vi), (e) (2), (3), (h) (1)(i), (2)(i), (m)(2), (n)(2) (iv), (vii), (o) (1), (2) (iii) and (iv) are revised as set forth below.

§ 1512.18 Test and test procedures.

* * * * *

(b) *Exposed protrusion test.* (Ref. § 1512.4(e))

(1) *Apparatus.* A cylinder of 83 mm (3¼ in) diameter and 254 mm (10 in) length.

(2) *Procedure.* All protrusions greater than 7.8 mm (5/16 in) in length shall be located and tested with the test apparatus to determine whether the protrusions can be brought into contact with the surface of the cylinder. Any protrusion of the dimensions specified that can be brought into contact with the cylinder are exposed protrusions.

* * * * *

(d) *Handbrake loading and performance test.* (Ref. § 1512.5(b))

* * * * *

(2) *Procedure* * * *

(i) *Loading test procedure.* The hand levers shall be actuated with a force applied at a point no more than 25 mm (1.0 in) from the open end of the lever. If the hand lever contacts the handlebar (bottoms) before a force of 445 N (100 lbf) is reached, the loading may be stopped at that point, otherwise the loading shall be increased to at least 445 N (100 lbf).[4] Application of the loading force shall be repeated for a total of 10 times and all brake components shall be inspected.

* * * * *

(iii) *Rocking test procedure.* A weight of at least 68.1 kg (150 lb) shall be placed on the seat; the force required for the hand levers to contact the handlebars or 445 N (100 lbf), as determined in § 1512.18(d)(2), shall be applied to the hand levers; [4] and the bicycle shall be rocked forward and backward over a dry, clean, level, paved surface at least six times and for a distance of at least 76 mm (3 in) in each direction.

* * * * *

(vi) *Performance test criteria.* The stopping force applied to the hand lever at a point no closer than 25 mm (1.0 in) from the open end shall not exceed 178 N (40 lbf). A bicycle with an equivalent ground speed in excess of 24 km/h (15 mph) (in its highest gear ratio at a pedal crank rate of 60 revolutions per minute)[4] shall stop from an actual test speed of 24 km/h (15 mph) or greater within a distance of 4.57 m (15 ft); when the equivalent ground speed is less than 24 km/h (15 mph) under the same conditions, the bicycle shall stop from an actual test speed of 16 km/h (10 mph) or greater within a distance of 4.57 m (15 ft).

(e) *Footbrake force and performance test.* (Ref. § 1512.5(c) (1) and (2))

* * * * *

(2) *Force test.* The braking force shall be measured as the wheel is rotated in a direction of forward motion, and the braking force is measured in a direction tangential to the tire during a steady pull after the wheel completes one-half revolution but before the wheel completes one revolution. The brake shall be capable of producing a linearly proportional brake force for a gradually applied pedal force from 89 N to 310 N (20 to 70 lbf) and shall not be less than 178 N (40 lbf) for an applied pedal force of 310 N (70 lbf). All data points must fall within plus or minus 20 percent of the brake force, based on the measured brake load using the least square method of obtaining the best straight line curve.

(3) *Performance test.* The procedure of § 1512.18(d)(2)(v) shall be followed to test the footbrake performance. The stopping distance shall be less than 4.57 m (15 ft) from an actual test speed of 16 km/h (10 mph). In addition, if the equivalent ground speed of the bicycle is in excess of 24 km/h (15 mph) (in its highest gear ratio at a pedal crank rate of 60 revolutions per minute,[4] the stopping distance shall be 4.57 m (15 ft) from an actual test speed of 24 km/h (15 mph) or greater.

NOTE: No allowance shall be made for rider weight. See § 1512.5(d) for additional requirements for bicycles with both handbrakes and footbrakes.

* * * * *

(k) *Fork and frame test.* (Ref. §§ 1512.13 and 1512.14)

(1) *Fork test.*

(i) *Procedure.* With the fork stem supported in a 76 mm (3.0 in) vee block and secured by the method illustrated in figure 1 of this Part 1512, a load shall be applied at the axle attachment in a direction perpendicular to the centerline of the stem and against the direction of the rake. Load and deflection readings shall be recorded and plotted at the point of loading. The load shall be increased until a deflection of 64 mm (2½ in) is reached.

* * * * *

(2) *Frame test*—(i) *Procedure.* The fork, or one identical to that tested in accordance with the fork test, § 1512.18(k)(1), shall be replaced on the bicycle in accordance with the manufacturer's instructions; and a load of 890 N (200 lbf), or an energy of at least 39.5 J (350 in-lb), whichever results in the greater force, shall be applied to the fork at the axle attachment point against the direction of the rake in line with the rear wheel axle. The test load shall be counteracted by a force applied at the location of the rear axle during this test.

* * * * *

(m) *Reflector mount and alignment test.* (Ref. § 1512.16 (c) and (d))

* * * * *

(2) *Criteria.* The optical axis of the reflector shall remain parellel within 3° to the line or intersection of the ground plane and the center plane of the bicycle defined as a plane containing both wheels and the centerlines of the down tube and seat mast.

(n) *Reflector test.* (Ref. § 1512.16(g))

* * * * *

(2) *Reflector performance test.* * * *

(iv) For visual measurements a comparison lamp, emitting light similar in spectral quality to the reflector, shall be located adjacent to the reflector (at an angle not to exceed ½°) and arranged so that the candlepower can be varied from 0.01 to 0.25 to make the intensity duplicate that of the reflector under test. The candlepower of the source of the illumination of the reflector under test shall be known or determined for this test. Means shall be provided to change the intensity of the source of illumination without changing the filament color temperature. The comparison lamp shall be designed to avoid reflection from the source of illumination back in the direction of the observer. It shall be of such size and so diffused that when viewed by the observer (through a 2½× reducing monocular), the candlepower can be readily compared and adjusted to that of the reflector. The observer shall have at least 10 minutes of dark adaption before making observations. For photoelectric measurements, the opening to the photocell shall not be more than ½ inch vertical by 1 inch horizontal.

* * * * *

(vii) A recommended coordinate system for definition of color is the "Internationale de l'Eclairage (CIE 1931)" system in the *IES Lighting Handbook*,[5] fifth edition, 1972. In the coordinate system and when illuminated by the source defined in table 4 of this Part 1512, a reflector will be considered to be red if its color falls within the region bounded by the red spectrum locus and the lines Y=0.980—X and Y=0.335; a reflector will be considered to be amber if its color falls within the region bounded by the yellow spectrum locus and the lines Y=0.382, Y=0.790—0.667X, and Y=X—0.120.

(o) *Retroreflective test.* (Ref. § 1512.16(h))

(1) *Apparatus.* Arrangements for the reflective intensity measurement shall be as shown in figure 3 of this Part 1512. A light projector (having a maximum effective lens diameter of $D/500$, where D is the distance from the source to the sidewall being measured) capable of projecting light of uniform intensity shall be used to illuminate the sample. The light falling on the sample shall have a color temperature of 2856K±10% (equivalent to a tungsten filament lamp operated at a color temperature of

[4] For hand lever extensions, the loading shall be continued until a force of 445 N (100 lbf) is reached or the hand lever extension is in the same plane as the upper surface of the handlebars or the extension lever contacts the handlebars.

[5] Copies may be obtained from Illuminated Engineering Society, 345 East 47th Street, New York, New York 10017.

2856K±10% having approximately the relative energy distribution given in table 4 of this Part 1512). The light reflected from the test surface shall be measured with a photoelectric receiver, the response of which has been corrected for the spectral sensitivity of the average photopic human eye. The dimensions of the active area of the receiver shall be such that no point on the perimeter of the receiver is more than $d/1000$ from its center (where d is the distance from the receiver to the sidewall). Tires to be tested shall be mounted on a wheel, the rim and spokes of which have been masked in flat black so that when measured without the tire they indicate no appreciable reflectance. The tire shall be mounted and fully inflated. Distances shall be measured from the plane of the wheel and the center of the hub. For the tests, the distance D between the projector and the center of the wheel and distance d between the center of the wheel and the receiver shall each be at least 15 m (50 ft).

(2) *Procedure.* * * *

(iii) *Measurement.* Measure the distance d from the receiver to the center of the wheel and the minimum distance r from the axis of rotation of the wheel to the unmasked portion of the reflective strip. Measure the illumination incident on the reflective strip at uniform intervals of no more than 45° around the wheel, with the receiver oriented in the direction of the incident radiation. The average of such readings will be the mean illumination of the sample E_r. If any one of such readings differs by more than 10 percent from the mean illumination, then a more uniform source must be obtained. Measure the illumination of the receiver due to reflection from the sidewall for each entrance angle and each observation angle given in table 3 of this Part 1512. A negative entrance angle (figure 3 of this Part 1512) is specified when the entrance angle is small because the location of the receiver with respect to the direction of illumination becomes important for distinguishing between ordinary mirror-like reflection and retroreflection. The entrance angle and the observation angle shall be in the same plane. The illumination incident on the test surface and the receiver shall be measured in the same units on a linear scale. Compute the ratio A for each combination of entrance angle and observation angle listed in table 3 as follows:

$$A=\frac{E_r}{E_s}\times\frac{d^2}{r}$$

Where:

E_r = Illumination incident upon the receiver,

E_s = Illumination incident upon a plane perpendicular to the incident ray at the specimen position (see instructions above for averaging), measured in the same units as E_r,

d = The distance in meters from the receiver to the center of the wheel,

r = The minimum radius in meters of the boundary circles of the retro-reflective strip.

The minimum value of A shall be that listed in table 3 for each combination of entrance angle and observation angle. The plane containing the entrance angle and the plane containing the observation angle shall coincide. In table 3, a positive entrance angle corresponds to the case in which the line of sight to the receiver lies between the line of incidence and the optic axis of the reflector, and a negative entrance angle corresponds to the case in which the line of incidence lies between the line of sight of the receiver and the optic axis of the reflector.

(iv) *Criteria.* The ratio A as defined in section 1512.18(o)(1)(iii) above shall not be less than:

$$A=\frac{4\cos^2\theta}{1+\left(\frac{\theta}{0.225}\right)^{3/2}}\ [m]$$

where θ is the entrance angle and ϕ is the observation angle in degrees. The criterion applies only for entrance angles from 0° to 40° and observation angles from 0.2° to 1.5°, and performance is not specified beyond this range. The values of A in table 3 are obtained from the formula above by rounding up to two significant figures. Except in cases in which the performance of the reflector is seriously questionable, a reflector with A at least the value given in table 3 at each of the six combinations of entrance and observation angle will be considered to satisfy this criteria.

* * * * *

Interested persons are invited to submit, on or before July 16, 1975, written comments regarding this proposal. Comments and any accompanying data or material should be submitted, preferably in five copies, addressed to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the Office of the Secretary, 10th Floor, 1750 K Street NW., Washington, D.C., during working hours Monday through Friday.

Dated: June 10, 1975.

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

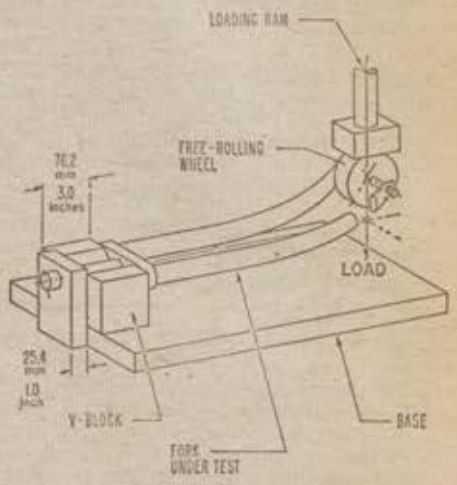


FIG 1-BICYCLE FRONT FORK CANTILEVER BENDING TEST RIG

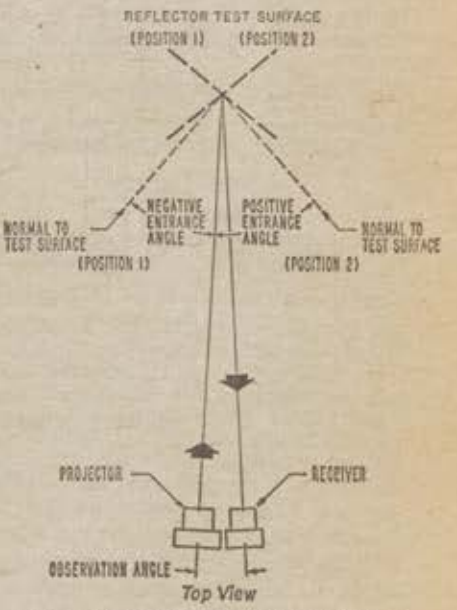


FIG 3-ENTRANCE & OBSERVATION ANGLES

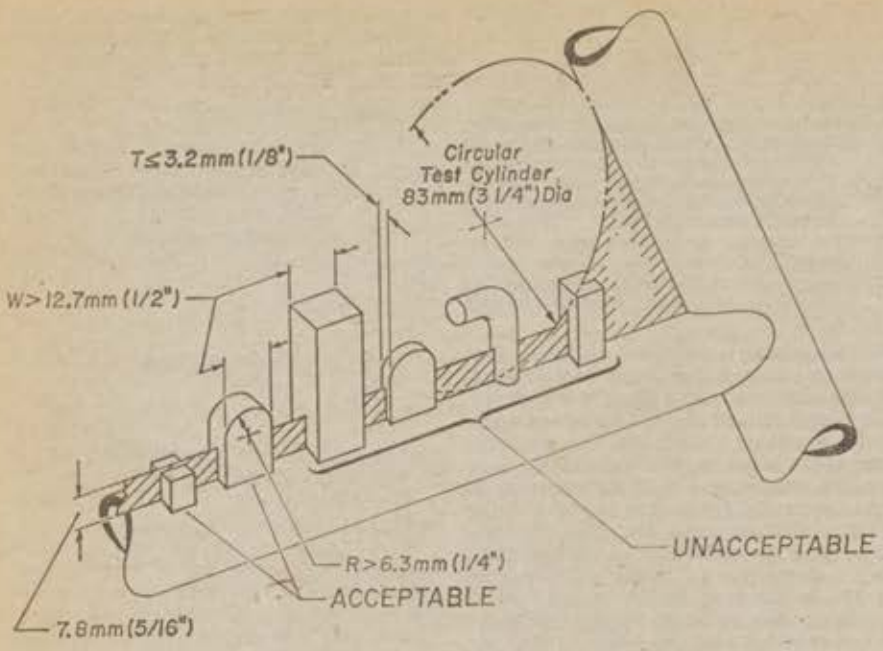


FIG 4-TYPICAL PROTRUSION EXAMPLES

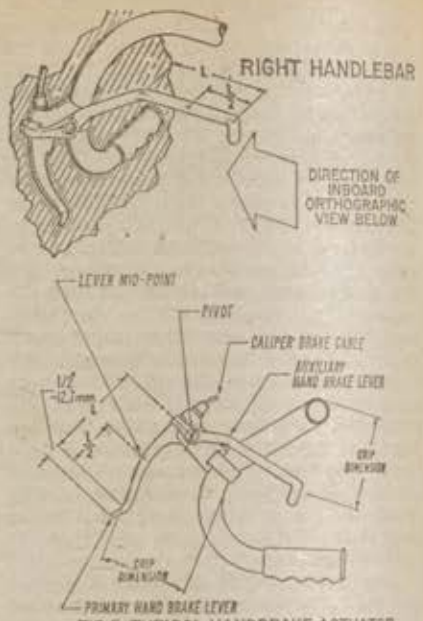


FIG.5-TYPICAL HANDBRAKE ACTUATOR SHOWING GRIP DIMENSION

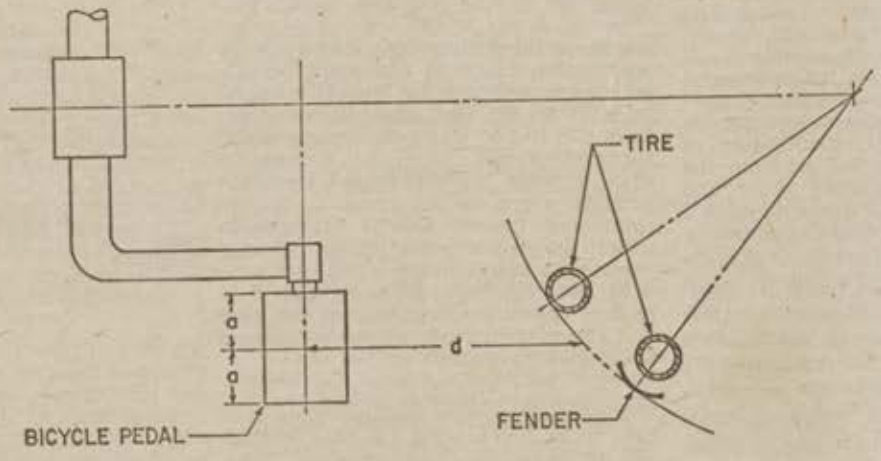


FIG 6-TOE CLEARANCE

[FR Doc.75-15503 Filed 6-13-75;8:45 am]

INTERSTATE COMMERCE COMMISSION

[No. 35129 (SUB NO. 5)]

[49 CFR 1249]

Proposal To Adopt an Annual Financial Report for Class III Common and Contract Motor Carriers of Property Suitable to the Needs of State Regulatory Commissions and the Interstate Commerce Commission

At a General Session of the Interstate Commerce Commission held at its office in Washington, D.C. on the 27th day of May, 1975.

This proceeding is being instituted on our own motion to consider the adoption of an Annual Financial Report for Class III Common and Contract Motor Carriers of Property that can serve the needs of the various states where such carriers file reports and this Commission.

Our Bureau of Accounts conducted a survey of all State regulatory commissions to determine the extent to which the information needs of those commissions and this Commission about Class III Motor Carriers of Property are similar. The survey revealed that the same basic disclosures are required by the State regulatory commissions and this Commission. In addition, some states require detailed disclosure of operating statistics, equipment, obligations, intrastate revenues and expenses, and affiliated relationships.

The annual report proposed in this proceeding includes most of the information found in the reports that Class III motor carriers file with the various states in which they operate. In those few instances where information needed by an individual state is lacking, that state has the option of developing and inserting appendices into the proposed report to provide such information. For example, some states require more detailed information about operating statistics, equipment, obligations, intrastate revenues and expenses, and affiliated relationships than other states. The information required in the proposed report is based on the information needs of a majority of State regulatory commissions.

There are numerous benefits to be realized from State regulatory commission participation in the adoption of the proposed annual report. Carriers can avoid the restructuring of similar data for reports to various State regulatory commissions and this Commission. Also, printing costs to states should be reduced by utilizing the uniform report printed by this Commission. The proposed annual report will also provide a concise reporting format similar to that used by higher class carriers for users of the report thereby facilitating comparative analysis between Class I, Class II and Class III carrier operations.

Also, this report would relieve a burden on many small carriers with operating revenues of $100,000 or less; they would have to complete pages 2 and 3 only. Presently all Class III carriers with more than $50,000 are required to complete the entire report. This relief would not result in the loss of any data essential in Commission decision making. Moreover, if the various states wished the smaller carriers to complete the report for them it would be on a uniform basis.

The annual report instructions and filing requirements may differ somewhat according to State regulatory commission requirements, therefore, this information can be developed and inserted as an appendix to the report by each State regulatory commission. The proposed instructions for the annual report to this Commission have been included for illustrative purposes only.

Although state regulatory commission participation in the adoption of the proposed annual financial report is voluntary, the success of and benefits to be derived from this report are dependent upon the degree of State regulatory commission participation. It is intended that the proposed Class III Annual Financial Report be effective for the year ending December 31, 1976.

Upon consideration of the above-described matters and good cause appearing therefore:

It is ordered, That a proceeding be, and it is hereby, instituted under the authority of sections 12, 20 and 220 of the Interstate Commerce Act and pursuant to section 553 and 559 of the Administrative Procedure Act with a view to adopting the proposed regulations set forth in Appendices A[1] of this notice, and for the purpose of taking such other and further action as the facts and circumstances may justify and require.

It is further ordered, That all Class III motor carriers of property subject to the Interstate Commerce Act be, and they are hereby, made respondents in this proceeding.

It is further ordered, That no oral hearing be scheduled for the receiving of testimony in this proceeding unless a need therefore should later appear, but that respondents or any other interested parties may participate in the proceeding by submitting for consideration written statements of fact, views and arguments on the subjects mentioned above, or any other subjects pertaining to this proceeding.

It is further ordered, That any interested person wishing to submit statements of fact, views, or arguments shall file 15 copies of such representations with the Secretary, Interstate Commerce Commission, Washington, D.C., 20423, on or before July 18, 1975.

It is further ordered, That written material or suggestions submitted will be available for public inspection at the offices of the Interstate Commerce Commission, 12th and Constitution Avenue, NW., Washington, D.C., during regular business hours.

And it is further ordered, That statutory notice of the institution of this proceeding be given to all respondents and to the general public by mailing a copy of this order to the Governor of every State and to the Public Utilities Commissions or Boards of each State having jurisdiction over transportation, by posting a copy of this order in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and by delivering a copy thereof to the Director, Division of the Federal Register, for publication in the FEDERAL REGISTER as notice to all interested persons.

This decision is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

The text of Subsection 1249.4 is revised to read as follows:

§ 1249.4 Annual reports of class III carriers of property.

Commencing with the year ended December 31, 1976, and for subsequent years thereafter, until further order, all class III motor carriers of property, as defined in 1240.5 of this chapter, are required to file a uniform annual report in accordance with Motor Carrier Annual Report Form M–3 (property). Such report shall be filed in the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, on or before April 30 of the year following the year to which it relates.

[FR Doc.75–15600 Filed 6–13–75;8:45 am]

[1] Filed as part of the original document.

DEPARTMENT OF DEFENSE

Corps of Engineers

[33 CFR Part 209]

PERMITS FOR ACTIVITIES IN NAVIGABLE WATERS OR OCEAN WATERS

Proposed Policy, Practice and Procedure

On May 6, 1975, the Department of the Army, acting through the Corps of Engineers, published four alternative proposed regulations for comment in the FEDERAL REGISTER (40 FR 19766) pursuant to the order of the District Court for the District of Columbia in Natural Resources Defense Council v. Callaway, Civil No. 74–1242. The public was requested to respond to these proposed regulations on or before June 6, 1975, in order that a final regulation could be issued by June 16, 1975, the deadline established by the Court. On June 6, 1975, the District Court for the District of Columbia modified its order to provide that the Secretary of the Army and the Chief of Engineers must now publish final regulations within forty (40) days of June 16, 1975, "which recognize the full regulatory mandate of the Federal Water Pollution Control Act." Accordingly, the comment period for these proposed four alternative regulations is

being extended to June 30, 1975. In addition, EPA is hereby extending the comment period on the proposed guidelines (published in 40 FR 19774) to June 30, 1975.

As of June 6, 1975, over 2,200 comments have been received. The majority of these comments have addressed the question of extending Federal jurisdiction under section 404 of the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1344) or have requested an extension of the comment period. Few comments to date have addressed other aspects of these four alternative regulations such as: the role of the states in the administration of the section 404 permit program; the requirement for initial state approval prior to the processing of an application for a Section 404 permit (Alternatives III and IV); the extent to which state and local water and land use planning programs will be involved in the Corps decision-making process; the exemption of discharges of dredged or fill material amounting to 100 cubic yards or less into waters other than navigable waters of the United States (Alternatives II and IV); the definitions of the terms "dredged material" and "fill material"; and, the impact of the proposed guidelines developed by the Administrator, Environmental Protection Agency in conjunction with the Secretary of the Army (which were also published in the FEDERAL REGISTER on May 6, 1975, at 40 FR 19794) on the Corps decision-making process, including the wetlands policy contained in these guidelines and the need for scientific testing to determine the degree of contamination of certain types of discharges of dredged or fill material.

The public should also be aware that other administrative approaches are being considered to implement the intent of Congress as expressed in the FWPCA. These approaches include: (1) allowing the EPA and the states to regulate disposals of certain types of dredged or fill material through their authorities under section 402 of the FWPCA; (2) the possibility of identifying those discharges of dredged or fill material that cause little or no environmental impact and only regulating by permit the remaining discharges of dredged or fill material that cause significant environmental impact; and (3) increasing the role of the states in regulating the discharge of certain types of dredged or fill material through their other authorities. (Implementing any of the alternative approaches may require submission of amendatory legislation to the FWPCA.)

The Corps of Engineers and the Environmental Protection Agency urge full public participation in evaluating the above mentioned considerations of the proposed regulations, proposed guidelines, and other administrative approaches during the extended comment period. This will facilitate the joint EPA-Corps of Engineers effort to achieve a workable program for protecting both the aquatic environment and those who use the aquatic environment.

The Corps of Engineers intends to evaluate all comments received by June 30, 1975, and plans to publish a final regulation on or before July 26, 1975, the date of the modified court order. All comments, suggestions, or objections to these four proposed alternative regulations should be submitted in writing to the Chief of Engineers, Forrestal Building, Washington, D.C. 20314, Attn: DAEN-CWO-N, on or before June 30, 1975.

Dated: June 12, 1975.

KENNETH E. MCINTYRE,
Brigadier General, USA,
Acting Director of Civil Works.

All comments involving the proposed guidelines should be submitted to Kenneth MacKenthum, Acting Deputy Assistant Administrator for Water Planning and Standards, Office of Water and Hazardous Materials (WH-451), EPA, 401 M Street, S.W., Washington, D.C. 20460. All written comments received by June 30, 1975 will be considered in developing the final guidelines.

Dated: June 12, 1975.

ALVIN L. ALM,
Acting Administrator.

[FR Doc.75-15795 Filed 6-13-75;10:10 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 230]

NAVIGABLE WATERS

Discharge of Dredged or Fill Material

CROSS REFERENCE: For a document extending the comment period on proposed guidelines published at 40 FR 19774, May 6, 1975, see page 25493 of this issue.

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Release No. 34—11468, File No. S7-515]

REGULATION OF SHORT SALES OF SECURITIES

Proposed Rulemaking

As publishd in the Rules section of this FEDERAL REGISTER, June 16, 1975, p. 25442 the Commission has announced the adoption of amendments to the short sale rules, §§ 240.10a-1 and 240.10a-2. The proposals to amend § 240.10a-1, discussed herein, should be read in conjunction with those amendments, as adopted.

A. *The "Tick" test.* It has been suggested that the reference point for application of the "tick" test under paragraph (a)(1) of § 240.10a-1 for purposes of determining the permissibility of a short sale of a Reported Security should be broadened to permit the test to be applied to either the last sale reported in the consolidated system or the last sale in the market in which the short sale is to be effected (treating the over-the-counter market in Reported Securities as a single market), whichever is lower.[1] This proposal would increase the flexibility of § 240.10a-1 with respect to prices at which short sales of Reported Securities could be effected. While impediments to reliance on such a provision exist for certain markets (e.g., the over-the-counter market, because of the difficulty of ascertaining the most recent sale in that market), it does not appear to the Commission that short sales effected in accordance with such a provision would be inconsistent with the purposes of the short sale rules.[2]

If the foregoing proposal were adopted by the Commission, the text of paragraph (a)(1) of § 240.10a-1 would be revised to read as follows:

(a)(1) No person shall, for his own account or for the account of any other person, effect a short sale of any security registered on, or admitted to unlisted trading privileges on, a national securities exchange, if trades in such security are reported pursuant to a consolidated transaction reporting system operated in accordance with a plan declared effective under Securities Exchange Act § 240.17a-15 (a "consolidated system") and information as to such trades is made available in accordance with such plan on a real-time basis to vendors of market transaction information, (i) below the price at which the last sale thereof, regular way, was reported in such consolidated system, or (ii) at the price at which the last sale thereof, regular way, was reported in such consolidated system, unless such price is above the next preceding different price at which a sale of such security, regular way, was reported in a consolidated system; *Provided, however,* That such short sale may be effected on a national securities exchange or in the over-the-counter market at or above the price at which the last sale thereof, regular way, was effected in the particular market in which such sale is to be effected, unless the last sale thereof is below the next preceding different price at which a sale of such security, regular way, was effected in that market, in which case such sale may not be effected at or below that price, except as may be otherwise permitted by this paragraph (a)(1).

The Commission believes that this proposal would obviate any potential problems which might be experienced by "regional" exchanges under the new "tick" test contained in paragraph (a) of § 240.10a-1, as adopted.

B. *The equalizing exemption.* The amendments to § 240.10a-1 adopted by the Commission will effect a narrowing of the equalizing exemption for short sales of Reported Securities after full implementation of the consolidated system. Paragraph (e)(5) of the Rule will foreclose use of the exemption for short sales of Reported Securities covered by paragraph (a) of the Rule by persons other than registered exchange specialists and

[1] *See* Letters from the Midwest Stock Exchange to the Commission, dated November 24, 1974, April 3, 1975, and June 4, 1975; File No. S7-515.

[2] While it is unclear at the present time whether vendors of market transaction information will offer, as a service, a reference file of last sale data as to transactions in Reported Securities effected in the over-the-counter market which would permit such data to be recalled on interrogation devices, the existence of such a service would appear to obviate any operational difficulties in this regard.

market makers and Qualified Third Market Makers. It has been objected that this action may deprive "regional" exchanges of needed liquidity and effectively preclude brokers and dealers other than specialists and market makers from assuring customers that their orders will be executed at prices at least as favorable as those available on the "principal" exchange market.[1] The Commission, however, believes that the equalizing exemption should be drawn as narrowly as possible to preserve the integrity of the "tick" test contained in paragraph (a) of the § 240.10a–1.

The Commission notes that availability of the equalizing exemption for short sales on "regional" exchanges by persons other than specialists and market makers appears to have exerted an undesirable influence upon the selection by brokers of a market for the execution of orders (including both short sale and purchase orders of customers). This aspect of the exemption has made it possible, in certain situations, to effect a short sale for a customer on a "regional" exchange at a price below the price at which such sale could have been effected on the "principal" exchange for that security; similarly, by use of the exemption, it has been possible for brokers and dealers other than specialists and market makers to fill a purchase order by a short sale on a "regional" exchange at a price below the price at which the short sale could have been effected on the "principal" exchange. These practices have been characterized as the "transporting" of transactions.

The Commission regards the transporting of transactions to evade the strictures of the short sale rules as an evasion of the purposes of those rules and inconsistent with the spirit and intent of the equalizing exemption. The availability of the equalizing exemption to persons on "regional" exchanges was afforded to enhance the liquidity of those exchanges with respect to orders naturally flowing to those exchanges; the exemption was not intended to create an incentive to divert orders from the "principal" exchange market to avoid the impact of § 240.10a–1. As amended, § 240.10a–1 will make it possible for an exchange market to eliminate the reasons for transporting transactions in Reported Securities after full implementation of the consolidated system.

Nevertheless, in view of the fears expressed by "regional" exchanges that narrowing the equalizing exemption in the manner contemplated by the amendments to § 240.10a–1, as adopted, will impair the liquidity of their markets, the Commission has determined to consider whether some limited change should be made in the exemption afforded by paragraph (e)(5) of the Rule to permit equalizing short sales by persons other than specialists and market makers. In particular, the Commission is considering amending that paragraph as follows:

(5) Any sale of a security covered by paragraph (a) of this section (except a sale to a stabilizing bid complying with Securities Exchange Act § 240.10b–7) by a registered specialist or registered exchange market maker for its own account on any exchange with which it is registered for such security, or by a Qualified Third Market Maker which has filed a notice for such security with the Commission on Form X–17A–16(1) [§ 249.631] for its own account, or by any broker or dealer, for his own account or the account of a customer, on an exchange to fill a customer's order if (i) no more than 1,000 shares of the particular security to be sold are sold pursuant to this paragraph (e)(5) on that exchange by such broker or dealer in a single transaction at the price of the sale and (ii) no other sale has been effected on that exchange pursuant to the exemption afforded by this paragraph (e)(5) at the price of such broker's or dealer's sale prior to an intervening higher sale of that security reported in the consolidated system, effected at a price equal to or above the last sale reported for such security in a consolidated system; *Provided, however,* That any exchange, by rule, may prohibit use of the exemption afforded by this paragraph (e)(5) in its market if that exchange determines that such action is necessary or appropriate in its market in the public interest or for the protection of investors;

This proposal would permit brokers and dealers to effect equalizing short sales of Reported Securities after full implementation of the consolidated system on exchanges pursuant to paragraph (e)(5) of § 240.10a–1 in the manner permitted for short sales generally under the equalizing exemption afforded by paragraph (e)(6) of the Rule.

The Commission wishes to receive suggestions as to alternative means of permitting brokers and dealers to effect equalizing transactions in a manner which will enhance "regional" exchange liquidity without permitting the transporting of transactions and without undermining the integrity of the "tick" test (e.g., exchanges might be encouraged to file plans with the Commission contemplating a general exemption for its members to sell short pursuant to the exemption under specified circumstances).

It should be noted that, as proposed, this provision would permit a broker acting for a customer to effect the customer's short sale order pursuant to the equalizing exemption. The Commission is particularly interested in receiving comments on this aspect of the proposal.[4]

Finally, the Commission wishes to explore further the feasibility of revising § 240.10a–1 to prohibit short selling only at prices below the last preceding different price ("minus ticks") and of eliminating short sale regulation entirely.

Interested persons are invited to submit their views and comments on the foregoing two proposed amendments to § 240.10a–1, particularly with respect to the competitive impact of the Rule as proposed to be amended, and on the questions of whether to change the Rule to prohibit short sales only on minus ticks or to eliminate short sale regulation, in writing, to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, no later than August 1, 1975. All comments should refer to File No. S7–515.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

JUNE 12, 1975.

[FR Doc.75–15825 Filed 6–13–75;12:32 pm]

[1] *See* Letters to the Commission from the PBW Stock Exchange, dated November 8, 1974, the Pacific Stock Exchange, dated November 14, 1974, and the Midwest Stock Exchange, dated November 25, 1974.

[4] In this regard, attention should be given to the problems presented by *Opper* v. *Hancock*, 250 F. Supp. 668 (S.D.N.Y. 1966), *aff'd*, 367 F. 2d 157 (2d Cir. 1966).

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF STATE

Agency for International Development

HOUSING GUARANTY PROGRAM FOR THE CITY OF SEOUL, KOREA

Information for Investors

The Agency for International Development (A.I.D.) has advised the Metropolitan Government of the City of Seoul, Korea (the Borrower), that upon execution by an eligible U.S. investor acceptable to A.I.D. of an agreement to loan the Borrower an amount not to exceed $10 million, and subject to the satisfaction of certain further terms and conditions by the Borrower, A.I.D. will guaranty repayment to the investor of the principal and interest on such loan. The guaranty will be backed by the full faith and credit of the United States of America and will be issued pursuant to authority, contained in section 221 of the Foreign Assistance Act of 1961, as amended (the Act). Proceeds of the loan will be used to finance small loans for land purchase, housing improvements and housing replacement, in the city's rehabilitation areas.

Eligible investors interested in extending a guaranteed loan to the Borrower should communicate promptly with:

Duncan Cameron, Esquire
Cameron, Hornbostel & Adelman
1707 H Street, NW
Washington, D.C. 20006

Investors eligible to receive a guaranty are those specified in section 238(c) of the Act. They are: (1) U.S. citizens; (2) domestic corporations, partnerships, or associations substantially beneficially owned by U.S. citizens; (3) foreign corporations whose share capital is at least 95 percent owned by U.S. citizens; and (4) foreign partnerships or associations wholly owned by U.S. citizens.

To be eligible for a guaranty, the loan must be repayable in full no later than the thirtieth anniversary of the first disbursement of the principal amount thereof and the interest rate may be no higher than the maximum rate to be established by A.I.D.

Information as to eligibility of investors and other aspects of the A.I.D. housing guaranty program can be obtained from:

Director, Office of Housing, Agency for International
Development, Room 300E, SA-2,
Washington, D.C. 20523.

This notice is not an offer by A.I.D. or by the Borrower. The Borrower and not A.I.D. will select a lender and negotiate the terms of the proposed loan.

Dated: June 9, 1975.

PETER M. KIMM,
Director of Housing, Agency for International Development.

[FR Doc.75-15551 Filed 6-13-75;8:45 am]

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Treasury Department Order No. 189]

ASSISTANT SECRETARY (ADMINISTRATION)

Authority To Redelegate Certain Functions of Equal Employment Opportunity

The authority to make determinations of the compliance posture of Treasury Department contractors which was delegated to the Assistant Secretary (Administration) in Treasury Department Order No. 189 (Revision 2, August 5, 1973) may be redelegated by the Assistant Secretary (Administration) without limitation.

May 15, 1975.

[SEAL] WILLIAM E. SIMON,
Secretary of the Treasury.

[FR Doc.75-15524 Filed 6-13-75;8:45 am]

[Public Debt Series—No. 18-75]

TREASURY NOTES OF SERIES J-1977

I. INVITATION FOR TENDERS

1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, as amended, invites tenders on a yield basis of $2,000,000,000, or thereabouts, of notes of the United States, designated Treasury Notes of Series J-1977. The interest rate for the notes will be determined as set forth in Section III, paragraph 3, hereof. Additional amounts of these notes may be issued at the average price of accepted tenders to Government accounts and to Federal Reserve Banks for themselves and as agents of foreign and international monetary authorities. Tenders will be received up to 1:30 p.m., Eastern Daylight Saving time, Tuesday, June 17, 1975, under competitive and noncompetitive bidding, as set forth in Section III hereof.

II. DESCRIPTION OF NOTES

1. The notes will be dated June 30, 1975, and will bear interest from that date, payable semiannually on December 31, 1975, June 30, 1976, December 31, 1976, and June 30, 1977. They will mature June 30, 1977, and will not be subject to call for redemption prior to maturity.

2. The income derived from the notes is subject to all taxes imposed under the Internal Revenue Code of 1954. The notes are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

3. The notes will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

4. Bearer notes with interest coupons attached, and notes registered as to principal and interest, will be issued in denominations of $5,000, $10,000, $100,000 and $1,000,000. Book-entry notes will be available to eligible bidders in multiples of those amounts. Interchanges of notes of different denominations and of coupon and registered notes, and the transfer of registered notes will be permitted.

5. The notes will be subject to the general regulations of the Department of the Treasury, now or hereafter prescribed, governing United States notes.

III. TENDERS AND ALLOTMENTS

1. Tenders wil be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to the closing hour, 1:30 p.m., Eastern Daylight Saving time, Tuesday, June 17, 1975. Each tender must state the face amount of notes bid for, which must be $5,000 or a multiple thereof, and the yield desired, except that in the case of noncompetitive tenders the term "noncompetitive" should be used in lieu of a yield. In the case of competitive tenders, the yield must be expressed in terms of an annual yield, with two decimals, e.g., 7.11. Fractions may not be used. Noncompetitive tenders from any one bidder may not exceed $500,000.

2. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions with respect to Government securities and borrowings thereon, may submit tenders for account of customers provided the names of the customers are set forth in such tenders. Others will not be permitted to submit tenders except for their

own account. Tenders will be received without deposit from banking institutions for their own account, Federally-insured savings and loan associations, States, political subdivisions or instrumentalities thereof, public pension and retirement and other public funds, international organizations in which the United States holds membership, foreign central banks and foreign States, dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions with respect to Government securities and borrowings thereon, and Government accounts. Tenders from others must be accompanied by payment of 5 percent of the face amount of notes applied for.

3. Immediately after the closing hour tenders will be opened, following which public announcement will be made by the Department of the Treasury of the amount and yield range of accepted bids. Those submitting competitive tenders will be advised of the acceptance or rejection thereof. In considering the acceptance of tenders, those with the lowest yields will be accepted to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established at the nearest ⅛ of one percent necessary to make the average accepted price 100.000 or less. That will be the rate of interest that will be paid on all of the notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price corresponding to the yield bid. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders, in whole or in part, including the right to accept tenders for more or less than the $2,000,000,000 of notes offered to the public, and his action in any such respect shall be final. Subject to these reservations, noncompetitive tenders for $500,000 or less without stated yield from any one bidder will be accepted in full at the average price (in three decimals) of accepted competitive tenders.

IV. PAYMENT

1. Settlement for accepted tenders in accordance with the bids must be made or completed on or before June 30, 1975, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. Payment must be in cash, in other funds immediately available to the Treasury by June 30, 1975, or by check drawn to the order of the Federal Reserve Bank to which the tender is submitted, or the United States Treasury if the tender is submitted to it, which must be received at such Bank or at the Treasury no later than: (1) Wednesday, June 25, 1975, if the check is drawn on a bank in the Federal Reserve District of the Bank to which the check is submitted, or the Fifth Federal Reserve District in the case of the Treasury, or (2) Monday, June 23, 1975, if the check is drawn on a bank in another district. Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at a Federal Reserve Bank. Payment will not be deemed to have been completed where registered notes are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. In every case where full payment is not completed, the payment with the tender up to 5 percent of the amount of notes allotted shall, upon declaraton made by the Secretary of the Treasury in his discretion, be forfeited to the United States.

V. GENERAL PROVISIONS

1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make such allotments as may be prescribed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of notes on full-paid tenders allotted, and they may issue interim receipts pending delivery of the definitive notes.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve Banks.

STEPHEN S. GARDNER,
Acting Secretary of the Treasury.

[FR Doc.75-15558 Filed 6-12-75;8:45 am]

ELECTRIC GOLF CARS FROM POLAND; ANTIDUMPING

Determination of Sales at Less Than Fair Value

Information was received on June 7, 1974, that electric golf cars from Poland were being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 *et seq.*) (referred to in this notice as "the Act").

A "Withholding of Appraisement Notice" was published in the FEDERAL REGISTER of March 14, 1975 (40 FR 11917).

I hereby determine that for the reasons stated below, electric golf cars from Poland are being or are likely to be, sold at less than fair value within the meaning of section 201(a) of the Act (19 U.S.C. 160(a)).

Statement of reasons on which this determination is based:

Analysis of information from all sources reveals that the proper basis of comparison for fair value purposes is between the purchase price and the constructed value of similar merchandise.

Purchase price was calculated on the basis of unpacked, f.o.b. prices to the United States from Poland. A deduction was made for inland freight in Poland.

Inasmuch as the merchandise under consideration was produced in a state-controlled-economy country, constructed value was based on the price at which similar merchandise was sold for home consumption in a free economy country. The country chosen for this purpose was Canada.

Constructed value was calculated on the basis of an ex-factory price to Canadian purchasers, with a deduction for federal sales taxes. Adjustments were made for differences in the merchandise, quantities produced, advertising costs, credit terms, warranty costs and packing.

Using the above criteria, the purchase price was found to be lower than the constructed value of similar merchandise.

The United States International Trade Commission is being advised of this determination.

This determination is being published pursuant to section 201(c) of the Act (19 U.S.C. 160(c)).

[SEAL] JAMES J. FEATHERSTONE,
Acting Assistant Secretary of the Treasury.

JUNE 11, 1975.

[FR Doc.75-15607 Filed 6-13-75;8:45 am]

POLYMETHYL METHACRYLATE POLYMERS FROM JAPAN

Antidumping Proceeding Notice

On May 16, 1975, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), indicating a possibility that polymethyl methacrylate polymers from Japan are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

There is evidence on record concerning injury to or likelihood of injury to or prevention of establishment of an industry in the United States. This evidence indicates that imports during the first quarter of 1975 have increased substantially, whereas information for January 1975, shows a decline in domestic sales. Further, domestic manufacturers are operating at rates which will severely increase costs and reduce profits. It is indicated that manufacturing employment has also declined in 1975 from 1974. On the basis of such evidence, it is not deemed necessary to refer the case to the International Trade Commission pursuant to section 201(c)(2) of the act (19 U.S.C. 160(c)(2)).

Having conducted a summary investigation as required by § 153.29 of the Customs Regulations (19 CFR 153.29) and having determined as a result thereof that there are grounds for so doing, the U.S. Customs Service is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

A summary of price information received from all sources is as follows:

The information received tends to indicate that the prices of the merchandise sold for exportation to the United States are less than the prices for home consumption.

This notice is published pursuant to § 153.30 of the Customs Regulations (19 CFR 153.30).

[SEAL] JAMES J. FEATHERSTONE,
Acting Assistant Secretary of the Treasury.

JUNE 11,1975.

[FR Doc.75-15661 Filed 6-13-75;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Meeting

JUNE 11, 1975.

The Air Force Systems Command Science and Technology Advisory Group Research Panel will hold a meeting on July 2, 1975 from 9 a.m. to 5 p.m. at the Air Force Office of Scientific Research, 1400 Wilson Boulevard, Arlington, Virginia.

The meeting will be closed to the public in accordance with Title 5, U.S.C. 552(b) (1), (4) and (5). The Research Panel will hold classified discussions on the Air Force Research Program for the coming year with particular emphasis on the new management concepts being implemented.

For further information, contact the Scientific Advisory Board Secretariat at 202-697-4648.

JAMES L. ELMER,
Major, USAF Executive, Directorate of Administration.

[FR Doc.75-15595 Filed 6-13-75;8:45 am]

Corps of Engineers

U.S. ARMY COSTAL ENGINEERING RESEARCH BOARD

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory ommittee Act (Pub. L. 92-463), notice is hereby given of a meeting of the U.S. Army Coastal Engineering Research Board on 30 June through 2 July 1975.

The meeting will be held at the U.S. Army Engineer Division, 424 Trapelo Road, Waltham, Mass., in the Reservoir Control Room from 0800 hours to 0900 hours on 30 June for a pre-field trip orientation briefing and from 0800 hours to 1200 hours on 2 July 1975.

The 30 June session will be devoted to an orientation of the field trips to Wells Harbor, Me., Portsmouth, NH, Foss Beach, NH, Hampton Beach, NH, North Hampton Beach, NH and Newburyport, MA; and to Provincetown Harbor, Cape Cod, and Green Harbor, MA. The remainder of 30 June and all of 1 July will be devoted to field trips. Members of the public may attend the field trips but must provide their own transportation.

The 2 July morning session will be devoted to discussions of coastal problems in the New England Division and to presentations on the wave gaging needs in the South Atlantic Division, the CERC FY 76 and 77 Costal Engineering Research Program, and Board business.

Participation by the public at the 2 July meeting is scheduled for 1100 hours.

The meeting will be open to the public subject to the following:

1. Since seating capacity at the New England Division Reservoir Control Room limits public attendance to not more than 40 people, advance notice of intent to attend, although not required, is requested in order to assure adequate arrangements for those wishing to attend.

2. Oral participation by public attendees is encouraged during those times scheduled on the agenda; written statements may be submitted prior to or up to 30 days after the meeting.

Inquiries may be addressed to Colonel James L. Trayers, Commander and Director, U.S. Army Coastal Engineering Research Center, Kingman Building, Fort Belvoir, Virginia 22060, Telephone (202) 325-7000.

Dated: June 10, 1975.

By authority of the Secretary of the Army.

B. T. BATTEY,
Major, US Army, Plans Officer, TAGO.

[FR Doc.75-15552 Filed 6-13-75;8:45 am]

Department of the Navy

BOARD OF VISITORS, UNITED STATES NAVAL ACADEMY

Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act [5 U.S.C. App. I] notice is hereby given that the Board of Visitors, United States Naval Academy, will hold a semiannual meeting on July 15-16, 1975, at the United States Naval Academy, Annapolis, Maryland. The session on July 15 will commence at 1:30 p.m. The session on July 16 will commence at 8:15 a.m.

The purpose of the meeting will be to make such inquiry as the Board shall deem necessary into the state of morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs and acadamic methods of the Naval Academy. The meeting will be open to the public.

Dated: June 6, 1975.

WILLIAM O. MILLER,
Rear Admiral, JAGC, U.S. Navy, Deputy Judge Advocate General.

[FR Doc.75-15508 Filed 6-13-75;8:45 am]

NAVAL RESEARCH ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Naval Research Advisory Committee will hold a closed meeting on 10-11 July 1975, at the U.S. Naval Academy, Annapolis, Maryland. The agenda will consist of matters which are classified in the interest of national security, including various matters pertaining to the Committee's general mission to advise on whether research and development efforts being conducted by the Department of the Navy are adequate in relation to the problems to be solved. The Secretary of the Navy for that reason has determined in writing that this meeting of the Naval Research Advisory Committee should be closed to the public because it is concerned with matters listed in section 552(b)(1) of title 5, United States Code.

Dated: June 10, 1975.

H. B. ROBERTSON, Jr.,
Rear Admiral, JAGC, U.S. Navy, Judge Advocate General of the Navy.

[FR Doc.75-15548 Filed 6-13-75;8:45 am]

Office of the Secretary of Defense

ACQUISITION ADVISORY GROUP

Advisory Committee Meeting

The Acquisition Advisory Group will meet in closed session on 1 July 1975 at the IDA Building, Arlington, Virginia.

The mission of the Acquisition Advisory Group is to examine and assess the recommendations made by the Army Materiel Acquisition Review Committee, the Navy Marine Corps Acquisition Review Committee and the Secretary of the Air Force relative to major weapon systems acquisition which suggest changes of current procedures or policies in the Office of the Secretary of Defense. The Acquisition Advisory Group will report its findings and recommendations to the Deputy Secretary of Defense.

The purpose of this meeting is to discuss the operations of the military departments and segments of the Office of the Secretary of Defense as they relate to the Defense Systems Acquisition Review Council (DSARC) process. The participants will specifically be discussing major weapon systems and their acquisition. Therefore, a considerable amount of the presentations will be devoted to matters that are specifically required by Executive Order to be kept secret in the interest of national defense. This will involve presentations by representatives of the General Accounting Office, the Office of Management and Budget, and Congressional committee staff members. The Group will intermittently be discussing classified information. It is neither practicable or feasible to separate the discussions of classified and non-classified material.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Acquisition Advisory Group meeting concerns matters listed in section 552(b) of Title 5 of the United States Code, specifically subparagraph (1) thereof, and that ac-

cordingly this meeting will be closed to the public.

Dated: June 11, 1975.

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD (Comptroller).

[FR Doc.75-15591 Filed 6-13-75;8:45 am]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

MANUFACTURE OF CONTROLLED SUBSTANCES

Application

Section 303(a)(1) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 823(a)(1)) states:

"The Attorney General shall register an applicant to manufacture controlled substances in schedules I or II if he determines that such registration is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on the effective date of this part. In determining the public interest, the following factors shall be considered:

(1) maintenance of effective controls against diversion of particular controlled substances and any controlled substance in schedule I or II compounded therefrom into other than legitimate medical, scientific, research, or industrial channels, by limiting the importation and bulk manufacture of such controlled substances to a number of establishments which can produce an adequate and uninterrupted supply of these substances under adequately competitive conditions for legitimate medical, scientific, research, and industrial purposes;"

Section 1008 of the Controlled Substance Import and Export Act (21 U.S.C. 958(h)) provides that the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in schedules I or II, and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Pursuant to 1301.43 of Title 21 of the Code of Federal Regulations, notice is hereby given that the following manufacturers made application to the Drug Enforcement Administration to be registered as bulk manufacturers of the basic class of controlled substances listed below.

Parke, Davis & Company, 188 Holland Avenue, Holland, Michigan 49423 (February 25, 1975):

Drug:	Schedule
Methaqualone	II

Arenol Chemical Corporation, 40-33 23rd Street, Long Island City, N.Y. 11101 (May 9, 1975):

Drug:	Schedule
Methamphetamine	II
Amphetamine	II

Any person registered to manufacture any of the above-mentioned substances in bulk may, on or before July 15, 1975, file written comments on or objections to the issuance of the proposed registration for those substances and may, at the same time, file written request for a hearing on the application (stating with particularity the objections or issues, if any, concerning which the person desires to be heard and a brief summary of his position on those objections or issues).

Comments and objections may be addressed to the Hearing Clerk, Office of the Administrative Law Judge, Drug Enforcement Administration, Room 1130, 1405 Eye Street, NW, Washington, D.C. 20537.

Dated: June 5, 1975.

HENRY S. DOGIN,
Acting Administrator, Drug Enforcement Administration.

[FR Doc.75-15589 Filed 6-13-75;8:45 am]

[Docket No. 74-15]

SIDNEY ALFONSO NELSON, M.D., UNION CITY, NEW JERSEY

Hearing

By Notice published in the FEDERAL REGISTER September 24, 1974, (39 FR 34310), a hearing was scheduled in this matter to commence at 10 a.m., September 26, 1974. Prior to that date, pursuant to the mutual desire of the parties, an indefinite continuance was granted by the Administrative Law Judge to permit the parties to attempt to reach an agreed upon disposition. Such attempt having proven fruitless,

Notice is hereby given that a hearing in this matter will be held commencing at 10 a.m. July 2, 1975, in Room 1210, Drug Enforcement Administration, 1405 Eye Street, NW, Washington, D.C., and continue from day to day until completed.

Dated: June 9, 1975.

HENRY S. DOGIN,
Acting Administrator, Drug Enforcement Administration.

[FR Doc.75-15590 Filed 6-13-75;8:45 am]

DEPARTMENT OF THE INTERIOR

National Park Service

GATEWAY 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 Gateway National Recreation Area Advisory Commission will be held at 10 a.m., e.s.t. on July 14, 1975, at Floyd Bennett Field, Brooklyn, New York.

The purpose of the Commission is to provide for the free exchange of ideas between the National Park Service and the public, and to facilitate the solicitation of advice or other counsel from members of the public on problems and programs pertinent to the Gateway National Recreation Area.

The members of the Commission are as follows:

Mrs. Marian Heiskell, Chairman
New York, New York

Mr. Alexander Aldrich
South Mall, Albany

Mr. Chester Apy
Little Silver, New Jersey

Mr. Donald Elliott
Brooklyn, New York

Mr. Gustav Henningburg
Newark, New Jersey

Mr. Ernest W. Lass
Interlaken, New Jersey

Mr. Edward H. Tuck
New York, New York

Reverend Horace Tyler
Brooklyn, New York

Mr. Nathaniel Washington
Newark, New Jersey

Honorable Joseph B. Williams
Brooklyn, New York

The purpose of this meeting is as follows:

1. The Superintendent will report on the opening of the season.

2. The Commission will discuss possible public involvement with regard to design of a park logo.

3. Commission members will discuss possible action on public nudity at Gateway National Recreation Area.

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited, and persons will be accommodated on a first come, first served basis. 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 Robert F. Mahoney, Public Affairs Officer, Gateway National Recreation Area, Floyd Bennett Field, Brooklyn, New York 11234 at area code (212) 264-4454.

Minutes of the meeting will be available for public inspection four weeks after the meeting at the Gateway National Recreation Area Headquarters Building, Floyd Bennett Field, Brooklyn, New York 11234.

Dated: May 28, 1975.

DAVID A. RICHIE,
Acting Regional Director, North Atlantic Region.

[FR Doc.75-15512 Filed 6-13-75;8:45 am]

Bureau of Reclamation

PROCEDURES FOR PUBLIC PARTICIPATION IN GENERAL ADJUSTMENTS IN POWER RATES

Correction and Change

In FR Doc. 75-13320 appearing on pages 22156 and 22157 of the FEDERAL REGISTER of May 21, 1975, the public notice of proposed procedures to be used in power rate adjustments did not identify the procedures as relating only to the Bureau of Reclamation. This notice corrects that omission and extends the

time allowed for public comment from June 20, 1975, to July 7, 1975.

Dated: June 11, 1975.

ROLAND G. ROBINSON, Jr.,
Deputy Assistant Secretary, Land and Water Resources.

[FR Doc.75-15534 Filed 6-13-75;8:45 am]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

[AMDT 9]

SALES OF CERTAIN COMMODITIES

Monthly Sales List (Fiscal Year Ending June 30, 1975)

The CCC Monthly Sales List for the fiscal year ending June 30, 1975, published in 39 FR 24684 is amended as follows:

1. The following provisions are inserted in section 25 entitled "Rice-Rough-Unrestricted Use Sales F.O.B. Warehouse" published in 39 FR 24685, revised in 39 FR 29208 and amended in 39 FR 36621:

The minimum price is the market price but not less than the formula price. The formula price is the 1974 loan rate plus 5 percent plus $1.01 per hundredweight. Basis of sale is F.O.B. warehouse as is, or at buyers option, basis outturn weights and grades with privilege of rejecting individual cars which are more than one grade below the listed grade or contain more than 1 percent smut in excess of the listed percentage.

Effective Date: 2:30 p.m. (e.d.t.) May 30, 1975.

Signed at Washington, D.C. on June 10, 1975.

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

[FR Doc.75-15587 Filed 6-13-75;8:45 am]

Soil Conservation Service

CONCHO AND McCULLOCH COUNTIES, TEXAS; SOUTHWEST LATERALS

Subwatershed of the Middle Colorado River Watershed Project; Availability of Draft Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; Part 1500 of the Council on Environmental Quality Guidelines (38 FR 20550, August 1, 1973); and § 650.7(e) of the Soil Conservation Service Guidelines (39 FR 19650, June 3, 1974); the Soil Conservation Service, U.S. Department of Agriculture, has prepared a draft environmental impact statement for the Southwest Laterals, subwatershed of the Middle Colorado River, Watershed Project, Concho and McCulloch Counties, Texas USDA-SCS-EIS-WS-(ADM)-75-5-(D)-TX.

The environmental impact statement concerns a plan for watershed protection and flood prevention. The planned works of improvement include conservation land treatment, supplemented by seven single purpose floodwater retarding structures. The project action will contribute to the conservation, development, and productive use of the watershed's soil, water, and related resources. Flooding to agricultural land and the transportation systems will be reduced.

A limited supply of copies is available at the following location to fill single copy requests:

Soil Conservation Service, USDA
First National Bank Building
Temple, Texas 76501

Copies of the draft environmental impact statement have been sent for comment to various federal, state, and local agencies as outlined in the Council on Environmental Quality Guidelines. Comments are also invited from others having knowledge of or special expertise on environmental impacts.

Comments concerning the proposed action or requests for additional information should be addressed to Edward E. Thomas, State Conservationist, Soil Conservation Service, P.O. Box 648, Temple, Texas 76501.

Comments must be received on or before August 6, 1975, in order to be considered in the preparation of the final environmental impact statement.

Dated: June 9, 1975.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

WILLIAM B. DAVEY,
Deputy Administrator for Water Resources, Soil Conservation Service.

[FR Doc.75-15547 Filed 6-13-75;8:45 am]

TAMARAC RIVER WATERSHED PROJECT, MINNESOTA

Availability of Negative Declaration

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; § 1500.6(e) of the Council on Environmental Quality Guidelines (38 FR 20550) August 1, 1973; and § 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 Tamarac River Watershed Project, Marshall, Kittson and Roseau Counties, Minnesota.

The environmental assessment of this federal action indicates that the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the project. As a result of these findings, Mr. Harry M. Major, State Conservationist, Soil Conservation Service, USDA, 200 Federal Building and U.S. Courthouse, 316 North Robert Street, St. Paul, Minnesota, 55101, 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, flood prevention, drainage, recreation, and fish and wildlife. The remaining planned works of improvement as described in the negative declaration include conservation land treatment, basic facilities for water based recreation, the improvement of 14.5 miles of man made channels, and the establishment of 1.9 miles of grassed waterway. Ephemeral flow exists in the channel and waterway areas.

The environmental assessment file is available for inspection during the regular working hours at the following location:

Soil Conservation Service, USDA
200 Federal Building & U.S. Courthouse
316 North Robert Street
St. Paul, Minnesota 55101

Request for single copies of the negative declaration should be sent to the above address.

No administrative action on implementation of the proposal will be taken until July 1, 1975.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

Dated June 6, 1975.

WILLIAM B. DAVEY,
Deputy Administrator for Water Resources, Soil Conservation Service.

[FR Doc.75-15542 Filed 6-13-75;8:45 am]

UPPER BAYOU TECHE WATERSHED, LOUISIANA

Availability of Negative Declaration

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; § 1500.6(e) of the Council on Environmental Quality Guidelines (38 FR 20550) August 1, 1973; and § 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 remaining portion of the Upper Bayou Teche Watershed, St. Martin Parish, Louisiana.

The environmental assessment of this federal action indicates that the measures 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. Alton Mangum, State Conservationist, Soil Conservation Service, USDA, Post Office Box 1630, 3737 Government Street, Alexandria, Louisiana 71301, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project concerns a plan for drainage and flood prevention. The remaining planned works of improvement, as described in the negative declaration, include approximately 27 miles of existing earthen channels, land treatment measures, and installing structures and vegetation to control erosion of channel sideslopes. All 27 miles of proposed channel work is on man-made or previously modified streams. Twenty-two miles flow only during periods of surface runoff

and five miles have continuous flow during some seasons of the year but no flow through other seasons.

The environmental assessment file is available for inspection during regular working hours at the following location:
Soil Conservation Service, USDA
3737 Government Street
Alexandria, Louisiana 71301

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 15 days after the date of this publication.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

Dated: June 6, 1975.

WILLIAM B. DAVEY,
Deputy Administrator for Water Resources, Soil Conservation Service.

[FR Doc.75-15546 Filed 6-13-75;8:45 am]

Office of the Secretary

AGRICULTURAL ADVISORY COMMITTEES FOR THE MULTILATERAL TRADE NEGOTIATIONS

Establishment

Notice is hereby given of the establishment, after consultation with the Special Representative for Trade Negotiations, of the following advisory committees: Agricultural Policy Advisory Committee for Trade Negotiations, and the eight separate Agricultural Technical Advisory Committees for Trade Negotiations on: Cotton, Dairy, Fruits and Vegetables, Grain and Feed, Livestock and Livestock Products, Oilseeds and Products, Poultry and Eggs, and Tobacco.

The purpose of these committees is to provide advice to the Secretary and the Special Representative for Trade Negotiations in respect to multilateral trade negotiations pursuant to section 135(c) of the Trade Act of 1974. (Pub. L. 93-618)

The establishment of such committees is in the public interest in connection with the duties of the Department imposed by the Trade Act of 1974.

JOSEPH R. WRIGHT, Jr.
Assistant Secretary for Administration, Department of Agriculture.

JUNE 11, 1975.

[FR Doc.75-15583 Filed 6-13-75;8:45 am]

DEPARTMENT OF COMMERCE

Maritime Administration

[Docket No. S-421]

WATERMAN STEAMSHIP CORPORATION

Amended Application

Notice is hereby given that Waterman Steamship Corporation, a New York corporation, has filed an amended application dated May 15, 1975, and further amended May 29, 1975, with the Maritime Subsidy Board pursuant to Title VI (46 U.S.C. 1171-1183) of the Merchant Marine Act, 1936, as amended (the Act), for a long-term operating-differential subsidy contract for service on Trade Route No. 21 (U.S. Gulf/Western Europe) with privilege calls at ports on Trade Routes Nos. 5-7-8-9, 6 and 11 (U.S. North & South Atlantic/U.K. & Continent, Scandinavia, Baltic and U.S.S.R. ports including those east of Finland in the Barents Sea). Waterman is presently the holder of a short-term operating-differential subsidy contract (MA/MSB-253) covering operations on Trade Route No. 21 which is to expire on April 22, 1976.

The original application was filed on August 17, 1973 and amended on May 30, 1974. It was noticed in the FEDERAL REGISTER on July 25, 1974 (39 FR 27180), and timely petitions for leave to intervene were submitted by Lykes Bros. Steamship Co., Inc. and Sea-Land Service, Inc. Since a hearing has not yet been held in Docket No. S-421, this Notice is intended to advise of amendment of the earlier application.

The present amended application involves the operation of four Mariner-type vessels on a minimum of 20 and a maximum of 35 sailings annually on Trade Route No. 21 with the privilege of calling on up to 24 sailings annually at ports on Trade Routes Nos. 5-7-8-9, 6 and 11. It also involves the replacement of the existing Mariners with two RO/RO type vessels.

Interested parties may inspect the application in the Office of the Secretary, Maritime Subsidy Board, Room 3099-B, Department of Commerce Building, Fourteenth and E Streets, NW., Washington, D.C. 20230.

Any person, firm or corporation having any interest in such application and desiring a hearing on issues pertinent to section 605(c) of the Act (46 U.S.C. 1175), should by the close of business on June 30, 1975, notify the Secretary, Maritime Subsidy Board, in writing, in triplicate and file petition for leave to intervene in accordance with the Rules of Practice and Procedure of the Maritime Subsidy Board.

In the event that a hearing is held on this application, the purpose thereof will be to receive evidence relevant to (1) whether the application is one with respect to a vessel to be operated on an essential service, served by citizens of the United States which would be in addition to the existing service, or services, and if so, whether the service already provided by vessels of United States registry on such essential service is inadequate, (2) whether in the accomplishment of the purposes and policy of the Act additional vessels should be operated thereon, (3) whether the application is one with respect to a vessel or vessels operated or to be operated on an essential service served by two or more citizens of the United States with vessels of United States registry and if so, whether the effect of the requested contract woud be to give undue advantage or be unduly prejudicial as between citizens of the United States in the operation of vessels in such essential service, and (4) whether it is necessary to enter into such contract in order to provide adequate service by vessels of United States registry.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Maritime Subsidy Board determines that petitions for leave to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Maritime Subsidy Board will take such action as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.504, Operating-Differential Subsidy (ODS)).

By order of the Maritime Subsidy Board.

Date: June 11, 1975.

JAMES S. DAWSON,
Secretary.

[FR Doc.75-15592 Filed 6-13-75;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 75F-0083]

CINCINNATI MILACRON CHEMICALS, INC.

Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 4B2964) has been filed by Cincinnati Milacron Chemicals, Inc., West St., Reading, OH 45215, proposing that the food additive regulations (21 CFR Part 121) be amended to provide for safe use of dimethyltin/monomethyltin isooctylmercaptoacetates as a stabilizer for use in the manufacture of rigid polyvinyl chloride polymeric articles intended for use in contact with dry food.

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report may be seen in the office of the Assistant Commissioner for Public Affairs, Rm. 15B-42 or the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, during working hours, Monday through Friday.

Dated: June 9, 1975.

HOWARD R. ROBERTS,
Acting Director, Bureau of Foods.

[FR Doc.75-15521 Filed 6-13-75;8:45 am]

[Docket No. 75F-0082]

ICI AMERICA INC.

Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 3B2861) has been filed by ICI America Inc., Wilmington, DE 19899, proposing that § 121.2555 *Perfluorocarbon resins* (21 CFR 121.2555) be amended by exempting from the specification for thermal instability index (21 CFR 121.2555 (b)(1)(iii) perfluorocarbon resin lubricant powders treated by irradiation to control particle size and intended for use in articles contacting food.

Dated: June 9, 1975.

HOWARD R. ROBERTS,
Acting Director, Bureau of Foods.

[FR Doc.75-15520 Filed 6-13-75;8:45 am]

[Docket No. 75G-0081]

PFIZER, INC.

Filing of Petition for Affirmation of GRAS Status

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201 (s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1786 (21 U.S.C. 321(s), 348, 371 (a))) and the regulations for affirmation of GRAS status (21 CFR 121.40), published in the FEDERAL REGISTER of December 2, 1972 (37 FR 25705), notice is given that a petition (GRASP 5G0045) has been filed by Pfizer, Inc., 235 East 42d St., New York, NY 10017, and placed on public display at the office of the Hearing Clerk, Food and Drug Administration, proposing affirmation that the use of glycine hydrochloride, L-cysteine hydrochloride, L-arabinose, and -alanine in hydrolyzed vegetable protein (HVP) based meat flavors is generally recognized as safe (GRAS).

Any petition which meets the format requirements outlined in 21 CFR 121.40 is filed by the Food and Drug Administration. There is no prefiling review of the adequacy of data to support a GRAS conclusion. Thus, the filing of a petition for GRAS affirmation should not be interpreted as a preliminary indication of suitability for affirmation.

Interested persons may, on or before August 15, 1975, review the petition and/or file comments (preferably in quintuplicate) with the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852. Comments should include any available information that would be helpful in determining whether the substance is, or is not, generally recognized as safe. A copy of the petition and received comments may be seen in the office of the Hearing Clerk, address given above, during working hours, Monday through Friday.

Dated: June 5, 1975.

HOWARD R. ROBERTS,
Acting Director, Bureau of Foods.

[FR Doc.75-15523 Filed 6-13-75;8:45 am]

Office of the Secretary

SUPPLEMENTARY MEDICAL INSURANCE FOR THE AGED AND DISABLED

Announcement of the Economic Index for Fiscal Year 1976

Notice is hereby given that, pursuant to section 1842(b)(3) of the Social Security Act (42 U.S.C. 1395u(b)(3)), as amended by section 224 of Pub. L. 92-603, the economic index applicable to prevailing charges for physicians' services under the Medicare Supplementary Medical Insurance Program is 1.179 for the period July 1975 through June 1976.

The increase in the economic index over the base value of 1.000 is the maximum allowable increase in any prevailing fee for physicians' services in fiscal year 1976 over the corresponding prevailing fee for the same service in the same geographic area in fiscal year 1973. It is calculated as the weighted average of the increases during the period from calendar year 1971 to calendar year 1974 in several indexes published by the Bureau of Labor Statistics. Calendar year 1974 is the period from which fiscal year 1976 reasonable charges will be derived.

The table below shows the components of the economic index for calendar years 1971 and 1974, the increases in those components, and the weights applied to determine the economic index.

Derivation of Economic Index Fiscal Year 1976

	1971 base value [1]	1974 value [1]	Ratio of 1974 values to 1971 values	Weights [2]
1. Hourly earnings of nonsupervisory workers in finance, insurance, and real estate.	3.27	3.81	1.1651	0.37×40 percent.
2. Housing component of the consumer price index	124.3	150.6	1.2116	0.14×40 percent.
3. Private transportation component of the consumer price index.	116.6	135.6	1.1715	0.06×40 percent.
4. Drugs and pharmaceuticals component of the wholesale price index.	102.4	112.7	1.1006	0.09×40 percent.
5. Consumer price index	121.3	147.7	1.2176	0.34×40 percent.
6. Average weekly earnings of production and nonsupervisory workers.	127.28	154.45	1.2135	
7. Index of output per manhour of employed nonfarm workers.	106.9	110.3	1.0318	
8. Change in average weekly earnings divided by change in output per manhour.			1.1761	60 percent.
9. Economic index applicable for the 12 month period ending June 1976.			1.1763	

[1] All component values of the economic index are from the *Monthly Labor Review* published by the U.S. Department of Labor.

[2] The weights used were derived from Medical Economics (Nov. 20, 1972) and Profile of Medical Practice (1973 edition).

(Secs. 1102, 1833(a), 1842(b), and 1871 of the Social Security Act, 49 Stat. 647, as amended, 79 Stat. 302, 79 Stat. 310, 79 Stat. 331; 42 U.S.C. 1302, 13951(a), 1395u(b), and 1395hh.)

Effective date: This notice will be effective July 1, 1975.

(Catalog of Federal Domestic Assistance Program No. 13.801, Health Insurance for the Aged and Disabled—Supplementary Medical Insurance.)

Dated: June 6, 1975.

CASPAR W. WEINBERGER,
Secretary.

[FR Doc.75-15431 Filed 6-13-75;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D-75-334]

ACTING AREA DIRECTOR, LOS ANGELES AREA OFFICE (REGION IX, SAN FRANCISCO)

Designation

The officers appointed to the following listed positions in the Los Angeles Area Office are hereby designated to serve as Acting Area Director during the absence of the Area Director with all the powers, functions, and duties redelegated or assigned to the Area Director: *Provided*, That no officer is authorized to serve as Acting Area Director unless all other officers whose titles precede his in this designation are unable to act by reason of absence:

1. Deputy Area Director.
2. Director, Housing Management Division.
3. Director, Housing Production & Mortgage Credit Division.
4. Director, Community Planning and Development Division.
5. Area Counsel.
6. Deputy Director, Housing Production & Mortgage Credit Division.
7. Deputy Director, Housing Management Division.

(Delegation effective October 1, 1970, published at 36 FR 3389, February 23, 1971.)

Effective Date: This designation shall be effective on May 1, 1975.

RICHARD J. FRANCO,
Deputy Area Director, Los Angeles Area Office.

Concur:

ROLAND E. CAMFIELD, Jr.
Area Director, Los Angeles Area Office.

[FR Doc.75-15608 Filed 6-13-75;8:45 am]

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

FIRESTONE 500 STEEL BELT TIRES

Rescheduling of Public Proceeding

Pursuant to section 152 of the National Traffic and Motor Vehicle Safety Act of 1966 as amended (Pub. L. 93-492, 88 Stat. 1470; October 27, 1974), 15 U.S.C. 1412,

the Associate Administrator, Motor Vehicle Programs, has made an initial determination that a noncompliance with an applicable Federal motor vehicle safety standard exists with respect to the Firestone 500 Steel Belt Tires.

A public meeting initially set for June 12, 1975 (40 FR 20982, May 14, 1975) has been rescheduled at the request of Firestone Tire and Rubber Company for 10 AM, July 2, 1975, in Room 4234, Department of Transportation Building, 400 Seventh Street SW., Washington D.C. 20590. At that meeting Firestone will be afforded an opportunity to present data, views and arguments to establish that there is no failure to comply in the Steel Belt 500 tires.

Interested persons are invited to participate through written or oral presentations. Persons wishing to make oral presentations are requested to notify Mrs. Gail Willis, Office of Standard Enforcement, National Highway Traffic Safety Administration, Washington, D.C. 20590, Telephone (202) 426-2832, before the close of business (4:15 PM) on June 30, 1975.

The agency's investigative file in this matter is available for public inspection during working hours (7:45 AM-4:15 PM) in the Technical Reference Division, Room 5108, 400 Seventh Street SW., Washington D.C. 20590.

(Sec. 152, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1412); delegations of authority at 49 CFR 1.51 and 49 CFR 501.8.)

Issued on June 10, 1975.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

[FR Doc.75-15528 Filed 6-13-75;8:45 am]

[Docket No. 75IP-1, Notice 1]

GENERAL MOTORS CORP.

Petition for Exemption From Notice and Recall for Inconsequential Noncompliance

General Motors Corporation (GM) has petitioned to be exempted from the notification and recall requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for a noncompliance with Federal Motor Vehicle Safety Standard No. 110, Tire Selection and Rims-Passenger Cars (49 CFR 571.110), on the basis that the noncompliance is inconsequential as it relates to motor vehicle safety.

GM discovered that about 17,000 1975 Buick Skylarks built in Canada before February 28, 1975, had placards which did not display the total number of designated vehicle occupants, as required by S4.3 of Standard No. 110. The placards specify only that the vehicle capacity is "2 front 2 rear", whereas Standard No. 110 requires that the placards display the "designated seating capacity (expressed in terms of total number of occupants and in terms of occupants for each seat location)." The revised labels read:

"4
2 front 2 rear".

GM believes it obvious that this noncompliance can have no effect on motor vehicle safety.

This notice of receipt of a petition is published under section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Interested persons are invited to submit comments on the petition of GM described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received, are available for examination in the docket both before and after the closing date. Comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the FEDERAL REGISTER pursuant to the authority indicated below.

Comment closing date. July 16, 1975.

Proposed effective date. Date of issuance of exemption.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.51 and 49 CFR 501.8)

Issued on June 10, 1975.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

[FR Doc.75-15532 Filed 6-13-75;8:45 am]

PRIME GLAZING MATERIAL MANUFACTURERS

Assignment of Code Numbers

This notice revises the list published August 14, 1974 (39 FR 29214), of code numbers assigned by NHTSA to prime glazing material manufacturers.

Prime glazing material manufacturers are required to certify glazing material as conforming to Federal Motor Vehicle Safety Standard No. 205 (49 CFR 571.205) by affixing the symbol DOT to the material, in accordance with paragraph S6.2 of Standard No. 205, followed by a code number assigned by NHTSA. Code numbers are assigned to prime glazing material manufacturers on their written request to the Associate Administrator, Motor Vehicle Programs, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590.

(Secs. 103, 112, 114, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1403, 1407) delegations of authority at 49 CFR 1.51 and 49 CFR 501.8)

Issued on June 10, 1975.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

CODE NUMBERS ASSIGNED TO PRIME GLAZING MATERIAL MANUFACTURERS

1. Not Assigned
2. Not Assigned
3. Not Assigned
4. Not Assigned
5. Not Assigned
6. Not Assigned
7. Not Assigned
8. Not Assigned
9. Not Assigned
10. Not Assigned
11. Not Assigned
12. Not Assigned
13. Not Assigned
14. Chromaloy-Safetee Glass Division, King of Prussia, Pennsylvania
15. Libbey-Owens-Ford Co., Toledo, Ohio
16. Hayes-Albion Corp., Jackson, Michigan
17. Triplex Safety Glass Co., Ltd., London, England
18. P. P. G. Industries, Pittsburgh, Pennsylvania
19. Duplate Canada, Ltd., Toronto, Ontario, Canada
20. Asahi Glass Co., Ltd., Tokyo, Japan
21. Chrysler Corp., Detroit, Michigan
22. Guardian Industries Corp., Detroit, Michigan
23. Nippon Sheet Glass Co., Ltd., Osaka, Japan
24. Splintex Belge S.A., Gilly, Belgium
25. Flachglas AG Delog Detag, Fuerth/Bayern, West Germany
26. Corning Glass Works, Corning, New York
27. Vereinigte Glaswerke, Herzogenrath, West Germany
28. Spiegelglaswerke Germania, Porz, West Germany
29. Withdrawn
30. Sudglas Klumpp & Arretz GmbH, Bietigheim/Wurtt, West Germany
31. Glas-und Spiegelmanufaktur N. Kinon GmbH, Aachen, West Germany
32. Glaceries Reunies, S.A., Belgium
33. Laminated Glass Corp., Detroit, Michigan
34. Withdrawn
35. Hordis Brothers, Inc., Pennsauken, New Jersey
36. Societa Italiana Vetro, S. p. A., San Salvo (Chieti), Italy
37. Fabbrica Pisana DiSpecchi E Lastre Colate, Milan, Italy
38. N V Glasfabriek "SAS VAN GENT" Sas van Gent, Netherlands
39. Compagnie De Saint-Gobain, Neuilly, France
40. Dearborn Glass Co., Bedford Park (Argo P. O.), Illinois
41. Scanex Sakerhetsglas Aktiebolag, Landskrona, Sweden
42. Societe Industrielle TRIPLEX, Longjumeau, France
43. Boussois — Souchon — Neuvesel, Paris, France
44. Central Glass Co., Ltd., Tokyo, Japan
45. Splintex, Ltd., London, England
46. Cristales Inastillables de Mexico, S.A., Xalostoc Edo. de Mexico
47. Nordlamex Safety Glass OY, Helsinki, Findland
48. Rohm and Haas Co., Philadelphia, Pennsylvania
49. Lasipaino KY, Tampere, Finland
50. Armourplate Safety Glass Ltd., Port Elizabeth, South Africa
51. Vetreria di Vernante, S. p. A., Cuneo, Italy
52. Shatterproof Glass Corp., Detroit, Michigan
53. Hsinchu Glass Works, Inc., Taipai, Taiwan, Republic of China
54. Sunex Sakerhetsglas AB, Lysekil, Sweden

55. Globe Glass Mfg. Co., Elk Grove Village, Illinois
56. Armour Glass Co., Santa Fe Springs, California
57. Aktiebolaget Trempex, Eslov, Sweden
58. Shatterproof de Mexico, S.A., Col. Industrial Vallejo, Mexico
59. Industrias Venezolanas Automotrices C.A., Caracas, Venezuela
60. Muotolasi OY, Rauma, Finland
61. Taylor Products Inc., Payne, Ohio
62. Cal Tuf Glass Corp., Alhambra, California
63. Union Carbide Corporation, Ottawa, Illinois
64. Tyneside Safety Glass Co., Ltd., Gateshead-on-Tyne, England
65. Royal Industries, Wichita, Kansas
66. Swedlow, Inc., Garden Grove, California
67. Sierracin Corporation, Sylmar, California
68. Vetrobel, S. p. A., Torino, Italy
69. Fujiwara Kogyo Co., Ltd., Osaka, Japan
70. AUTOLASI, Lappi T.L., Finland
71. P. M. Tabor Co., Inc., Costa Mesa, California
72. Mitsubishi Rayon Co., Ltd., Los Angeles, California
73. V. E. Lipponen OY, Oulu, Finland
74. Beclawat (Canada) Ltd., Pointe Claire, Quebec, Canada
75. Ford Motor Company, Dearborn, Michigan
76. The Tudor Safety Glass Co., Ltd., Shippey, Kent, England
77. Dongsung Glass Co., Ltd. of Korea, Seoul, Korea
78. American Cyanamid Co., Sanford, Maine
79. Triclover Safety Glass Ltd., Waterford, Ireland
80. E. I. du Pont de Nemours & Co., Inc., Wilmington, Delaware
81. Tamglass OY, Tampere, Finland
82. Donnelly Mirrors, Inc., Holland, Michigan
83. Vidrierias De Llodio, S.A., Llodio, Spain
84. Lahtis Glasbruk, Borup & Co., Lahti, Finland
85. K.S.H. Incorporated, St. Louis, Missouri
86. Eastman Chemical Products, Inc., Kingsport, Tennessee
87. Glaverbel s.a., Brussels, Belgium
88. Withdrawn
89. Goodyear Tire & Rubber Company, Akron, Ohio
90. Solliver, Veiligbeidsglas, Groenenherderstraat 178, Belgium
91. Sietex Safety Glass AB, Uppsala, Sweden
92. Toughened Glass Ltd., Liverpool L36 6BL, England
93. Day Specialties Company Limited, Midland, Ontario, Canada
94. General Electric Company, Pittsfield, Massachusetts
95. Glaverbel Glass Manitoba Ltd., Winnipeg, Manitoba, Canada
96. Taiwan Glass Corporation, Lake Oswego, Oregon
97. AB Emmaboda Glasverk, Sweden
98. Plaskolite Inc., Columbus, Ohio
99. Ohio Plate Glass Company, Paul Manufacturing, Lewisburg, Ohio
100. Mills Appliance Products, Ltd., Bramalea, Ontario, Canada
101. Polycast Technology Corporation, Stamford, Connecticut
102. Glasa Develop AB, LUND, Sweden
103. Artistic Glass Products Co., Quakertown, Pennsylvania
104. Sheffield Poly-Glaz, Inc., Sheffield, Massachuetts
105. ASG Industries Inc., Kingsport, Tennessee
106. British Industrial Plastics Ltd., Essex, England
107. N. V. Hardmaas, Panovenweg 20, Holland
108. Tenneco Chemical Inc., Newton Upper Falls, Massachusetts
109. S. A. Glaceries de Saint Roch, Auvelais, Belgium
110. Windor Industries Inc., Dallas, Texas
111. Gebr. Happich GmbH., Wuppertal, West Germany
112. Roehm GmbH., Darmstadt, West Germany
113. Southern Plastics Co., Columbia, South Carolina
114. Paulding Glass Products, Inc., Paulding, Ohio
115. Hamilton of Indiana Inc., Vincennes, Indiana
116. Surelite Inc., Conway, Arkansas
117. Autoglass Persuana S.A., Lima, Peru
118. Toho Kasei Co. Ltd., Yokohama, Kanagawa, Japan
119. Sumitomo Chemical Co. Ltd., Higashi-Ku, Osaka, Japan
120. Vidrios Securit S.A., Barranquilla, Colombia
121. Cadillac Plastic & Chemical Co., Detroit, Michigan
122. Shatterpruff Safety Glass Ltd., Port Elizabeth, South Africa
123. B & S Plastics Inc., Jacksonville, Florida
124. XCEL Corporation, Newark, New Jersey
125. Sun Valley Tempered Glass Co., Oxnard, California
126. J. W. Carroll & Sons, Wilmington, California
127. Garibaldi Temper Glass Ltd., North Vancouver, British Columbia, Canada
128. Industrija Stakla Pancevo, Pancevo, Yugoslavia
129. Viracon, Inc., Owatonna, Minnesota
130. Vidrio Plano De Mexico S.A., Mexico 14, D.F., Mexico
131. Acryltech Inc., St. Paul, Minnesota
132. Fourco Glass Co., Fort Smith, Arkansas
133. M. L. Burke Company, Cornwells Heights, Pennsylvania
134. Triplex Ireland Ltd., Templemore, Co., Tipperary, Ireland
135. Breaksafe Company, Chicago, Illinois
136. Brunswick Glass Ltd., Moncton, N. B., Canada
137. Yokohama Kogaku Mage Garasu Co., Ltd., Yokohama City, Japan
138. W. R. Grace and Co., Los Angeles, California
139. ICI Plastics Ltd., Welwyn Garden City, Herts, A L7 1HD, England
140. Thomas Bennet, Ltd., Leeds, England
141. Iahizuka Safety Glass Company, Ltd., Tokyo, Japan
142. CY-FAB Manufacturing & Engr. Corporation, Detroit, Michigan
143. Galaxy Glass Ltd., Winnipeg, Manitoba, Canada
144. Rowland, Inc., Kensington, Connecticut
145. Lustro Plastics Co., Valencia, California
146. Buchmin Industries, Reedley, California
147. Roper Lanco, Andover, Kansas
148. Thermax Company, Elkhart, Indiana
149. Not Assigned
150. Florida Accessory Distributing Co., Inc., Miami, Florida
151. California Glass Distributors, Santa Fe Springs, California
152. T-O-W Industries, Chicago, Illinois
153. Temperline, Inc., Seattle, Washington
154. Pawnee Plastics, Inc., Redlands, California
155. Thermoplastics, Inc., Warren, Michigan
156. Chi Mei Industrial Group, Tairan, Taiwan
157. Flex-O-Glass, Inc., Chicago, Illinois
158. Tempglass Ltd., Weston, Ontario, Canada
159. Noland Paper Co., Buena Park, California
160. Stirex Co., Bucharest, Romania
161. Northwestern Industries, Inc., Seattle, Washington
162. Elixir Industries, Compton, California
163. Pilkington Brothers (Canada), Ltd., Concord, Ontario, Canada
164. Pacific Tempered Glass Corp., Wilsonville, Oregon
165. Canadian Pittsburgh Industries, Ltd., Toronto, Ontario, Canada
166. Japan Tempered & Laminated Glass Co., Ltd., Aichi-Pref., Japan
167. Tecnik International Corp., Mt. Clemens, Michigan
168. Crystales Seguridad, Buenos Aires, Mexico
169. B. W. Molded Plastic Co., Pasadena, California
170. Tuf-Flex Glass, Inc., Vincennes, Indiana
171. Thermax Limited, Durham, England
172. Pines of America, Inc., Fort Wayne, Indiana
173. Withdrawn

[FR Doc.75-15533 Filed 6-13-75;8:45 am]

Highway Safety Act Sanctions Review Board

[Docket No. 74-37; Notice 10]

PUERTO RICO

Cancellation of Sanctions Hearing

In accordance with the decision of the Secretary of Transportation, published in today's edition of the FEDERAL REGISTER, to terminate the Highway Safety Act sanctions proceeding against Puerto Rico, the hearing scheduled for June 17, 1975 (40 FR 24550) is cancelled.

((23 U.S.C. 402) 23 CFR 1206)

Issued on June 12, 1975.

HERBERT H. KAISER, Jr.,
Presiding Officer,
Sanctions Hearing Board.

[FR Doc.75-15696 Filed 6-12-75;3:52 pm]

Office of the Secretary

[Docket No. 74-37; Notice 9]

PUERTO RICO

Highway Safety Act Sanctions Proceeding Termination

Notice is hereby given that the highway sanctions proceeding involving the Commonwealth of Puerto Rico as announced in the FEDERAL REGISTER on October 21, 1974 (39 FR 37411), is terminated. The proceeding was begun by the Federal Highway Administration and the National Highway Traffic Safety Administration as a result of Puerto Rico's failure to enact legislation making it presumptively unlawful to drive with a blood alcohol concentration of 0.10 percent (w/v) or higher.

A hearing was initially set for November 15, 1974, but before that date an interim agreement was reached between the parties and the hearing was eventually postponed until June 17, 1975 (40 FR 24550).

Pursuant to the interim agreement, the Governor of Puerto Rico has signed

into law a bill which establishes a 0.10 percent blood alcohol level as prima facie evidence of unlawful driving. As a result of this legislation, the terms of the interim agreement require the termination of the sanctions proceeding against the Commonwealth of Puerto Rico.

Accordingly, I have ordered the termination of the sanctions proceeding for Puerto Rico and have directed the cancellation of the sanctions hearing for Puerto Rico, scheduled for June 17, 1975. I am also lifting all restrictions on the FY 1976 apportionment of Puerto Rico's highway safety funds under 23 U.S.C. 402(c) and on the FY 1976 apportionment of Puerto Rico's Federal-aid highway funds under 23 U.S.C. 104.

(Sec. 101, Pub. L. 89-564, 80 Stat. 731 (23 U.S.C. 402)).

Issued on June 12, 1975.

WILLIAM T. COLEMAN, Jr.,
Secretary,
Department of Transportation.

[FR Doc.75-15695 Filed 6-12-75;3:42 pm]

CIVIL AERONAUTICS BOARD

[Docket Nos. 27932, etc.; Order 75-6-55]

CHICAGO-MONTREAL ROUTE PROCEEDING

Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 11th day of June, 1975. Chicago-Montreal route proceeding (Docket 27932). Applications of Braniff Airways, Inc., American Airlines, Inc., Continental Air Lines, Inc., United Air Lines, Inc., Ozark Air Lines, Inc., Delta Air Lines, Inc., for amendment of certificates of public convenience and necessity. (Dockets 25216, 27455, 27708, 27729, 27760, 27791).

On May 8, 1974, a new bilateral air transport agreement between the United States and Canada was signed.[1] This agreement provides for a number of new routes for United States and Canadian carriers, including nonstop authority between Chicago and Montreal which will become effective for U.S. carriers on April 25, 1976.

Braniff Airways (Docket 25216), Northwest Airlines (Docket 26934), American Airlines (Docket 27455), Continental Air Lines (Docket 27708), United Air Lines (Docket 27729), Ozark Air Lines (Docket 27760), and Delta Air Lines (Docket 27791) have filed applications for amendment of their certificates of public convenience and necessity to include Chicago-Montreal nonstop authority.[2]

No answers to the applications for Chicago-Montreal authority have been filed.

The market is currently served by Air Canada and Air France, with five daily round trips. There is no direct service by a U.S. carrier.

Upon consideration of the foregoing and other pertinent matters, we have determined to institute an investigation to be set down for expedited hearing for the purpose of considering the need for U.S.-flag nonstop service between Chicago and Montreal. Accordingly, we are consolidating for hearing those applications which conform to the scope of the proceeding instituted herein.

Expedition in this proceeding is necessitated by the need to resolve the question of service in the Chicago-Montreal market and, if necessary, to establish a U.S.-flag carrier to commence operations as soon as authorized under the timetable of the bilateral agreement. Such expedition will be aided by limiting the proceeding solely to consideration of the Chicago-Montreal route. To a similar end, at this time we are fixing a date for a Prehearing Conference before an Administrative Law Judge and issuing a request for evidence in this proceeding, which request will be subject to alteration or expansion at the Prehearing Conference.

Moreover, we have determined that the proceeding instituted herein is by its very nature not one which could lead to a "major Federal action significantly affecting the quality of the human environment" within the meaning of section 102 (2)(C) of the National Environmental Policy Act of 1969 (NEPA). In a case such as the instant one all prospective environmental effects, direct and secondary, proceed in the first instance from changes in aircraft schedules and level of service. Our conclusion in regard to the environment is largely based, therefore, upon our finding that there are unlikely to be environmentally significant changes in such schedules and service levels should nonstop service by a U.S. carrier be authorized. There are currently five daily round trips in the market by foreign air carriers. While no applicant has yet proposed specific service schedules it is doubtful that the number of daily flights would greatly increase from present levels with the introduction of a U.S. carrier. In addition, there may be a reduction in the foreign air carrier schedules, offsetting to some extent the environmental impact of new service. In any event, any potential service change must be placed against the large overall level of traffic at Chicago and Montreal. Chicago is a large hub which ranked first among U.S. airports in air carrier passenger enplanements for fiscal year 1972. In 1973 there were 870,000 aircraft operations at Chicago's O'Hare and Midway Airports, with 900,000 projected for 1975 and 921,000 for 1976.[3] It can be assumed that Montreal similarly ranks high in terms of Canadian air traffic. Therefore, it is unreasonable to suppose on the face of the matter that authorization of nonstop service in the Chicago-Montreal market will lead to more than very minor environmental changes.

Accordingly, we are not directing our staff to undertake the preparation of an environmental assessment. Our conclusion herein is not intended to foreclose any party from presenting evidence (subject to the usual evidentiary rules in force in C.A.B. proceedings) or from making arguments with respect to relevant environmental issues. Nor is our conclusion intended to foreclose our consideration of environmental impacts resulting from the contemplated licensing action which, although of a lesser magnitude than those required to trigger the NEPA procedures, might nonetheless be relevant to our decision.

Accordingly, it is ordered that:

1. A proceeding to be known as the *Chicago-Montreal Route Proceeding*, Docket 27932, be and it hereby is instituted and shall be set down for expeditious hearing before an Administrative Law Judge of the Board at a time and place hereafter designated;[4]

2. Subject to modification at the Prehearing Conference provided for above, parties to this proceeding shall provide the material detailed in the Request for Evidence appended hereto;

3. The proceeding instituted by paragraph 1 above, shall include consideration of the following issues:

(a) Do the public convenience and necessity require the certification of an air carrier or air carriers to engage in foreign air transportation between Chicago, Illinois, and Montreal, Quebec, Canada?

(b) If the answer to (a) is in the affirmative, which air carrier(s) should be authorized to engage in such service?

(c) What conditions, if any, should be placed on the operations of such carriers(s)?

4. Authority awarded in this proceeding shall be granted without eligibility for subsidy;

5. Inasmuch as they conform to the scope of the proceeding set forth in paragraph 3 above, the applications of American Airlines, Inc., in Docket 27455; Continental Air Lines, Inc., in Docket 27708; United Air Lines, Inc., in Docket 27729; and Ozark Air Lines, Inc., in Docket

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[1] TIAS No. 7824.

[2] The applications vary in the following respects:

(a) Delta also seeks Detroit-Montreal and Detroit/Chicago-Montreal authority.

(b) Braniff's application is for authority between the coterminal points Dallas/Fort Worth, Houston, San Antonio, and Chicago, and the terminal point Montreal. In addition, Braniff seeks authority between the coterminals Dallas/Fort Worth, Houston, San Antonio and Detroit, and the terminal point Montreal.

(c) Northwest also applied for a number of additional routes: Chicago-Vancouver; Houston/Dallas/Fort Worth-Calgary/Edmonton-Anchorage/Fairbanks; Spokane-Vancouver; and Honolulu-Vancouver. Except for the Honolulu-Vancouver portion, Northwest's application was dismissed without prejudice in Order 74-11-33, November 6, 1974.

(d) American and United, both of whom currently hold Chicago-Toronto authority seek to designate as coterminals Toronto-Montreal, as permitted by the treaty.

[3] Terminal Area Forecast, 1975-1985, Department of Transportation, pgs. GL-6-7 and SW-11.

[4] A Prehearing Conference shall be held 21 days from the service date of this order.

27760 be and they hereby are consolidated with the proceeding instituted by paragraph 1 above;[4]

6. Applications, motions to consolidate and petitions for reconsideration of this order shall be filed 20 days from the service date of this order and answers thereto shall be filed five days thereafter; and

7. A copy of this order shall be served upon the following: The Departments of the Interior, Transportation, Commerce, Housing and Urban Development, and Health, Education, and Welfare, the National Aeronautics and Space Administration; the Federal Aviation Administration; and the Environmental Protection Agency.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

APPENDIX

SERVICE SEGMENT DATA

The Board has determined pursuant to sec. 241.19-6 of the Economic Regulations that the service segment data on file with the Board for the Chicago-Toronto segment (including on-flight O&D traffic) are material and relevant to the issues in this proceeding, thereby permitting disclosure of such data for use in this case. The Bureau of Operating Rights is directed to submit such data, in annual total by carrier and equipment type, for the 12 months ended December 31, 1973 and 1974.

REQUEST FOR EVIDENCE

I. *Information Responses.*

A. *Bureau of Operating Rights.*

Furnish summaries[1] of passenger traffic, extracted from combined U.S. and Canadian O&D data as follows:

(1) By quarters, and annually, beginning with 1972 through the latest available 1974 period, a listing by market showing the number of true O&D passengers in the following:

(a) Primary United States[2]—Primary Canada[3] markets.

For each O&D market listed in (a) above, show the number of passengers by transborder routing as follows:

Montreal: Chicago, New York, Boston, Los Angeles, and other U.S. Gateways

Toronto: Chicago, Detroit, Buffalo, Cleveland, New York, Los Angeles, and, other U.S. Gateways

All other Canadian gateways.

(2) By quarters, and annually, beginning with 1972 through the latest available 1974 period, a listing in summary form by the following areas showing the total number of passengers that have Chicago-Montreal or Chicago-Toronto listed consecutively in the routing:

(a) Primary United States[2]—Primary Canada[3] markets

(b) United States—Canada markets not included in (a)

(c) United States—Third Country markets

(d) Canada—Third Country markets

(e) Third Country—Third Country markets

(f) United States—United States markets

(g) Canada—Canada markets

(3) For the latest available quarter and 12 months' period, a computer printout by true O&D market showing, in Table 16 format, carrier routings, passengers and passenger miles by carrier for the primary markets included in (1)(a) above. Detailed routings with fewer than 40 annual passengers or with more than three participating carriers will not be listed but the data will be included in the totals for each market.

II. *Direct Exhibits.*

Applicants.

A. A forecast is requested for calendar 1977,[4] based on the reported traffic data for latest available annual 1974 period. Adjustments may be made in the reported base-year traffic, provided that detailed justification is given. Forecasts should include sufficient explanatory detail to permit reconstruction of the estimates from the basic data.

B. Proposed schedules (including all information required to be supplied in official schedules filed with the Board, *i.e.*, arrival and departure times, equipment, airport, days of week, classes of service, etc.). Show beyond portions. Indicate presently operated system schedules which will be altered in any way as a result of the Chicago-Montreal proposal.

C. Information setting forth the fuel to be consumed in calendar 1977 in Chicago-Montreal operations, both nonstop and via intermediates, if any.

D. A statement setting forth the number of aircraft (by type) on hand (owned and leased, operating and nonoperating) and on order. Furnish an estimate of the number and type of additional aircraft, if any, which may be required to implement the proposed schedules, including a general statement describing the financing plans contemplated for the acquisition of such additional aircraft.

E. Based on the proposed schedules, including related changes in existing system schedules, furnish the following:

1. Description of present fare structure in the Chicago-Toronto/Montreal market and changes contemplated (including those promotional fares which will be available). Indicate the savings, if any, that would accrue to the traveling public as a result of the institution of competitive service.

2. Number of forecast year revenue passengers (online O&D) by class of service. Show forecast year self-diverted traffic.

3. Revenue plane-miles flown, by aircraft type.

4. Available seat-miles, by aircraft type and class of service.

5. Revenue passenger-miles by class of service.

6. Revenue ton-miles of passengers, mail, freight, and express.

7. Revenue block-hours by aircraft type.

8. Total revenue tons enplaned by station.

9. Estimated fare dilution factor. Explain basis of construction, including dates and extent of recent surveys and methodology used.

F. Submit a profit and loss statement for calendar 1977 showing the estimated net impact of the proposal on the applicant's system results.

1. Revenue: Furnish by CAB functional account revenue derived from traffic estimated in F.2 and 6., specifying fares, yields per revenue passenger-mile and per revenue ton-mile or other bases used.

2. Expense: Furnish by CAB functional account (Subpart K methodology for local service carriers) an estimate of operating expenses to be incurred. Any contingencies, cost escalation and other adjustments in experienced unit costs included in the forecast shall be fully identified. Also submit an estimate of return on investment for the new proposal.

G. Submit the following in system total (include both scheduled and nonscheduled operations) for combination aircraft:

1. Current aircraft seating configuration for each type.

2. Revenue plane-miles (by type), ASM, RPM and passenger load factor for the year ended March 31, 1975.

3. ASM and load factor for above period adjusted to DPFI standards.[5]

		Number of seats
All carriers:		
B-747	to Dec. 31, 1974	348
	effective Jan. 1, 1975	384
DC-10/L-1011	to Dec. 31, 1974	250
	effective Jan. 1, 1975	276
Continental:		
707-300C		142
720-B		122
727-200		127
Northwest:		
720 B		122
TWA:		
707-100 B		128
United:		
DC-8-50		127
DC-8-61		185
DC-8-62		139
All other		Actual

H. Submit estimates of diversion from other carriers, broken down by carrier.[6] Such estimates should include the volume of passengers, mail, freight, and express diverted, as well as the amount of passengers, mail, freight, and express revenue diverted.[7]

I. Submit a system map showing how the route applied for will fit into the applicant's existing system. Show the proposed route in bold broken lines.

J. Submit a complete specimen certificate as it will appear, as amended, including a description of the route authority sought; any terms, conditions, and limitations; and the duration of the certificate. The route number should be indicated, the new language identified by underlining, and deleted language indicated by brackets.

III. *All Air Carrier Parties.*

A. Submit, on rebuttal, an estimate of passengers and revenue which will be diverted from the carrier in calendar year 1977 in the event that nonstop authority is awarded to another carrier.

[FR Doc.75-15557 Filed 6-13-75;8:45 am]

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[1] Because the applications of Braniff (Docket 25216), and Delta (Docket 27791) include other authority which may be heard in separate proceedings, we will not consolidate their applications as framed; they are, however, free to move consolidation of an application conforming to the scope of the proceeding in accordance with ordering paragraph 3. Likewise, Northwest, whose previous application was dismissed without prejudice in Order 74-11-33, is free to move consolidation of an application conforming to the scope of this proceeding.

[1] Distribution of these printouts necessarily will be limited to one each to parties intending to prepare a traffic or diversion forecast.

[2] Includes Illinois, Indiana, Wisconsin and the East South Central, West North Central, West South Central, Mountain and Pacific Regions.

[3] Includes Quebec, Ontario, New Brunswick, Newfoundland, Nova Scotia and Prince Edward Island.

[4] Estimated charter traffic, if any should be shown separately.

[5] As developed in the *Domestic Mail Rate Case*, Docket 23080-1, and the *Domestic Air Freight Case*, Docket 22859:

[6] Immediate impact (projected participation) and growth-offset bases.

[7] Submit also, as practicable, an estimate of the effect on profits and load factors of other carriers.

[Docket Nos. 22670, etc.; Order 75-6-55]

LOS ANGELES AIRWAYS, INC.; ET AL.

Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 11th day of June, 1975.

Application of Los Angeles Airways, Inc. for continuation of temporary suspension of service and for exemption authority. Application of Travel and Transit Improvement Corporation for approval of route transfer. Los Angeles Airways certificate proceeding.

By Order 74-3-112, March 26, 1974, the Board issued an order to show cause why the certificate of public convenience and necessity of Los Angeles Airways (LAA) for route 84 should not be rendered ineffective pursuant to section 401(f) of the Act and section 205.10 of the Board's Economic Regulations, in view of LAA's bankruptcy, sale of tangible assets, and suspension of operations.[1]

As a result of objections to finalization of the show cause order filed by Travel and Transit Improvement Corporation (TTI) and the application of TTI in Docket 27188 for approval of the transfer to it of the certificate for route 84 and "area" exemption authority issued to LAA, the Board vacated the tentative findings and conclusions in Order 74-3-112 and instituted the *Los Angeles Airways Certificate Proceeding*, Docket 27367. That proceeding included, *inter alia*, consideration of whether LAA's certificate should cease to be effective or be revoked, whether LAA's "area" exemption authority should be renewed, and whether the transfer to TTI of route 84 should be approved and, if so, whether TTI should also receive the "area" exemption authority. The applications in Dockets 22500, 22670, and 27188 were consolidated with that proceeding.

By motion dated May 8, 1975, TTI has requested leave to withdraw its application for approval of the route transfer and exemption authority, stating that it is unable to obtain the financing necessary for it to proceed with the application.[2] In view of the foregoing, it is found that TTI's motion should be granted and that the application in Docket 27188 should be dismissed.

In view of the withdrawal of TTI's proposal and objections and since the tentative findings and conclusions made in Order 74-3-112 were vacated by Order 75-1-18, we again tentatively find and conclude that the public convenience and necessity require that, pursuant to section 401(f) of the Act and section 205.10 of the Board's Economic Regulations, the Board direct that LAA's certificate for route 84 cease to be effective.[3] We also tentatively find and conclude that the *Los Angeles Airways Certificate Proceeding*, Docket 27367, should be terminated.

In support of our ultimate conclusions, we make the following tentative findings and conclusions. LAA filed a petition under Chapter XI of the Bankruptcy Act on October 6, 1970, and its court-appointed receiver determined the following day that its operations should be suspended. No scheduled route service has been provided by LAA since that time. Although directed by the Board under section 401(f) to resume service, the carrier has failed to do so. All the carrier's assets have been sold. In these circumstances, it appears unlikely in the extreme that LAA will be able to or intends to resume operations.

Interested persons will be given thirty days following the date of adoption of this order to show cause why the tentative findings and conclusions set forth herein should not be made final. We expect such persons to support their objections, if any, with detailed answers, specifically setting forth the tentative findings and conclusions to which objection is taken. Such objections should be accompanied by arguments of fact or law and should be supported by legal precedent or detailed economic analysis. If any evidentiary hearing is requested, the objector should state in detail why such a hearing is considered necessary and what relevant and material facts he would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained.

Accordingly, it is ordered that:

1. All interested persons are directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated herein, directing that the certificate of Los Angeles Airways, Inc. for route 84 cease to be effective, and terminating the *Los Angeles Airways Certificate Proceeding*, Docket 27367;

2. Any interested person having objections to the issuance of an order making final any of the proposed findings or conclusions set forth herein shall, within 30 days after the date of adoption of this order, file with the Board and serve upon all persons listed in paragraph 5 a statement of objections together with a summary of testimony, statistical data, and other evidence expected to be relied upon to support the stated objections;[4]

3. If timely and properly supported objections are filed, full consideration will be accorded the matters and issues raised by the objections before further action is taken by the Board;

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth herein; and

5. A copy of this order shall be served upon Travel and Transit Improvement Corporation, Trans World Airlines, Inc., Los Angeles Airways, Inc., Curtis B. Danning (Receiver for LAA), Golden West Airlines, Los Angeles Helicopter Airlines, Hughes Airwest, the State of California and the California Public Utilities Commission, and the City of Newport Beach, California.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.75-15556 Filed 6-13-75;8:45 am]

[1] By Order 73-7-20, July 6, 1973, the Board, *inter alia*, had denied LAA's application (Docket 22670) for renewal of its temporary suspension of service on route 84 and ordered the carrier to resume services within ninety days of the effective date of the order. The Board instituted an investigation to determine whether, in the event service was not resumed, a temporary suspension should be granted or whether LAA's certificate should cease to be effective or be revoked, and whether LAA's application (Docket 22500) for renewal of the "area" exemption authority granted in Order E-22798 should be granted.

[2] TTI also withdraws its objections to Order 74-3-112.

[3] The application in Docket 22500 for renewal of "area" exemption authority would be dismissed as moot.

[4] All motions and/or petitions for reconsideration shall be filed within the period allowed for filing objections and no further such motions, requests, or petitions for reconsideration of this order will be entertained.

FEDERAL COMMUNICATIONS COMMISSION

[Canadian List No. 341]

CANADIAN STANDARD BROADCAST STATIONS

List of New Stations

MAY 20, 1975.

List of new stations, proposed changes in existing stations, deletions, and corrections in assignments of Canadian standard broadcast stations modifying the assignments of Canadian broadcast stations contained in the Appendix to the Recommendations of the North American Regional Broadcasting Agreement Engineering Meeting January 30, 1941.

Call letters	Location	Power kW	Antenna	Schedule	Class	Antenna height (feet)	Ground system: Number of radials	Ground system: Length (feet)	Proposed date of commencement of operation
		980 kHz							
New (correction to radiation patterns).	Lac Etchemin, Quebec, N. 46°22'-48", W. 70°26'00".	1	DA-N	U	III				E.I.O. 5-6-76.
		1110 kHz							
New	Rimouski, Quebec, N. 48°23'43", W. 68°37'50".	10	DA-2	U	II				E.I.O. 5-20-76.
		1400 kHz							
CFLD (change in site from that notified List No. 330, PO N. 54°13'13", W. 124°45'05").	Burns Lake, British Columbia, N. 54°13'30", W. 125°45'24".	0.25	ND-175	U	IV	120	120	362	E.I.O. 5-20-76.
		1490 kHz							
CKMV (now in operation with corrected coordinates).	Grand Sault, New Brunswick, N. 47°02'24", W. 67°42'30".	1D/0.25N	ND-190	U	IV	165	120	264	

[SEAL]

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.75-15569 Filed 6-13-75;8:45 am]

AMERICAN TELEPHONE AND TELEGRAPH CO.

[Docket No. 20476; FCC 75-534]

Instituting Hearing

In the Matter of American Telephone and Telegraph Company's Proposed Tariff Revisions in Tariff F.C.C. No. 263 Exempting Mebane Home Telephone Company of North Carolina from the Obligation to Afford Customers the Option of Interconnecting Customer-Provided Equipment to Mebane's Facilities; AT&T Transmittal No. 12321.

1. Mebane Home Telephone Company (Mebane) is an independent telephone company in North Carolina, [1] listed by American Telephone and Telegraph Company (AT&T) in AT&T's Tariff F.C.C. No. 257 as a connecting carrier. Sections 2.6.1 and 2.7.1 of AT&T's Tariff F.C.C. No. 263 (AT&T's Message Toll Service Tariff) set forth the general regulation, which is binding on connecting carriers such as Mebane,[2] that the telephone company will permit interconnection of customer-provided terminal equipment and customer-provided communications systems, respectively, with facilities furnished by the telephone company. Other sub-paragraphs of sections 2.6 and 2.7 set forth the means by which interconnection of customer-provided equipment shall be accomplished, e.g., generally telephone company-provided connecting arrangements (CA) or network control signalling units (NCSU) are required. See *AT&T Foreign Attachment Tariff Revisions*, 15 FCC 2d 605, 606–609 (1968), on reconsideration, 18 FCC 2d 871 (1969). The matter before us concerns Mebane's effort to obtain a partial exemption from the obligation imposed by the aforementioned AT&T tariff provisions, in particular, the obligation Mebane is now under to permit interconnection of customer-provided communications systems such as customer-provided PBX's and telephone key systems.

2. Pursuant to Mebane's request, on February 7, 1975, AT&T filed revisions in sections 2.6.1 and 2.7.1 of AT&T's Tariff F.C.C. No. 263, Transmittal No. 12267, scheduled to be effective on March 9, 1975. AT&T is of the opinion that it is only carrying out a ministerial task in filing tariff revisions on behalf of Mebane. AT&T proposed to exempt Mebane from the general customer interconnection requirements of sections 2.6.1 and 2.7.1 by adding the following paragraph to each Section:

In the Mebane, North Carolina exchange of the Mebane Home Telephone Company *these regulations do not apply to replacements of or substitutions for any part of the telephone system provided by the company*, except where the telephone system equipment or facilities desired by a customer are not available from the Mebane Home Telephone Company. (emphasis added)

Mebane submitted a letter on the same day AT&T filed the proposed tariff revisions setting forth its view as to why such filing and the language used therein was appropriate. On February 28, 1975, the Chief, Common Carrier Bureau by Letter Order rejected the proposed tariff revisions for violations of §§ 61.55(f) and (g) of the Commission's rules which require tariff provisions to contain clear and explicit terms regarding rates and regulations, 47 CFR 61.55 (f) and (g). The Chief, Common Carrier Bureau's rejection did not address the merits of Mebane's legal rationale given in support of the filing.[4] On April 14, 1975, pursuant to Mebane's request, AT&T again filed tariff revisions proposing to exempt Mebane from the general requirements of sections 2.6.1 and 2.7.1, AT&T Transmittal No. 12321, to be effective May 14, 1975.[5] AT&T proposed to add the following paragraph to Sections 2.6.1 and 2.7.1:

These regulations are applicable in the Mebane, North Carolina exchange of Mebane Home Telephone Company to customer-provided terminal equipment [communications systems] interconnected to the wireline telephone system (telephone to telephone) used by the company in providing telephone service. In the Mebane exchange telephone service is offered only as a complete service, using facilities, including the telephone itself, furnished by the company. The company does not offer a service in which customer-provided terminal equipment [communications systems] may be used as replacements or substitutions for wireline telephone system (telephone to telephone) facilities furnished by the company.

3. The appropriateness of the action taken by the Chief, Common Carrier Bureau with respect to AT&T's original tariff filing on behalf of Mebane is not before us for review. Our action herein is prompted by AT&T's new tariff filing, Transmittal No. 12321, and, in particular, the legal rationale asserted by Mebane in support of both filings. In support of its position that AT&T may lawfully file the instant tariff revision on its behalf, Mebane states that General Telephone and Electronics Corp. (GTE) petitioned for reconsideration of *Carterfone*, 13 FCC 2d 420 (1968), reconsideration denied, 14 FCC 2d 571 (1969), alleging, among other

[2] We describe Mebane's telephone system in some detail at paras. 12–15 herein.

[3] "Connecting carriers" engage in interstate and foreign service only through physical connection of their facilities with the facilities of other carriers with which they have no direct or indirect corporate or other affiliations. Connecting carriers are nevertheless expressly subject to the substantive requirements of Sections 201–205 of the Act except they are relieved of the tariff filing requirements of Section 203. However, their participation in interstate and foreign services is governed by the same terms and conditions of the tariff schedules filed with the Commission by the carriers with which they connect. (See Sections 3(u) and 2(b) of the Act). See our decision in *Telerent Leasing*, 45 FCC 2d 204, 215–20 (1974), *appeal docketed, North Carolina Utilities Commission, et al. v. U.S.*, Case Nos. 74–1220, 74–1390, 74–1449, 74–1514, 74–1515 and 74–1516 (4th Cir. 1974).

[4] Mebane's position is based upon its letters of December 4, 1974, February 7, 1975, March 19 and March 28, 1975, and its March 3, 1975 Opposition to North American Telephone Association's (NATA) Petition to Reject AT&T's original tariff filing on behalf of Mebane.

[5] On May 1, 1975 NATA filed with the Chief, Common Carrier Bureau a Petition to Reject the Tariff revisions filed with AT&T Transmittal No. 12321 alleging essentially violations by AT&T and Mebane of the Commission's customer interconnection policies established by *Carterfone*, *Hush-A-Phone* and *Telerent Leasing*. Mebane filed an opposition to NATA's petition on May 7, 1975 stressing the threat to its economic viability posed by substitution or replacements of telephone system equipment by customers.

things, that the decision "would expose the public telephone service to the unlimited use for interstate service of customer-provided equipment of all types" (GTE Petition, p. 5) and that "to permit the interconnection of privately-owned communications systems with the public network inevitably involves the substitution and replacement of telephone-company provided equipment with customer-owned equipment" Id., at p. 8. Mebane claims that in denying the GTE petition, the Commission stated that "the facts in this case [Carterphone] did not involve the furnishing of purely telephone system equipment telephone to telephone on the message toll telephone system" (14 FCC 2d at 572). Mebane claims further that in dismissing petitions for rejection, suspension or investigation of tariffs filed by AT&T in response to Carterfone, AT&T Foreign Attachment Tariff Revisions, supra., the Commission again emphasized "our decision in Carterfone does not hold that a customer may substitute his own equipment or facilities (whether it be telephone instruments, loops, poles or central office equipments) for that furnished by the telephone company in providing message toll telephone service as that service is defined in the tariff. Our decision dealt with interconnections and not replacements of any part of the telephone system." (15 FCC 2d, at 609–10).

4. In view of the foregoing, Mebane claims that AT&T is not prohibited by Carterfone or related decisions from filing the tariff exemption in question, the language which is an attempt to implement Mebane's position (see para. 2 above). Mebane claims that AT&T's current customer-interconnection tariff provisions go beyond what is legally required to the extent that AT&T permits interconnection of customer-provided communications systems (section 2.7), such as customer-owned PBX's or telephone key systems, which necessarily constitute a substitution of customer-provided equipment for telephone company equipment utilized as part of the telephone system. In this connection, Mebane argues that at no time has the Commission expressly or by implication, approved the AT&T "Carterfone" tariff provisions but rather, it merely "permit[ted] the new and revised tariffs to go into effect" with a specific disclaimer that "our action is not to be construed as approval thereof . . ." (15 FCC 2d. at 611). Presumably, Mebane claims, the Commission did not consider these tariff provisions to be in violation of Carterfone but it did not and has not concluded that these provisions were required by or necessary to comply with Carterfone. Mebane concludes that these were and are but carrier-filed provisions and as such, they do not preclude the filing of different provisions by or on behalf of other carriers such as AT&T has attempt to do on behalf of Mebane. Mebane argues that Rochester Telephone Corporation, for example, has had such a filing made on its behalf (see the second paragraph in AT&T's sections 2.6.1 and 2.7.1 of AT&T Tariff F.C.C. No. 263).[6] In summary, the practical effect of Mebane's interpretation of our policy, assuming arguendo that AT&T could lawfully file a tariff exception for Mebane, is that Mebane would not be obligated to permit a customer to interconnect with its facilities certain kinds of customer-provided equipment, such as a customer-provided PBX or telephone key system, and probably other customer-provided equipment depending on the tariff language filed by AT&T, because such equipment could be defined to constitute a so-called replacement of or substitution for telephone company-provided equipment in the telephone company system.

5. It is true that the particular interconnected device[7] at issue in Carterfone (a device used to interconnect mobile radio systems to the telephone network) did not involve any replacement or substitution of telephone system equipment. It is also true that AT&T's tariff response to Carterfone went beyond the facts of Carterfone to the extent that such tariffs permit interconnection of devices, such as PBX's and telephone key systems, which may constitute a substitution or replacement of telephone system equipment, provided that there is a connecting arrangement (CA) to preclude technical harm to the telephone network. As we see it, however, the basic question raised by AT&T's tariff filing on behalf of Mebane is not only whether such filing is consistent with Caterfone as described above, but also whether any public interest reasons now exist for the applicability of our customer interconnection policy to depend on a distinction between interconnection devices which may constitute a substitution for telephone system equipment, such as PBX's and key systems, and other interconnected devices such as the Carterfone device. For the reasons to follow we conclude that the public interest requires that the customer's right to interconnect not be infringed merely because the device he seeks to interconnect can be defined to constitute a substitution for telephone system equipment.

6. Although as noted above Carterfone did not involve any substitution of telephone system equipment it was nonetheless based upon the broad principle established by the court in *Hush-A-Phone v. U.S.*, 238 F. 2d 266, 269 (D.C. Cir. 1956) which stressed the "telephone subscriber's right reasonably to use his telephone in ways which are privately beneficial without being publicly detrimental." In Carterfone we stated that "the principle of Hush-A-Phone is directly applicable here, there being no material distinction between a foreign attachment such as the Hush-A-Phone and an interconnection device such as the Carterfone . . ." (13 FCC 2d at 423–24). (emphasis added). Further, we stated that "even if not compelled by the Hush-A-Phone decision, our conclusion here is that a customer desiring to use an interconnecting device to improve the utility to him of both the telephone system and a private radio system should be able to do so, so long as the interconnection does not adversely affect the telephone company's operations or the telephone system's utility for others" (13 FCC 2d at 424). Thus, we held in Carterfone "that the Carterfone filled a need, that its use did not adversely affect the telephone system, that its use was nevertheless precluded by the tariff, and that the tariff was unlawful, and had been in the past, because it prohibited the use of the Carterfone and other interconnecting devices without regard to actual harm caused to the system" (14 FCC 2d at 572). We also recognized that the economic effects of customer interconnection upon carriers might well be a pertinent public interest question, but found no substantial showing in the record to demonstrate economic harm (14 FCC 2d at 572–73). Our Telerent Leasing decision restated the subscriber's right to make beneficial use of an interconnected device without causing harm to the telephone company's operations (45 FCC 2d at 204, 205–07, 216 and 224).

7. The foregoing adequately demonstrates the broad principle underlying Hush-A-Phone and Carterfone, namely, the subscriber's right to make beneficial use of an interconnected device without causing harm to the telephone company's operations. We see no reason why this broad principle should not extend to interconnected devices such as PBX's and key systems which may replace telephone system equipment. Clearly, the customer would obtain the requisite benefit from such interconnection. Thus, the only question remaining regarding the applicability of the broad principle underlying Hush-A-Phone and Carterfone to interconnected devices such as PBX's and key systems is whether such interconnection would be harmful to the telephone company's operations. Significantly, we have had substantial experience under the AT&T customer interconnection tariffs which do permit interconnection of customer devices such as PBX's and key systems. Indeed, PBX's and key systems constitute the heart of interconnection that now exists. Our experience indicates that not only

[6] The Rochester provision provides: In lieu of the regulatiohs governing the provision of Telephone Company provided network control signalling equipment, connecting arrangements and data access arrangements to the extent specified in 2.6.3 and 2.6.4 following, an alternative, optional method of connecting customer-provided terminal equipment [communications systems] is available in all exchanges served by the Rochester Telephone Corporation, Rochester, N.Y. to the extent specified in 2.9 following.

[7] Our use of the term "interconnected device" is to be construed broadly for the purposes of this decision. Thus, any customer-provided communications terminal equipment or customer-provided communications system which may be connected to telephone company facilities acoustically, inductively or by direct wire connection is intended to be covered in the term "interconnected device."

have customers obtained substantial private benefit from such interconnection, but there has been no technical harm to telephone company operations. Nor has Mebane alleged any facts showing that interconnection of PBX's or key systems would be technically harmful. Moreover, as shown below, Mebane has made no prima facie showing warranting summary relief or hearing on economic injury grounds, although we have decided to afford it an opportunity to make such a showing in an evidentiary hearing on our own motion.

8. Under the foregoing circumstances, we believe that here as in Carterfone it would be unjust, unreasonable and unlawful under Section 201(b) of the Act to restrict the customer's right to use beneficial interconnection devices that are not publicly detrimental, through a blanket prohibition against interconnection of devices that may involve some substitution of telephone company equipment. The determining factor should be whether there is harm to the telephone network, irrespective of whether the particular interconnection device is one of the nature involved in Carterfone or a PBX or key system. To make a distinction based solely on whether there is a substitution of telephone company equipment, would be an arbitrary and unreasonable infringement of the subscriber's right in the absence of technical harm or other public detriment. A subscriber has a statutory right under Section 201(b) not to be subjected to tariff restrictions which indiscriminately bar interconnection of customer-provided equipment without regard to harm. Moreover, as noted above, the option of the customer to interconnect his PBX or key system is a service that has been generally available to the public under the AT&T tariffs for several years.

9. We also note that the Rochester Telephone Company alternative in AT&T's customer interconnection tariff, relied upon by Mebane in support of the AT&T tariff filing on its behalf, represented only a liberalization of the CA and NCSU provisions (See para. 1 above), Telerent Leasing, 45 FCC 2d at 221, and not an attempt to distinguish interconnected devices such as PBX's and key systems from other interconnected devices not involving substitution of telephone system equipment. In this connection, informal and formal proceedings looking into the necessity for AT&T's CA and NCSU tariff provisions are summarized in Telerent Leasing, 45 FCC 2d at 206–07.

10. It follows that the AT&T tariff filing on behalf of Mebane seeking arbitrarily to deny the customer's right of interconnection of an interconnected device that can be defined to constitute a substitution for telephone system equipment, if effective, would be patently contrary to the policy we have discussed herein and unlawful for the reasons stated above under section 201(b) of the Communications Act. Under such circumstances we believe rejection of AT&T's tariff filing is required. Cf. *Associated Press v. F.C.C.*, 448 F. 2d 1095 (D.C. Cir. 1971) and *American Telephone & Telegraph Company v. F.C.C.*, 487 F. 2d 865 at 880 (2nd Cir. 1973).

11. Mebane contends nonetheless that it is entitled to a partial exemption or waiver from the obligation it is under as a connecting carrier, at least with respect to PBX's and telephone key systems, because of the alleged economic injury it will incur if it is required to comply with such obligation. Our institution of Docket No. 20003, Economic Implications and Interrelationships Arising from Policies and Practices Relating to Customer Interconnection, Jurisdictional Separations and Rate Structures, Notice of Inquiry, 46 FCC 2d 214 (1974) and First Supplemental Notice, 50 FCC 2d 574 (1975), amply demonstrates our concern with the economic implications of customer interconnection on, among others, telephone companies such as Mebane. Our view when we instituted Docket No. 20003, was and still is, that the several economic issues in question were highly interrelated, and could not be treated consistently or comprehensively, in a manner which best serves the public interest, through separate, independent proceedings (46 FCC 2d at 215–16). Docket No. 20003 is considering questions similar to those raised by Mebane and our findings therein may lead to the development of policies which will have industry-wide application. Thus, Mebane will eventually be subject to determinations reached as a result of our findings in Docket No. 20003. Notwithstanding the foregoing, however, Mebane appears to be of the view that it is entitled to immediate relief prior to resolution of the economic issues in Docket No. 20003 or any subsequent proceedings. Mebane's allegations of economic injury are as follows.

12. Mebane, which has one exchange serving some 5000 stations, claims that the area it serves in North Carolina is largely rural in nature, with some manufacturing, and that it has a large turnover in subscribers. It claims this results in large amounts of uncollectables and an unstable subscriber base to support plant investments. Mebane claims that its basic monthly rates of $6.90 for residential service and $12.00 for business service are among the lowest in North Carolina for an exchange with a toll-free calling scope of 50,000 stations. Mebane states that its operating revenues for the six-month period ending June 30, 1974 were approximately $367,000, with local service revenues accounting for approximately $222,000. Of the local service revenue, Mebane claims approximately $53,000 (23.3%) represent PBX and key systems. Mebane has 7 PBX customers and 47 key system customers. Mebane states that it is the possibility of a loss of all or a significant portion of the local service revenues currently being received from PBX and key system subscribers, and the resulting economic impact on the company and on its other subscribers that prompts its attempts to gain an exemption.

13. Mebane states that if it were to lose all of its PBX and key system local revenue, its net income for the first six months of 1974 would have been less than $2,500. It claims that with so thin a margin, not only would the security for REA loans it holds (approximately $2.3 million) be jeopardized but its continued economic viability would be questionable. Although lesser revenue loss could be assumed, Mebane claims the basic question remaining is whether any measurable revenue loss would be outweighed by other considerations that may be advanced in support of interconnection of customer-provided equipment. In this connection, assuming it is granted an exemption, Mebane claims that it has and will continue to provide whatever technologically acceptable equipment its subscribers desire. However, Mebane claims that regulatory constraints preclude free and open rate competition by Mebane with suppliers of customer-provided equipment. Even assuming it could enter into price competition with PBX and key system suppliers, Mebane argues that it would still be subject to a revenue loss which it could not economically sustain. Thus, Mebane claims it must maintain at least its current revenues and its only source for such revenues are its subscribers. Mebane claims the basic question is whether the general body of its subscribers should bear the burden of rate increases if all or some of Mebane's PBX and key system subscribers provide their own equipment.

14. Mebane claims that its investment and expenses also warrant attention. As of June 1974, Mebane's net investment in PBX and key system equipment was approximately $198,000 and according to Mebane salvage value was uncertain. Mebane argues that unlike large companies with more than one exchange, it can't simply re-install a PBX or key system in another exchange or transfer it to an affiliated company. In regard to expenses, Mebane notes that it has 20 employees and no reduction in its work force would result from the substitution of customer-provided equipment. Thus, it claims that maintenance, traffic, commercial and other operating expenses at current levels would simply be spread over fewer units. Further, it claims that reduction in depreciation and tax expense would be negligible.

15. In summary, Mebane argues that the impact on Mebane's telephone system of substitution of customer-provided equipment namely, PBX's and key systems would be substantial revenue loss, substantial loss in investment, and only a negligible reduction in expense. Mebane claims that to survive it would have to impose local service rate increases on its remaining business, residential and rural customers on the order of $25 per year. Mebane claims that whether, and if so when, it could gain approval of those rate increases (approximately 35% for residential and 20% for business subscribers) by the North Carolina Utilities Commission is specultative. Accordingly, Mebane requests an exemption or waiver from the policy which now obligates it as a connecting carrier to afford

customers the option of providing their own PBX's and telephone key system.

16. We have carefully considered Mebane's economic injury allegations. Pending Docket No. 20003, which is a comprehensive fact finding inquiry into factors similar to those raised by Mebane, may lead to proceedings to promulgate policies of industry-wide application. Hence, we believe that in order to be granted the relief it requests, Mebane has the burden of showing that compliance with the obligation it is under as a connecting carrier has already resulted in or will result in direct, substantial and immediate economic injury to Mebane's telephone system and detriment to the public interest. The allegations before us are not sufficient to establish this aforementioned showing of injury or detriment or sufficient to warrant hearing. Mebane merely speculates that its compliance will result in a loss of all, or a significant number of its PBX and key system customers but does not show how many PBX or key system subscribers it has actually lost to interconnect suppliers during the time period it has been bound as a connecting carrier to afford customers the option of interconnecting their own PBX and key systems. Certainly, experience gained under an already existing obligation is the most useful tool in judging whether Mebane is entitled to summary relief or a hearing. In view of pending Docket No. 20003, we believe such a showing would be a prerequisite to a claim for relief. Moreover, Mebane has not shown grounds for anticipating any loss from competition from interconnect suppliers in the future. Mebane has failed to show the nature of the competition it presently faces or may reasonably face in the immediate future in the area it serves from interconnect suppliers. In this connection, Mebane has not identified any North Carolina interconnect suppliers actively competing with Mebane or any that are reasonably expected to compete with Mebane in the immediate future.

17. It also appears Mebane may not be as economically depressed as it claims. Mebane has shown no economic losses from the existing obligation it is under as a connecting carrier to permit interconnection of PBX's and key systems. Moreover, even if it loses some PBX or key system customers it may nonetheless replace such lost customers with new PBX or key system customers, or it may make up any lost revenues through the addition of subscribers to its basic exchange services. In this regard, we note that Mebane reached 1000 stations in 1954, 2000 in 1961, 3000 in 1968, 4000 in 1972 and reached 5000 stations in 1974 (3600 of which are main stations). Further, Mebane will put a new electronic central office into service in 1976 at an investment of $1.1 million. The foregoing facts indicate a healthy economic growth rate for Mebane which could potentially absorb any local revenue losses Mebane might incur as a result of lost PBX or key system customers. The economic characteristics of the geographical area served by Mebane also indicate that there may be opportunity for Mebane to sustain a healthy economic growth rate in the immediate future.*

18. Thus, Mebane has failed to establish economic grounds which would warrant summary relief or a hearing. Nevertheless, on our own motion we are affording Mebane an opportunity to establish in a hearing that it has good cause for an exemption or waiver from the obligation it is now under as a connecting carrier to permit interconnection of PBX's and key systems. We will expect Mebane to adduce evidence in the areas set for the above. In addition, Mebane should address all issues heretofore enumerated in Docket No. 20003 which may be relevant and material to reaching a determination that the obligation Mebane is under as a connecting carrier has already resulted in or will result in direct, substantial and immediate economic injury to Mebane's telephone system and detriment to the public interest during the pendency of Docket No. 20003 and any subsequent proceedings. For example, evidence regarding Mebane's policy with respect to purchase, marketing and servicing of PBX's and key systems is relevant in evaluating the likelihood that customers would provide their own such equipment in the immediate future. Mebane's policy with respect to cross-subsidization is also relevant to the rates it now charges for its basic exchange services, PBX's and key systems and what rates it may charge in the immediate future.

19. We stress that the opportunity we are affording Mebane for a hearing does not constitute an abandonment of our view that the public interest requires a consistent and comprehensive approach in reaching determinations on the several interrelated economic issues under investigation in Docket No. 20003 such that policies of industry-wide application can eventually be developed. Nor does it mean that every connecting or other carrier such as Mebane will be entitled to an *ad hoc* evidentiary hearing on alleged economic injury to itself and detriment to the public interest during the pendency of Docket No. 20003 and any subsequent policy making proceedings. Our action is based solely upon the particular circumstances alleged by Mebane and the action we take herein is solely upon our own motion. Moreover, as previously stressed, Mebane will still be subject to any final policy determinations reached after consideration of our findings in Docket No. 20003.

20. *Accordingly, it is ordered*, pursuant to sections 4(i), 4(j), 201 (a) and (b), and 403 of the Communications Act that an evidentiary hearing shall be instituted on the following issues:

(1) Whether, and if so, to what extent has the obligation Mebane is under to afford customers the option of providing, among other interconnected devices, their own PBX's and/or telephone key systems resulted in or will result in direct, substantial and immediate economic injury to Mebane's telephone system and detriment to the public interest during the pendency of Docket No. 20003 and any subsequent policy making proceedings;

(2) If it is found that direct, substantial and immediate economic injury to Mebane's telephone system and detriment to the public interest has resulted, or will result, during the pendency of Docket No. 20003 and any subsequent policy making proceedings from the obligation set forth in (1) above then whether, and if so, to what extent should Mebane be granted an exemption or waiver from such obligation;

21. *It is further ordered*, That the burden of proceeding and burden of proof on the aforementioned issues shall be upon Mebane;

22. *It is further ordered*, That Mebane Home Telephone Company and a separated trial staff of the Chief, Common Carrier Bureau ARE MADE PARTIES to this proceeding;

23. *It is further ordered*, That the hearing will be held at the Commission's offices in Washington, D.C., on a date, and before an Administrative Law Judge, to be specified in a subsequent Order by the Chief Administrative Law Judge;

24. *It is further ordered*, That the presiding Administrative Law Judge shall, upon the closing of the record, prepare an initial decision which shall be subject to exceptions and requests for oral argument as provided in 47 CFR 1.276 and 1.277, after which the Commission shall issue its Final Decision;

25. *It is further ordered*, That any Final Decision herein granting the aforementioned waiver or exemption to Mebane shall be subject to any policies adopted as a result of our findings in Docket No. 20003;

26. *It is further ordered*, That the Secretary shall send a copy of this order by certified mail, return receipt requested, to Mebane Home Telephone Company of North Carolina and shall cause a copy to be published in the Federal Register;

27. *It is further ordered*, That Mebane's request for an exemption or waiver from the obligation it is under to afford its customers the option of providing, among other equipment, their own PBX's or telephone key systems is denied without prejudice to the further opportunity we are affording Mebane herein to establish that it has good cause for an exemption or waiver from such obligation;

28. *It is further ordered*, That the tariff revisions submitted with AT&T's Transmittal No. 12321 are hereby rejected pursuant to section 61.69 of the Commission's rules and are returned herewith;

29. *It is further ordered*, That Petitions to Intervene in this proceeding, if

* U.S. Bureau of the Census. *County and City Data Book, 1972* (A Statistical Abstract Supplement), U.S. Government Printing Office, Washington, D.C., 1973. See Table 2—Counties, N.C. (Alamance) at 331–41 and N.C. (Orange) at 342–53.

any, shall be acted upon by the Commission.

Adopted: May 8, 1975.

Released: June 4, 1975.

FEDERAL COMMUNICATIONS COMMISSION,[2]
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.75-15566 Filed 6-13-75;8:45 am]

[FCC 75-563]

MEDICAL SERVICES RADIO SYSTEMS

Requirements for Multichannel Equipment Capability for Operation

1. Requests have been received for waivers of § 89.525(f)(2) (ii) and (iii) of the Commission's rules governing the assignment of eight frequency pairs in the 463/468 MHz band for Medical Services radio systems in the Special Emergency Radio Service. These frequencies are assigned in a "block" for designated primary and secondary medical radio uses. The rule sections involved in these waiver requests provide that base and control station equipment for use of these frequencies must be capable of transmit/receive on at least three (four, when telemetry is utilized) of the frequency pairs; and that mobile equipment for use of the frequencies must be capable of transmit/receive on each of the eight frequency pairs.

2. The waivers being sought are requested in connection with applications for licensing of medical services radio systems submitted by the following parties: John D. Archbold Memorial Hospital, Thomasville, Georgia; Jefferson County Ambulance Service, Monticello, Florida; Doctor's Memorial Hospital, Perry, Florida; Holmes County Hospital, Bonifay, Florida; Calhoun General Hospital, Blountstown, Florida; Wakulla Ambulance Service, Crawfordville, Florida; Madison County Memorial Hospital, Madison, Florida; Gadsden Memorial Hospital, Quincy, Florida; Tallahassee Memorial Hospital, Tallahassee, Florida; and Monroe County Fisherman's Hospital, Key West, Florida.

3. Each of these applicants, excepting Monroe County, would operate as an emergency medical services (EMS) provider in the "Tallahassee EMS Communications Major Catchment Area" under an areawide plan for that medical-care region in Northern Florida. The Monroe County operation is based at Fisherman's Hospital in the city of Marathon in the Middle Keys area of the Florida Keys.

4. The base station operations of Tallahassee Memorial Hospital, which is the regional medical center, would meet the multi-channel rule requirements. All other applications for base station facilities contemplate only two-channel capability, rather than the three or four channels required by the rules. One of these two channels is a "common calling" frequency for inter-system requirements. Effectively therefore, each of these base stations has only one "working" channel to handle all intra-system medical requirements. In the associated mobile unit operations proposed in these applications. Tallahassee Memorial Hospital plans only four-channel capablity, and all other applicants propose only three-channel capability rather than the required full eight-channel capability. One of these mobile frequencies is paired with the base station "common calling" channel. No mobile units can access "working" channels for all base stations in the areawide system. As none of these systems totally complies with the Commission's rules, they can not be licensed without waiver action.

5. Representations in support of the requested waivers show that the proposed radio systems would operate in accordance with statewide plans for EMS communications as developed by the Department of General Services of the State of Florida. It is argued that under the State's programs, the additional base and mobile channel capability as required by the Commission's Rules is not necessary and that "the multi-channel equipment rule has the net effect of being a substitute for the State and local planning of EMS communications systems." This, it is contended, defeats the Commission's objective "for compatible EMS systems," in that "there is no flexibility for creative systems, implementation, cost effectiveness, or maximization of available resources.[1]

6. A more specific basis for waiver action was presented as to the Monroe County application for the Fisherman's Hospital in Marathon, Florida. Here, Marathon's relative isolation from other communities (it is essentially an island community in the Gulf area linked to the Florida mainland some 100 miles north by an intercoastal highway) is depicted to illustrate its comparatively limited requirements for intersystem medical communications.

7. The basis and purpose of the multi-channel requirements in UHF medical radio systems were discussed extensively in connection with the rule making proceeding in Docket 19880. Rule changes adopted in this Docket included allocation of frequencies in the 463/468 MHz band exclusively for medical services operations with standards for their assignment and use. (See the Report and Order in Docket 19880, adopted July 2, 1974, 47 FCC 2nd 676.) In response to a request from the State of Florida for reconsideration of the multi-channel requirement, the Commission addressed the issues noted by the State in a Memorandum Opinion and Order adopted in Docket 19880 on October 22, 1974, (49 FCC 2nd 368.) The Commission found and stated, with respect to mobile stations:

> * * * the necessity for flexibility in the potentially wide-ranging emergency activities for most ambulances mandates full eight-channel capability.

And, with respect to base and control stations:

> The more relevant needs for these stations are that systems have the ability to handle separately the many different medical communication requirements, and that there be sufficient channels available to assure a 'clear channel' for emergencies. For these purposes, we find that four channels, when bio-medical telemetry is employed in the system, and three channels, when telemetry is not used, are the minimum requisite number of channels which should be available at base and control stations.

8. The arguments and factors presented to support these requests for waivers of the multi-channel requirements have been carefully examined. We have extensively studied and discussed with State officials in Florida each of the systems involved, and the impact of these requirements on State and local medical communications planning efforts and operations. With respect to the systems in the Tallahassee region, the Commission finds no valid basis for grant of any waiver as to the equipment standards. The Tallahassee system is designed to provide area-wide coordinated inter-system communications capability for a number of communities in Northwest Florida. We recognize that some of these communities are very small and operate few medical vehicles. Nevertheless, the area and the systems are similar to those served by many "common" systems that are being developed for medical services throughout the country. Systems of this type are usually designed to optimize the full potential of the block-assigned 463/468 MHz channels, whereas, the Tallahassee area system would be a somewhat more limited approach on the reduced number of channels we are requested to approve. In any event, we are not aware of any unique factor or compelling extenuating situation in the Tallahassee system that would warrant in the public interest an exception to the multi-channel rule requirement. Accordingly, the waiver requests for the applicants in the Tallahassee area are denied.

9. We have reached a different conclusion with regard to the request from Monroe County for the Fisherman's Hospital in Key West. One of the primary

[2] Filed as part of the original. Chairman Wiley issuing additional views in which Commissioner Lee joins; Commissioners Reid and Quello concurring in the result; Commissioner Hooks dissenting and issuing a statement; Commissioners Robinson and Washburn issuing a joint concurring statement.

[1] An argument had been originally presented that meeting the multichannel requirement was a cost problem. However, a detailed cost analysis of bids developed under State procurement offers for equipment requirements indicated only a 4% to 7% price differential between equipment needed for the proposed operations and equipment that would be required for compliance with the Commission's rules. Further, a significant portion of this differential appeared to relate to features of the system not required by the Commission's rules, and to non-equipment services called for in the Requests for Procurement. The State concluded, "We do not consider the vendor's costs a significant problem. * * * In any event the cost problem does not affect the numbers of channels required."

purposes for the base and control station multi-channel requirement is the need to accommodate intersystem communications requirements when medical emergencies develop involving itinerant medical units that normally operate on different channels. It is recognized, however, that there may exist unusual situations where a hospital is so remotely located and its operations are so limited that there would be no reasonable likelihood of need to radiocommunicate with other licensed systems. Geographically and logistically, the hospital base station operation at Marathon, Florida, appears to fall within this category. Therefore, the Commission is granting the request for waiver as to the Monroe County system. We are not including the mobile units for the Monroe County system in this waiver approval. These vehicles would well be expected to have need to travel to and communicate with other hospitals or personnel in other communities for medical emergencies, and this requires full-channel capability in the mobile units.

10. It is noted that there are other base station operations where it may be appropriate to favorably consider exception to the multi-channel equipment requirements. One common example could apply in the operation of such medically related activities as blood banks or eye banks which are included in the eligibility category for medical services. These functions are generally designed to serve particular hospitals and there may be little or no need for system capability beyond communication with the hospitals served. Requests of this nature can be considered on a case by case basis.

11. Oral hearing before the Commission has been requested by the Florida Department of General Services who, although not a party applicant, seeks to present information concerning the waivers we have considered herein. Even assuming that the State would be a proper party for appearance in a hearing of this nature, the Commission believes that it is fully cognizant of the issues involved as to these requests and there are no facts in dispute. Consequently, we find that there is no apparent purpose or public interest requirement to be served by an oral hearing and this request is denied as to Florida or as to any of the proper party applicants.

12. In consideration of the foregoing, it is ordered, That, the application requests for waiver of Part 89 of the Commission's Rules submitted by the parties listed in Paragraph 2 herein, relating to requirements for multi-channel equipment capability for operation of Medical Services radio systems, are denied, except that the request for waiver as to multi-channel base station requirements for the Fisherman's Hospital in Monroe County, Florida, is granted.

Adopted: May 20, 1975.

Released: May 28, 1975.

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

[FR Doc.75-15562 Filed 6-13-75;8:45 am]

BROADCASTING SATELLITE, FIXED-SATELLITE, AND MOBILE (EXCEPT AERONAUTICAL MOBILE) SERVICES IN THE 11.7–12.2 GHZ BAND

Meeting; Correction

JUNE 9, 1975.

Tuesday, June 24, 1975, time: 2:00 p.m., room: 8210—2025 "M" Street NW., Washington, D.C. 20554.

In FR Doc. 75-14956 appearing on page 24554 in the issue for Monday, June 9, 1975, in the first column, the sixth paragraph, change footnote NG105 to read as follows:

NG105 Pending adoption of specific rules concerning sharing of the band 11.7–12.2 GHz between the Broadcasting-Satellite and Fixed-Satellite Services, systems in the latter Service may be authorized on a case-by-case basis subject to the condition that adjustments in certain system design or technical parameters (including but not limited to orbital location, channel use, etc.) may become necessary during the system lifetime in order to accommodate use of the band by systems of the same or other service.

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

[FR Doc.75-15567 Filed 6-13-75;8:45 am]

COMMON CARRIER SERVICES INFORMATION [1]

[Report No. 757]

Domestic Public Radio Services Applications Accepted for Filing [2]

JUNE 9, 1975.

By the Chief, Common Carrier Bureau.

Pursuant to §§ 1.227(b)(3) and 21.30 (b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the attached list, must be substantially complete and tendered for filing by whichever date is earlier: (a) the close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cut-off dates are set forth in the alternative—applications will be entitled to consideration with those listed in the appendix if filed by the end of the 60 day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

21151-CD-P-75, Kidd's Communications, Inc. (KMD349), C.P. for additional facilities to operate on 35.58 MHz located at 215 East 18th Street, Bakersfield, California.

21659-CD-AL-(7)-75, Hudson Paging, Inc., Consent to Assignment of License from Hudson Paging, Inc. ASSIGNOR to Empire Paging Corporation, ASSIGNEE. Stations: KEC933, Briarcliff, New York; KEA256, East Brunswick, N.J.; KEC738, Hawthorne, N.J.; KEJ886, Neptune, N.J.; KGI778, W. Orange, N.J.; KQZ777, Holmdel, N.J.; and KRS674, Neahanic, N.J.

21660-CD-P/L-75, General Telephone Company of California (New) (Developmental), C.P. for a new developmental station to operate on all 152 MHz band and 454 MHz band within the state of California.

21661-CD-P-(2)-75, The Wheat State Telephone Co., Inc. (KBM514), C.P. for additional facilities to operate on 152.69 MHz; and change antenna system and relocate facilities operating on 152.57 MHz to be located behind telephone company central office building in heart of town (106 West First) Udall, Kansas.

21663-CD-MP-75, Martin J. Nunn (KEA776), C.P. to replace transmitter operating on 152.21 MHz located on Star Hill, 3.45 WNW of Remsen, Rome, New York.

21664-CD-P-75, Jackson Mobilphone Company, Inc. (New), C.P. for a new 2-way station to operate on 152.03 MHz to be located at 120 N. Mill Avenue, Dyersburg, Tennessee.

21665-CD-P-75, Jackson Mobilphone Company, Inc. (New), C.P. for a new 2-way station to operate on 152.12 MHz to be located at 1011 Perkins Street, Union City, Tennessee.

21666-CD-P-(2)-75, Delta Valley Radiotelephone Co., Inc. (KMA743), C.P. to add base facilities to operate on 454.325 MHz and control facilities to operate on 72.94 MHz at Loc. #4: Atop North Peak of Mt. Diablo, approx. 7.5 miles NE of Danville, California.

21667-CD-MP-(2)-75, Tel-Car, Inc. (KLF-594), C.P. to add control facilities to operate on 454.300 MHz at Loc. #3: ½ mile East of Meridian, Idaho and to add new site to operate on 158.70 MHz designated as Loc. #4: 4.2 miles S. of Caldwell, on 10th Avenue S., near Caldwell, Idaho.

21668-CD-P-75, Digital Paging Systems of Pittsburgh, Inc. (KWB370), C.P. to add antenna Loc. #4 to operate on 152.24 MHz to be located at 229 Grandview Avenue, Pittsburgh, Pennsylvania.

21669-CD-P-75, Pineland Telephone Co-Op., Inc. (KIN648), C.P. for additional facilities to operate on 152.72 MHz located approx. 400 feet West of intersection of U.S. Hwy. 80 and Ga. Hwy. 23, Twin City, Georgia.

[1] All applications listed below are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's Rules, regulations and other requirements.

[2] The above alternative cut-off rules apply to those applications listed below as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio and Local Television Transmission Services (Part 21 of the rules).

21670-CD-AL-(2)-75, Duane L. & Velma E. Williams dba Custom Radio. Consent to Assignment of License from Custom Radio, ASSIGNOR to Custom Radio, Inc., ASSIGNEE. Stations: KOK342 & KUO604, Casper, Wyoming.

21671-CD-P-75, Tel-Page Corporation (KGI-787), C.P. to relocate facilities operating on 152.24 MHz to be located at 919 South Clinton Avenue, Rochester, New York.

21672-CD-P-75, Charles Rotkin dba Northeast Communications (New), C.P. for a new 1-way station to operate on 43.22 MHz to be located at Quarter Line Road, Rutland, Vermont.

21673-CD-MP-75, Pacific Northwest Bell Telephone Company (KWH335) (Air-Ground), Mod. of Permit to add test facilities to operate on 459.775 MHz located at 237 W. First Street, Pendleton, Oregon.

21674-CD-MP-75, Pacific Northwest Bell Telephone Company (KWH330) (Air-Ground), Mod. of Permit to add test facilities to operate on 459.850 MHz located at 740 State Street, Salem, Oregon.

21675-CD-MP-75, Pacific Northwest Bell Telephone Company (KWH337) (Air-Ground), Mod. of Permit to add test facilities to operate on 459.975 MHz located at 120 North 8th Street, Klamath Falls, Oregon.

21677-CD-P-75, Mobile Radio Communications, Inc. (KSV904), C.P. to add antenna Loc. #5 to operate on 158.70 MHz located at 9100 Park, Lenexa, Kansas.

21678-CD-P-75, Answerint Network of Georgia, Inc. dba Georgia Paging Company (KQZ749), C.P. for additional facilities to operate on 158.70 MHz located at 2500 Tennessee Avenue, Savannah, Georgia.

21679-CD-P-75, Empire Paging Corporation (KEC738), C.P. to add antenna Loc. #3 to operate on 454.100 MHz to be located at Top of Hill overlooking Pompton Lakes, New Jersey.

21676-CD-P-(2)-75, The Mountain States Telephone & Telegraph Company (KOP-909), C.P. to change frequency from 152.75 MHz to 152.72 MHz and change antenna system and replace transmitter operating on 152.72 & 152.60 MHz located 3.5 miles N. of Black Eagle, Montana.

INFORMATIVES

It appears that the following applications may be mutually exclusive and subject to the Commission's Rules regarding Ex Parte presentations by reasons of potential electrical interference.

21123-CD-P-75, Edward J. Hughes dba Professional Answering Service, Bangor, Maine.

21381-CD-P-75, ComNav, Inc. dba Radio Telephone of Maine, Copeland Hill, 3 miles W. of East Holden.

POINT-TO-POINT MICROWAVE RADIO SERVICE

4190-CF-P-75, Yankee Microwave Corp., Inc. (New), Cates Hill, 0.5 Mile North of Berlin, New Hampshire. Lat. 44°30'30" N., Long. 71°11'13" W. C.P. for a new station on 6301.0H MHz toward Mt. Washington, New Hampshire, on azimuth 199° 24'. (Note: Waiver of Section 21.701(i) requested by Yankee.)

4230-CF-P-75, Eastern Microwave, Inc. (KEA64), 4.0 Miles SE of Cherry Valley, New York. Lat. 42°46'31" N., Long. 70° 40'56" W. C.P. to add 6137.9H MHz, via power-split, toward Rogers Knob, New York, on azimuth 231°23'.

4229-CF-P-75, Same (KEL89), Rogers Knob, 8.0 Miles NE of Sidney, New York. Lat. 42° 23'27" N., Long. 75°19'42" W. C.P. to add 6212.6V MHz toward Oneonta, New York, on azimuth 72°13'. (Waiver of Section 21.701(i) requested by Eastern.)

4237-CF-P-75, Yankee Microwave Corp., Inc. (KYZ86), Moose Hill, 3.0 Miles East of Livermore, Maine. Lat. 44°29'00" N., Long. 70°07'59" W. C.P. to add 6019.3V MHz, via path intercept, toward Jay, Maine, on azimuth 227°46'.

4301-CF-P-75, Video Service Company (KVD52), 1.8 Miles NW of Peru, Indiana. Lat. 40°46'05" N., Long. 86°05'32" N. C.P. to add, via power-split, two existing frequencies (60.913V MHz and 6108.3V MHz) and one new frequency (5960.0V MHz) toward Huntington, Indiana, on azimuth 73°39'.

4302-CF-P-75, same (New), 1.5 Miles SW of Huntington, Indiana. Lat. 40°54'10" N., Long. 85°31'11" W. C.P. for a new station on 6256.5H MHz and 6315.9H MHz toward New Haven, Indiana, on azimuth 65°21'. (Note: STA and 21.701(i) waivers requested by Video Service Company.

4325-CF-P-75, Tower Communications Systems Corp. (WKS45), 3.2 Miles SSE of Newark, Ohio. Lat. 40°00'52" N., Long. 82°22'41" W. C.P. (a) to delete Stoutsville (WPF49), Ohio, as point of communication; (b) to add 11585.0V MHz and 11665.0V MHz toward new point of communication at Lancaster, Ohio, on azimuth 210°38'; and (c) to change antenna system.

4326-CF-P-75, same (WBA744), 1.5 Miles NE of Lancaster, Ohio. Lat. 39°43'53" N., Long. 82°35'42" W. C.P. for a new station on 11305.0V MHz and 11465.0V MHz toward Stoutsville (WPF49), Ohio, on azimuth 229°50'. (Note: Special Temporary Authority (STA) requested by Tower.)

4207-CF-P-75, The Pacific Telephone and Telegraph Company (WJK94), Within San Jose, California. Lat. 37°17'07" N., Long. 121°51'24" W. C.P. to add antennas and frequencies 11254V, 11485V and 11565V MHz toward an additional point of communication at Walpert Ridge, California, on azimuth 342°/43'.

4208-CF-P-75, Same (KTG20), Walpert Ridge, 3.7 Miles ESE of Hayward, California. Lat. 37°39'20" N., Long. 122°00'06" W. C.P. to change antenna system and point of communication from San Jose, California (KMN91) to within San Jose, California (WJK94) for frequencies 10755V 10835V and 11115H MHz, on azimuth 162°/37'.

4209-CF-ML-75, American Telephone and Telegraph Company (KGA26), Springfield Township, Pennsylvania. Lat. 40°05'02" N., Long. 75°11'19" W. Mod. of License to change polarity from Horizontal to Vertical on frequency 6177.5 and from Vertical to Horizontal to 6424.5 MHz toward Finland, Pennsylvania on azimuth 328°/31'; change from Horizontal to Vertical on 6177.5 and from Vertical to Horizontal on 6424.5 MHz toward Philadelphia, Pennsylvania, on azimuth 168°/40'.

4228-CF-R-75, New Jersey Bell Telephone Company (KYC84), Location: Within the territory of the Grantee. Application for Renewal of Radio Station License (Developmental) expiring July 29, 1975. Term: July 29, 1975 to July 29, 1976.

4323-CF-P-75, Pacific Northwest Bell Telephone Company (New), Corner of Hartfield and Columbia Streets, Arlington, Oregon. Lat. 45°42'46" N., Long. 120°12'01" W. C.P. for a new station on frequency 2118.8H MHz via Passive Reflector to Condon, Oregon on azimuth 186°/58'.

4324-CF-P-75, Same (KOQ80), 6.0 Miles West of Condon, Oregon. Lat. 45°14'10" N., Long. 120°18'17" W. C.P. to change antenna system and add frequency 2188.8H MHz via Passive Reflector toward a new point of communication at Arlington, Oregon on azimuth 72°/36'.

4327-CF-ML-75, American Telephone and Telegraph Company (KRT35), 1.0 Mile North of McFarlan, North Carolina. Lat. 34°49'36" N., Long. 79°58'59" W. Mod. of License to change polarization from Vertical to Horizontal on frequencies 3730, 3810, 3890, 3970, 4050, and 4130 MHz and from Horizontal to Vertical on 3750, 3830, 3910, 3990, 4070, and 4150 MHz toward Pageland South Carolina, on azimuth 257°/28'.

4328-CF-ML-75, Same (KRT43), 2.3 Miles SW of Pageland, South Carolina. Lat. 34° 44'42" N., Long. 80°25'25" W. Mod. of License to change polarization from Horizontal to Vertical on frequencies 3710, 3790, 3870, 3950, 4030, and 4110 MHz and from Vertical to Horizontal on 3770, 3850, 3930, 4010, 4090, and 4170 MHz toward McFarlan, North Carolina, on azimuth 77°/13'.

4331-CF-P/ML-75, The Bell Telephone Company of Pennsylvania (KOC47), Location: Within the territory of the Grantee. C.P. and Mod. of License (Developmental) to add any type accepted transmitter and delete reference to specific transmitters.

MAJOR AMENDMENT

2834-CF-P-75, United Welco, Inc. (New), 4.5 miles North of Farmerville, Louisiana Lat 32°50'44" N., Long. 92°23'56" W. Application amended to add 6226.9V MHz toward points of communication at Bastrop and Ruston, Louisiana, on azimuths 98°-59' and 214°55', respectively. (Note: The proposed construction of a 365 foot antenna tower structure at this location (Farmerville) is a MAJOR ACTION within the meaning of the National Environmental Policy Act of 1969. See FCC Docket No. 19555, paragraph 1.1305.)

CORRECTIONS

3501-CF-P-75, New England Telephone and Telegraph Company (KCO96), Bowdoin, Maine. CORRECT entry to read: Change 6071.2V and 6130.5V MHz to 5974.3V and 6152.8V MHz toward Vassalboro, Maine; all other particulars to remain as reported in Public Notice #753, dated May 12, 1975.

3502-CF-P-75, Same; Vassalboro, Maine. CORRECT call sign to read KCO97; all other particulars to remain as reported in Public Notice #753, dated May 12, 1975.

[FR Doc.75-15568 Filed 6-13-75;8:45 am]

[FCC 75R-228; Docket No. 20254, 20255; File No. 73-A-L-104, 11 ARL 104]

LOWE AVIATION CO., INC. AND ARNOLD AVIATION CO.

Memorandum Opinion and Order Enlarging Issues

For an aeronautical advisory station to serve Lewis B. Wilson Airport, Macon, Georgia.

1. By Order, 39 FR 43759, published December 18, 1974, the Chief of the Safety and Special Radio Services Bureau, acting pursuant to delegated authority, designated the above-captioned applications for hearing on various issues including an issue inquiring into the comparative experience of the applicants and their employees in aviation and aviation communications. Now before the Review Board is a petition to enlarge issues, filed April 16, 1975, by Lowe Aviation Company, Inc. (Lowe) seeking addition of the following issue against Arnold Aviation Corporation (Arnold).[1]

[1] Also before the Review Board are the following related pleadings: (a) comments, filed April 24, 1975, by the Safety and Special Radio Services Bureau; (b) opposition, filed May 8, 1975, by Arnold; and (c) reply, filed May 19, 1975, by Lowe.

To determine whether Arnold Aviation Corporation, including any of its officers, directors and/or employees, have operated a radio transmitter in such a manner as to cause interference with aeronautical advisory Station WIQ8 licensed to Lowe Aviation Incorporated, and further, whether Arnold, including its officers, directors and/or employees, have operated such transmitter (or any other transmitter) without a license contrary to the Commission's rules and regulations.

2. In support of its allegation that Arnold operated an unlicensed radio facility which interfered with Lowe's aeronautical advisory Station WIQ8 (Macon Unicom), Lowe attaches the affidavits of Henry E. Lowe, its vice-president, Nickey M. Porcel, its line manager, and Robert L. Williams, a former part-time employee. Each affiant attests to occasions when Lowe's operation was interfered with by the constant "keying" of a transmitter being operated on the same or a nearby frequency or instances when he heard radio transmissions by "someone" identifying himself as "Arnold Aviation" or "Arnold Unicom" answering calls directed to Lowe or Macon Unicom on Lowe's frequency. Lowe also submits the affidavit of James T. Lowe, its president, who states that in numerous instances of interference he was able to identify the voice of William J. Cain, Arnold's president, whom Lowe has known on a professional basis "for a number of years." Lowe states that Cain said "Come to Arnold Aviation, Better Service at Arnold Aviation."[1] Lowe concedes that its petition is late filed but states that good cause exists for its delay since, until an adverse ruling by the Presiding Judge on March 19, 1975, as to the scope of the designated issues, it had reasonably believed the requested issue was subsumed in designated issue (a) (4) inquiring into the comparative experience of the applicants. The Bureau supports addition of the requested issue.

3. In opposition, Arnold argues that the petition is based upon allegations which are vague and conjectural and upon affidavits which are conclusory and unspecific. Moreover, Arnold states that the petition is inexcusably late and that petitioner has not demonstrated good cause for its delayed filing.

4. The Review Board is of the view that petitioner's allegations warrant the addition of an appropriate issue.[2] It appears from James T. Lowe's uncontroverted affidavit that an individual identified as an Arnold principal (Cain) has on numerous occasions interfered with calls to Lowe's aeronautical Advisory station at Lewis B. Wilson Airport. Petitioner's other affidavits, although they do not identify any Arnold principal or employee, support petitioner's allegations that someone identifying himself as Arnold Aviation has interfered with and answered calls directed to Lowe on Lowe's authorized frequency. Arnold has not submitted an affidavit from its principal Cain, or from any other person, contradicting these assertions nor denied the allegations generally. In view of these circumstances, we believe an evidentiary inquiry into the allegations of interference is required. However, we will not at this time authorize inquiry into whether Arnold's Multicom operation is unlicensed since the only support for this allegation is the hearsay attribution of an unnamed "FCC Field Representative."[3]

5. *Accordingly, it is ordered,* That the petition to enlarge issues, filed April 16, 1975, by Lowe Aviation Company, Inc., is granted to the extent indicated herein, and is denied in all other respects; and

6. It is further ordered, That the issues in this proceeding are enlarged to include the following issues:

(a) To determine whether Arnold Aviation Corporation, or any of its officers, directors, and/or employees, have operated a radio transmitter in such a manner as to cause interference with aeronautical advisory Station WIQ8 licensed to Lowe Aviation Company, Inc.

(b) To determine, in light of the evidence adduced with respect to the foregoing issue, whether Arnold Aviation Corporation possesses the requisite and/or comparative qualifications to be a Commission licensee.

7. *It is further ordered,* That the burden of proceeding with the introduction of evidence under the issues added herein shall be on Lowe Aviation Company, Inc., and the burden of proof shall be on Arnold Aviation Corporation.

Adopted: June 9, 1975.

Released: June 11, 1975.

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

[FR Doc.75-15564 Filed 6-13-75;8:45 am]

[FCC 75-614; Docket No. 20493]

WESTERN TELE-COMMUNICATIONS, INC.

Revised Rates for Microwave Service to Broadcast and Cable Television Customers

Revised rates for microwave service to broadcast and cable television customers located in Wyoming, Idaho, and Montana; Tariff F.C.C. No. 3, Transmittal No. 38.

1. The Commission has before it (a) Transmittal No. 38 of Western Tele-Communications, Inc. (WTCI) and the accompanying revised tariff pages filed on April 2, 1975 to become effective June 1, 1975; (b) a petition filed by Teleprompter Cable Communications Corp. and Teleprompter of Great Falls, Inc. (hereinafter "Teleprompter")[1] to suspend, investigate and to order an accounting with respect to the proposed tariffs; (c) a joint petition filed by Sidney Cablevision serving Sidney, Montana, and eight other cable television (CATV) companies (hereinafter "Sidney")[2] to suspend and investigate the proposed tariffs; (d) an "emergency and special plea for protection and immediate assistance" filed by Sidney requesting partial or total rejection of the proposed tariff or other appropriate relief;[3] (e) a petition to suspend and investigate and "supplement" to petition to suspend[4] filed by Harriscope Broadcasting Corporation, Inc. (hereinafter "Harriscope"), licensee of television broadcast stations KULR, Billings, Montana and KFBB, Great Falls, Montana; (f) a petition to suspend and investigate filed by KSMO-T.V. Inc., licensee of tele-

[1] According to the affidavit of James T. Lowe, Arnold has operated a Multicom on frequency 122.9 MHz for the past several years, whereas Lowe is licensed to operate a Unicom on frequency 123.0 MHz. (See §§ 87.-251-87.277 of the Commission's rules.) Furthermore, Lowe claims that in July 1974, an unnamed individual "who identified himself as an FCC Field Representative" visited Arnold and thereafter informed Lowe that Arnold "could not produce a license."

[2] The Board finds the explanation proffered by Lowe to justify its untimely filing insufficient to warrant a finding of good cause. However, the petition does raise serious public interest questions. Therefore, consistent with our usual practice, we will consider the petition on its merits. See The Edgefield-Saluda Radio Co. (WJES), 5 FCC 2d 149, 8 RR 2d 611 (1966).

[3] We note, however, that should evidence develop at hearing which would warrant inquiry into whether Arnold's operation is unauthorized, the Board would, upon a proper showing, entertain a request for an appropriate issue.

[1] Teleprompter operates CATV systems serving the communities of Pocatello, Idaho and Great Falls, Missoula and Kalispell, Montana.

[2] The other CATV system companies are Columbus Cable T.V. Co. serving Columbus, Montana; Forsythe Cable T.V. Co. proposing to serve Forsythe, Montana; Lovell Cable T.V. Co. serving Lovell, Wyoming; Mountain States Communications, Inc. serving Laurel, Montana; Big Timber Cable T.V. serving Big Timber, Montana; Red Lodge Cable T.V. Co., Inc. serving Red Lodge, Montana; Sheridan Cablevision serving Sheridan, Wyoming; and, Hardin Cable T.V., Inc. serving Hardin, Montana.

[3] Sidney's petition is in essence a petition for rejection which is to be acted upon by the Chief, Common Carrier Bureau pursuant to authority delegated under Sections 0.91 and 0.291 of our Rules. Therefore, such petition to reject should have been filed with the Chief, Common Carrier Bureau rather than with the Commission. We shall deny the relief requested on our own motion because while such petition may raise questions of lawfulness warranting further investigation and hearing (which are also set forth in Sidney's suspension petition) it does not establish prima facie unlawfulness such that rejection would be appropriate. Cf., In the Matter of United Video, Inc.'s Revised Rates for Microwave Service, Docket 20198, 49 FCC 2d 878, 880 (1974).

[4] Although Harriscope's April 25, 1975 petition to suspend was timely filed pursuant to § 1.733 of our rules, we find, upon reviewing the positions of Harriscope and WTCI, that Harriscope has failed to show good cause for the untimely filing of its "supplement" to its petition for suspension. Contrary to the claim of Harriscope, sufficient notice regarding the proposed tariff increases was given to Harriscope under applicable Commission Rules, see 47 CFR 1.47, 1.773 and 61.58. Accordingly, we shall dismiss such "supplement" as being procedurally defective.

vision broadcast stations KGVO, Missoula, Montana, KCFW-TV, Kalispell, Montana and KTVM, Butte, Montana (hereinafter KSMO); (g) a petition to suspend filed by Garryowen Corporation, licensee of television broadcast stations KTVQ, Billings, Montana, KXLF, Butte, Montana and KRTV, Great Falls, Montana (hereinafter "Garryowen"); and, (h) WTCI's oppositions to the foregoing petitions.

2. WTCI supplies point-to-point microwave radio services through its Western Microwave division to both CATV and broadcast television customers in northern Utah, eastern Idaho, the states of Montana and Wyoming, and one location in North Dakota. WTCI's tariff filing sets forth proposed rates for customers subscribing to nine different video services offered by WTCI. WTCI states that its primary services to CATV system customers are its Salt Lake City service, involving delivery of four Salt Lake City signals (three networks, KCPX, KSL and KUTV, and one educational, KUED) to CATV systems throughout the area it serves, and its KWGN service, involving delivery of one independent television signal originating in Denver, Colorado. WTCI claims that those two services make up approximately 11,700 channel miles of its total system which comprises approximately 14,000 channel miles. The remaining seven "secondary" services for which proposed rates have been filed involve delivery to customer(s) of the CJOC Lethbridge, Canada signal; KTWO Casper, Wyoming signal; KTVQ Billings, Montana signal; KHSD Rapid City, South Dakota signal; KBYU Provo, Utah signal; KGVO Missoula, Montana signal; and, the Skyline Network, a service provided to broadcasters which consists of a composite of network television programming. In addition, WTCI offers an audio service over its Intermountain Radio Network (IRN) which consists of a composite of network, syndicated and independent audio programming. WTCI's filing does not propose new rates for its IRN service.

3. The proposed tariffs filed with Transmittal No. 38 result in substantial rate increases of varying amounts for most CATV and broadcast television customers of WTCI. WTCI introduces novel rate structures for its Salt Lake City and KWGN services which make rates to be charged customers vary according to which of three "geographical zones" a customer may be located in and the "populations" of the areas being served by the customer. WTCI's so-called "secondary" services are considered by WTCI to be in a common zone and customer rates vary according to "populations" in three of these services and a flat rate structure applies in other services. The rate structures proposed by WTCI are set forth in the Appendix attached hereto. The overall effect of the proposed rates, based on 1974 as a test year, is to increase WTCI's revenues from approximately $88,000 monthly to approximately $129,000 monthly or about 47 percent. According to WTCI's § 61.38 data, its return in 1974 was 2.78 percent and, assuming the instant rate increases become effective June 1, 1975, its return in 1975 will be 9.41 percent; in 1976, 11.40 percent; and, in 1977, 12.61 percent. WTCI claims that a reasonable rate of return on its investment should be 18.92 percent and, thus, it will continue to have an earnings deficiency for the years noted above notwithstanding the instant rate increases.

4. The essence of Teleprompter's petition for suspension and investigation is that the proposed tariffs are unlawful under sections 201(b) and 202(a) of the Communicatons Act, because, among other things, (a) WTCI's rate structures, to the extent they are based on "geographic zones" or "populations" of the areas served by customers, raise questions of lawfulness identical to those pending before the Commission in In the Matter of ATR's Revised Rates for Microwave Service, Docket No. 19609, 37 FCC 2d 751 (1972) and In the Matter of United Video, Inc.'s Revised Rates for Microwave Service, Docket No. 20198, 49 FCC 2d 878 (1974); (b) the rate structure concepts utilized by WTCI are even less sound than those employed by ATR, WTCI's subsidiary, in the ATR case because, among other things, the three geographic zones utilized, contrary to the claims of WTCI, do not reflect increased costs as distance from signal source increases and the population categories are arbitrarily chosen and unduly discriminate against larger customers, particularly large CATV system customers;[4] and, (c) the rate of return claimed by WTCI, 18.92 percent, is unjustified by the § 61.38 material submitted by WTCI because WTCI uses a theoretical 50 percent—50 percent debt/equity ratio rather than the actual ratio of 55 percent—45 percent, overstates its cost of debt (11.72 percent) and equity (26.13 percent) and includes inappropriate items such as a plant acquisition adjustment account (approximately $700,000)[5] in its rate base. Teleprompter requests a ninety-day suspension, an evidentiary hearing and accounting order and requests a hearing commence immediately to determine the need for the rate increases. However, Teleprompter states that evidence relating to the propriety of the rate-making principles employed by WTCI may be deferred pending the outcome of the ATR case.

5. Sidney and eight other CATV customers of WTCI, representing generally small CATV system customers, make essentially the same arguments as Teleprompter with respect to the pending ATR and United Video cases, WTCI's rate of return and cost of debt and equity, and WTCI's claimed rate base. Moreover, they argue that notwithstanding the similarity of WTCI's rate-making approach to the rate structure before the Commission in the ATR case, which may ultimately resolve some issues raised by WTCI's filing, the nine rate structures proposed by WTCI must be investigated independently to determine if they, among other things, properly reflect the market served by WTCI. They argue that because of the overlapping of the various WTCI subsystems and services, WTCI's method of cost allocation must be closely scrutinized. They also claim that the proposed rate increases unduly discriminate against small unaffiliated CATV system customers, pointing out that of 38 present CATV system customers, 19 are affiliated with WTCI and that while rate increases for affiliated CATV customers average 54 percent, rate increases for non-affiliated CATV customers average 64 percent. Further, they claim the per subscriber cost burden imposed by these rate increases on small CATV systems may force small CATV systems out of business.[7] Finally, they argue that the Commission should institute an investigation into all aspects of Tele-Communications, Inc.'s (TCI) regulated-unregulated company relationships, claiming that TCI's common carrier subsidiary, WTCI, is attempting through the proposed rate increases to unlawfully cross-subsidize the cable television operations of TCI's subsidiary, Community Tele-Communications, Inc. (CTC).[8] They claim that WTCI is, in effect, seeking to aid or "shore-up" its non-regulated sister company, CTC, at the expense of the rate-payers. Sidney and the eight other CATV systems request a ninety-day suspension and investigation, citing the Commission's United Video order as precedent, and request that any hearing be deferred pending the outcome of the ATR proceeding in Docket No. 19609.

6. Garryowen claims that (a) the tariff revisions do not comply with the pro-

[4] Teleprompter challenges increases in its rates of 158 percent for Great Falls, Montana, and 72 percent and 43 percent for Pocatello, Idaho and Kalispell, Montana, respectively.

[5] WTCI describes "[t]he Plant Adjustment account as the negotiated value paid at the time of acquisition which was in excess of net book value at that time. The amount is in recognition of (a) the going concern nature of the business, (b) established routes and position of the carrier, (c) business potential of extending into new areas of operations, both geographical and service offerings, and (d) corrections of past accounting practices."

[7] For example, Sidney claims that under the rate increases the per subscriber cost burden will be $4.62 per subscriber for Columbus, Montana with 262 subscribers; $3.31 per subscriber for Rexburg, Idaho with 800 subscribers; $2.22 per subscriber for Big Timber, Montana with 545 subscribers; $3.30 per subscriber for Laurel, Montana with 700 subscribers; $2.28 per subscriber for Red Lodge, Montana with 530 subscribers; and, $2.16 per subscriber for Sidney, Montana with 838 subscribers.

[8] WTCI is a wholly-owned subsidiary of TCI. WTCI, in addition to offering common carrier microwave service itself, has several wholly-owned carrier subsidiaries, namely, American Television Relay, Inc. (ATR), Mountain Microwave Corporation, Sierra Microwave, Inc., Wyoming Microware Corporation, Telecommunications, Inc., and Microwave Communications Corp. CTC is TCI's other wholly-owned subsidiary and is involved primarily in ownership and operation of CATV systems.

visions of § 61.38 and are unreasonable, discriminatory and confiscatory; and, (b) the tariff revisions are in conflict with contractual provisions between Garryowen and WTCI. KSMO requests suspension and investigation on the grounds that (a) WTCI's claimed rate of return is excessive in light of the recent reductions in the prime interest rate; (b) the proposed rates are excessive because WTCI has no need to make the claimed capital expenditures; (c) the proposed tariffs violate KSMO's contract with WTCI which provides for charges through January 20, 1977 at a substantially lower rate than that proposed by WTCI in its filing; (d) WTCI's continued use of less efficient tube equipment, rather than solid state, does not justify the rate increases; and, (e) the proposed rates for microwave service between various customers are inconsistent and discriminatory. Harriscope requests suspension and investigation[9] on the grounds that (a) WTCI's claimed cost of debt is excessive in light of recent reductions in the prime rate of interest and therefore is deficient for § 61.38 purposes; (b) the proposed rate increase to KFBB, from $300 to $1700 monthly, is excessive and unreasonable and has not been supported by supporting cost and rate of return material; and, (c) the proposed rate increases violate provisions of existing contracts between Harriscope and WTCI which provide for significantly lower rates.

7. In its oppositions to the aforementioned petitions WTCI acknowledges that many of the questions raised by petitioners concerning its new population-based rate structure can be answered only after the *ATR* proceeding in Docket No. 19609 is completed. WTCI concedes that the same general principles that were applied in determining ATR's rate structure have been used in devising WTCI's rate structure but states that there are obvious differences between the two rate structures as a result of the different service, route and population factors involved in WTCI's market area. WTCI denies that its rate structure is violative of sections 201 and 202 of the Communications Act, claiming that its rate structure results in a fair and equitable distribution of its revenue requirements among its customers on its Western division which encompasses many thousands of channel miles. In particular, WTCI denies that its rate structure discriminates against either small or large CATV system customers. Moreover, it claims the revenue requirements and rates for various services are based on the assets employed in rendering those services and the operating costs associated therewith, thereby eliminating the possibility of any significant cross-subsidy. In this connection it denies that WTCI is subsidizing TCI's non-carrier subsidiary, CTC, claiming that WTCI's cost of providing service is fully set forth in its § 61.38 material. Regarding claims that it is violating existing contracts by filing increased tariff rates, WTCI states that the Commission has recently reaffirmed the established principle that filed rates take precedence over customer service contracts. WTCI requests deferral of hearing on the rate structure issues raised by the instant filing pending the completion of Docket No. 19609 and that WTCI and petitioners be given a reasonable opportunity at that time to address in further pleadings prior to any Commission decision, as to whether or not a hearing or other proceeding with respect to the WTCI rate structure issues is warranted.

8. With respect to its claimed revenue requirements WTCI, although acknowledging to the extent noted above its new rate structure may be subject to investigation and hearing, stresses that WTCI's rate of return for the present and immediate future is totally inadequate. It claims it desperately needs the revenues from the proposed rate increases because WTCI's operations during 1975 will involve losses over and above its debt costs (11.72 percent) and further losses to the equity holders during the period 1974–1976. Moreover, WTCI denies the allegations of Teleprompter and Sidney that its claimed cost of equity and debt are excessive and denies that it has included any inappropriate items in its rate base. WTCI argues that it is not in the public interest to permit a carrier to continue operating at a rate of return which does not even cover its cost of debt and therefore the Commission, rather than suspending the proposed rate increases for the ninety-day statutory period, must let them become effective. WTCI states that it is agreeable to Teleprompter's request that an evidentiary hearing be held immediately on WTCI's revenue requirements, insofar as at least the minimum requirements can be ascertained without reference to some of the issues pending in Docket No. 19609. Further, WTCI states that it is agreeable to a negotiation procedure whereby its revenue requirements could be discussed informally under the aegis of the Common Carrier Bureau and agreed upon by the parties for an interim period which would probably last through 1976 or 1977. In addition, WTCI states that it is agreeable to an accounting order issued after one-day's suspension pending a final determination on its rate structure and its revenue requirements.

9. Upon consideration of the previous tariff rates, the proposed tariff rates, WTCI's § 61.38 material and the pleadings of the parties we are of the opinion that questions are raised as to whether WTCI's proposed tariffs are lawful within the meaning of section 201(b) and 202(a) of the Communications Act and that further investigation and hearing is therefore warranted. Questions of lawfulness exist regarding WTCI's proposed rate structure which are generally the same, if not identical, to those which are under consideration in the ATR proceeding in Docket No. 19609 (37 FCC 2d at 752), primarily because ATR is a subsidiary of WTCI. In this connection, we believe questions exist as to whether WTCI's utilization of nine separate rate structures results in undue discrimination between customers receiving services under the same rate structures or undue discrimination between customers served under different rate structures. For example, we note that while WTCI's rate structures for its Salt Lake City and KWGN services are based upon geographic zones and populations of the areas served by CATV system customers, its Skyline Network Service for broadcasters is based solely on distance from origination point without regard to populations served by the broadcaster. We also note that WTCI's § 61.38 material fails to allocate any portion of WTCI costs to the IRN service, for which rates were not increased, even though it appears such service tranverses some of the same facilities utilized in WTCI's other services. This raises a question of possible unlawful cross-subsidization. Questions also exist as to whether the 18.92 percent rate of return claimed by WTCI is reasonable, whether WTCI has calculated its debt and equity costs in an appropriate manner and whether certain items included in WTCI's rate base, such as its plant acquisition adjustment account, are appropriate rate base items. With respect to claims made by some petitioners that WTCI's rate filing violates provisions of existing service agreements between WTCI and its customers which specify lower rates, we note that in United Video we held that "with respect to common carrier service offerings to non-carrier customers, the effective rates, practices and regulations are those which appear in the carrier's tariff on file with the Commission and such tariff, the Commission's Rules, and the Act itself, are applicable as a matter of law, notwithstanding any conflicting provision appearing in an agreement executed by the carrier with its customer" (49 FCC 2d at 880).[10]

10. Thus, for the reasons stated above and to be stated below, we shall institute an investigation and hearing into the lawfulness of WTCI's proposed rate increases filed with Transmittal No. 38. We shall also suspend WTCI's proposed rate increases for the maximum ninety-day statutory period and impose an accounting order. Such suspension is justified because the rate increases for most customers are substantial and vary widely with several rate increases averaging well over 100 percent. It is also likely they will be paying such increases for some time after the suspension period expires. Moreover, we believe a grant of WTCI's request that the rate increases not be suspended for ninety days on the grounds asserted by WTCI might amount to an inappropriate prejudgment of several issues strongly contested by the petitioners, such as what is WTCI's reasonable rate of return and what is its rate base. In this regard, we note that we have not had the question of WTCI's reasonable rate of return and rate base before us for consideration in the past

[9] *Supra*, n. 4.

[10] We note that Liberty TV Cable, Inc. has filed a petition for consideration of our holding regarding contracts between carriers and non-carrier customers.

and thus we have no reliable experience upon which we may properly rely to grant WTCI's requested relief.

11. With respect to the procedures to be utilized in conducting the investigation we are instituting, we agree with WTCI and the petitioners that evidentiary hearings on the rate structures proposed by WTCI should be deferred pending completion of proceedings in Docket No. 19609. In addition, we believe evidentiary hearings on WTCI's claimed revenue requirements should also be deferred pending conclusion of Commission proceedings in Docket No. 19609. Because ATR is a subsidiary of WTCI, there are numerous similarities between the methods employed by ATR and WTCI in calculating their claimed revenue requirements which are being challenged in both the ATR case and here by petitioners. Among other things, ATR and WTCI utilize the same cost of equity analysis in arriving at a 26.13 percent claimed cost of equity, utilize the same methods in allocating operating expenses and general and administrative expenses, and both ATR and WTCI use compensating balances and equity differentials in warranty and other convertible notes in their cost of debt analysis. In view of such similarities, and in order to conserve limited Commission resources and avoid wasteful duplication of effort by the parties, we believe deferral of evidentiary hearings on WTCI's claimed revenue requirements is appropriate at this time. When the Commission proceedings in Docket No. 19609 are completed the parties may file pleadings with the Commission setting forth what procedures or relief may be appropriate with respect to WTCI's rate structure and/or claimed revenue requirements in light of the completion of Docket No. 19609. Our action in deferring evidentiary hearings on WTCI's proposed tariffs does not mean that we are precluding the possibility that the parties may be able to resolve some of their differences for an appropriate interim period pursuant to informal discussions conducted under the aegis of our staff. We encourage such discussions where appropriate.

12. *Accordingly, it is ordered*, That, pursuant to sections 4(i), 4(j), 201, 202, 204, 205 and 403 of the Communications Act of 1934, as amended, an investigation is instituted into the lawfulness of the tariff schedules filed by WTCI with Transmittal No. 38 including any cancellations, amendments or re-issues thereof;

13. *It is further ordered*, That, pursuant to the provisions of section 204 of the Act, the revised tariff schedules filed by WTCI with Transmittal No. 38 are hereby suspended until August 30, 1975 and that WTCI, as to the operation of such tariff schedules shall, in the case of all increased charges and until further order of the Commission, keep accurate account of all amounts received by reason of such increases, specifying by whom and in whose behalf such amounts were paid, and upon completion of the hearing and decision herein, the Commission may by further order, require the refund thereof, with interest, pursuant to Section 204 of the Act, and the carrier shall file such reports on the amounts accounted for as the Chief, Common Carrier Bureau shall require;

14. *It is further ordered*, That, without in any way limiting the scope of the investigation, it shall include consideration of the following:

(1) whether the charges, classifications, practices and regulations published in the aforesaid tariffs are or will be unjust and unreasonable within the meaning of section 201(b) of the Act;

(2) whether such charges, classifications, practices and regulations will, or could be applied to, subject any person or class of persons to unjust or unreasonable preference or prejudice to any person, class of persons, or locality, within the meaning of section 202(a) of the Act;

(3) if any such charges, classifications, practices, or regulations are found to be unlawful whether the Commission, pursuant to section 205 of the Act, should prescribe charges, classifications, practices and regulations for the service governed by the tariffs, and if so, what should be prescribed;

15. *It is further ordered*, That, pursuant to sections 4(i) and 4(j) of the Act hearings in this investigation are deferred during the pendency of Commission proceedings in Docket No. 19609 or until further Commission order;

16. *It is further ordered*, That, WTCI is made a party Respondent herein and that Teleprompter; Sidney Cablevision; Columbus Cable T.V. Co.; Forsythe Cable T.V. Co.; Lovell Cable T.V. Co.; Mountain States Communications, Inc.; Big Timber Cable T.V.; Red Lodge Cable T.V. Co., Inc.; Sheridan Cablevision; Hardin Cable T.V., Inc.; Harriscope Broadcasting Corporations, Inc.; KSMO-TV, Inc.; and Garryowen Corporation are made parties pursuant to § 1.221(d) of the Commission's rules, and that all other interested persons wishing to participate may do so by filing a notice of intention to participate within 30 days of the release date of this order;

17. *It is further ordered*, That, the petitions for suspension and investigation filed by Teleprompter, Sidney Cablevision and eight other CATV systems, KMSO-TV, Inc., Garryowen and Harriscope are granted to the extent indicated herein and are otherwise denied;

18. *It is further ordered*, That, Harriscope's "supplement" to its petition to suspend is dismissed as being procedurally defective;

19. *It is further ordered*, That, the Secretary shall send a copy of this order by certified mail, return receipt requested, to the parties identified in paragraph 16 above, and shall cause a copy to be published in the FEDERAL REGISTER.

Adopted: May 28, 1975.

Released: June 11, 1975.

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

WESTERN DIVISION OF
WESTERN TELE-COMMUNICATIONS, INC.

REVISED RATE STRUCTURES

SUMMARY

(1) *Four Salt Lake City Channels (KUED, KCPX, KUTV, KSL)*

Rate for Potential Homes from:	Zone I Per Home/Cum.		Zone II Per Home/Cum.		Zone III Per Home/Cum.	
0-1000 homes (minimum rate)		$875		$1100		$1210
1001-2000 homes	.30	$1175	$1.00	$2100	$1.10	$2310
2001-2500 homes	.20	$1275	.90	$2550	.99	$2805
2501-over	.05		.10		.11	

Notes: a) The above represents the rates as applicable for for four Salt Lake City channels. The rates for channels less than four are as follows:

- 1 channel rate is 60 percent of 4 channel rate
- 2 channel rate is 70 percent of 4 channel rate
- 3 channel rate is 85 percent of 4 channel rate

b) Potential homes are calculated by using the 1970 population census figures divided by 3.5

(2) *KWGN Denver Channel*

Rate for Potential Homes from:	Zone I Per Home/Cum.		Zone II Per Home/Cum.		Zone III Per Home/Cum.	
0-2500 homes (minimum rate)		$750		$775		$800
2501-5000 homes	.20	$1250	.22	$1325	.25	$1425
5001-15000 homes	.05	$1750	.05	$1825	.06	$2025
15001-over	.01		.01		.01	

Notes: Potential homes are calculated by using the 1970 population census figures divided by 3.5.

(3) *CJOC Canadian Channel*
Rate for potential homes from:
0 to 10,000 homes.. $800 (minimum rate).
10,000 and over.... 0.05 per home.

Rate for customer utilizing channel as a 4th Salt Lake City channel..... $430
Private dedicated system..... 2,924

(9) *Skyline Network*
For broadcasters only. Based on distances from origination point.

KXLF Butte	$1,100
KRTV Great Falls	1,700
KFBB Great Falls	1,700
KTVQ Billings	2,600

These rates apply only to existing Skyline customers.

[FR Doc.75-15565 Filed 6-13-75;8:45 am]

FEDERAL MARITIME COMMISSION

BOARD OF COMMISSIONERS OF THE PORT OF NEW ORLEANS AND ATLANTIC AND GULF STEVEDORES, INC.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before June 26, 1975. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the 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:

Mr. Cyrus C. Guidry
Port Counsel
Board of Commissioners of the Port of New Orleans
P.O. Box 60046
New Orleans, Louisiana 70160

Agreement No. T-3098, between the Board of Commissioners of the Port of New Orleans (Port) and Atlantic & Gulf Stevedores, Inc., (A&G), provides for the Port's 5-year lease (with renewal options) to A&G of certain public bulk terminal facilities at New Orleans, Louisiana, to service the handling of bulk commodities. As compensation, A&G will pay Port a base minimum rent of $1,010,000 per year, plus additional rent on the basis of a tonnage charge of 10 cents per net ton for each ton of cargo handled in excess of two million tons per year. A&G shall publish and file with the Federal Maritime Commission a tariff, subject to the Port's approval, covering all charges, rules and regulations applicable in connection with its operation of the said public bulk terminal at the Port of New Orleans. A&G shall have the right to assess, collect and retain all fees paid for wharfage, dockage and all other terminal charges (except harbor fees), as assessed in the aforementioned tariff published by A&G.

By order of the Federal Maritime Commission.

Dated: June 10, 1975.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-15572 Filed 6-13-75;8:45 am]

CITY OF NEW YORK; PORT OF AUTHORITY OF NEW YORK AND NEW JERSEY

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, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before July 7, 1975. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the 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 agreements filed by:

Albert B. Dearden, Deputy Chief
Leases & Operating
Agreements Division
Port Authority of New York and New Jersey
One World Trade Center
New York, New York 10048

Agreement No. T-3099, between the City of New York (City) and The Port Authority of New York and New Jersey (Port) has a threefold purpose. First, it provides that the parties must mutually agree to the construction of any new container terminal facilities on either party's properties for a ten-year period and otherwise refrain, with certain exceptions, from the construction of such facilities beyond those already under construction or development. Second, it provides for the parties' mutual agreement not to establish rental or fee structures with regard to container terminals operated and developed by either party during this ten-year period which are designed to return revenues lower than the revenues required to meet such facilities' costs. Third, it provides for the parties' full cooperation in a joint program to create incentives for the attraction of new types of cargoes to the New York Port District as well as the parties' cooperation in a program for the effective utilization by industry of waterfront property which has become unsuitable for the handling of waterborne cargo.

Agreement No. T-3099-A, also between the City and the Port, provides for the Port's lease of a portion of the Red Hook Peninsula Industrial Development Area in Brooklyn, New York, for development as the Red Hook Marine Project, which will consist of approximately 218 acres to be redeveloped into a two-berth container terminal and related cargo handling and warehousing facilities. The lease's term will extend 50 years after the facility's completion, as set forth in detail in the agreement. The City's compensation consists essentially of the following: (1) basic rental, which is (a) the sum required to amortize the construction costs of the facility's redevelopment, as paid by the City out of the proceeds of bonds issued, (b) interest on the bonds issued in accordance with the terms of a schedule of actual debt service requirements, and (c) one percent

(1%) of the facility's construction costs for the City's general and administrative expenses; and (2) additional rental, which consists of fifty percent (50%) of the Authority's excess receipts in connection with the facility's operation, after the basic rental and maintenance costs have been paid.

By Order of the Federal Maritime Commission.

Dated: June 10, 1975.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-15571 Filed 6-13-75;8:45 am]

R.C.D. SHIPPING SERVICES

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, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before July 7, 1975. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the 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:

L. A. Parish, Agent
L. A. Parish Company
61 Saint Joseph Street
P.O. Box 231
Mobile, Alabama 36601

Agreement No. 9490-6 modifies the basic agreement of R. C. D. Shipping Services by (1) expanding the geographic scope at the discharge range to include all ports in Iran and Pakistan, and (2) augmenting the requirement for the admission of additional members.

By Order of the Federal Maritime Commission.

Dated: June 11, 1975.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-15573 Filed 6-13-75;8:45 am]

[Independent Ocean Freight Forwarder License No. 185]

ROBERT M. McCOY

Order of Revocation

By letter dated April 28, 1975, Robert M. McCoy, 1501 Haines Street, Jacksonville, Florida 32201 was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 185 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission on or before May 24, 1975.

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4, further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

Robert M. McCoy has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised) § 7.04(g) (dated September 15, 1973);

It is ordered, That Independent Ocean Freight Forwarder License No. 185 of Robert M. McCoy be returned to the Commission for cancellation.

It is further ordered, That Independent Ocean Freight Forwarder License No. 185 be and is hereby revoked effective May 24, 1975.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served upon Robert M. McCoy.

ROBERT S. HOPE,
Managing Director.

[FR Doc.75-15576 Filed 6-13-75;8:45 am]

[Independent Ocean Freight Forwarder License No. 1141]

SAN FRANCISCO FREIGHT FORWARDERS, INC.

Order of Revocation

On May 30, 1975, San Francisco Freight Forwarders, Inc., 465 California Street, San Francisco, California 94104 voluntarily surrendered its Independent Ocean Freight Forwarder License No. 1141 for revocation.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised) § 7.04(f) (dated 9/15/73);

It is ordered, That Independent Ocean Freight Forwarder License No. 1141 of San Francisco Freight Forwarders, Inc. be and is hereby revoked effective May 30, 1975, without prejudice to reapply for a license in the future.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served upon San Francisco Freight Forwarders, Inc.

ROBERT S. HOPE,
Managing Director.

[FR Doc.75-15575 Filed 6-13-75;8:45 am]

TRANSATLANTIC SHIPPING CORP.

Order of Revocation

Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation No. P-29 and Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages No. C-1,020.

Whereas, Transatlantic Shipping Corporation (Greek Line), 32 Pearl Street, New York, New York 10004, has ceased to operate the passenger vessel OLYMPIA to and from United States ports.

It is ordered, That Certificate (Performance) No. P-29 and Certificate (Casualty) No. C-1,020 covering the OLYMPIA be and are hereby revoked effective June 6, 1975.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served on the certificant.

By the Commission June 6, 1975.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-15577 Filed 6-13-75;8:45 am]

TRANS-PACIFIC PASSENGER CONFERENCE

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, Louisiana, San Francisco, California, and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before July 7, 1975. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the 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 for approval by:

Mr. Ronald C. Lord, General Manager
Trans-Pacific Passenger Conference
311 California Street
San Francisco, California 94104

Agreement No. 131-263 filed by the Trans-Pacific Passenger Conference

modifies Article E and Rule E by deleting reference to group organizers. Rule E-2 entitled "Group Organizers" is deleted in its entirety.

The rules under Rule E, as well as Exhibits to Rule E-1, will be modified and renumbered to reflect the deletion of Rule E-2.

By order of the Federal Maritime Commission.

Dated: June 11, 1975.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-15574 Filed 6-13-75;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. E-8978]

DEPARTMENT OF THE INTERIOR, BONNEVILLE POWER ADMINISTRATION

Settlement Proposal; Certification

JUNE 11, 1975.

Take notice that on June 11, 1975, the Presiding Administrative Law Judge in Docket No. E-8978, pursuant to §§ 1.18 (e), 1.27(b) and 1.30 of the Commission's rules, certified to the Commission for appropriate action a Settlement Proposal drafted by certain BPA customer intervenors herein and placed in the record at the post-hearing conference held on June 4, 1975, along with the complete evidentiary record developed for decision in this proceeding, including (1) the complete transcript of the conferences and evidentiary hearings in this case held on January 28, March 6, March 31, April 29, May 15, and June 4, 1975; (2) all attendant Items by reference and Exhibits submitted and entered into evidence therein; (3) Initial Brief of Commission Staff Counsel and Comments of Commission Staff Counsel on Settlement Proposal; (4) Brief of Congressman Jim Weaver in Opposition to the Proposed IF-1 Rate Schedule and Response of Congressman Jim Weaver to Settlement Proposal; and (5) Intervenors' Answering Brief to Initial Brief of Commission Staff Counsel and Brief of Congressman Jim Weaver.

The Presiding Administrative Law Judge additionally characterizes, within the text of the Certification of Settlement Proposal, arguments proffered by Commission Staff Counsel and Congressman Jim Weaver in their respective briefs, along with Intervenor's response thereto, concluding ultimately that the record comprises substantial evidence to support the proposed BPA rate schedules under review herein, and that Congressman Weaver's objections to the IP-1 schedule fall beyond the jurisdiction of the Commission and are more appropriately resolved by the courts. The Presiding Judge recommends that the public interest may be best served by having the Commission accept the substance of the settlement.

Any person desiring to comment upon the Certification of Settlement Proposal, or matters contained therein, should submit written comments thereupon to the Federal Power Commission, 825 North Capitol St., NE., Washington, D.C. 20426, on or before June 24, 1975. The Certification is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-15751 Filed 6-13-75;8:45 am]

GENERAL ACCOUNTING OFFICE

FEDERAL COMMUNICATIONS COMMISSION

Receipt of Regulatory Reports Review Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO on June 9, 1975. See 44 U.S.C. 3512 (c) & (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FCC form are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed form, comments (in triplicate) must be received on or before July 7, 1975, and should be addressed to Mr. Monte Canfield, Jr., Director, Office of Special Programs, United States General Accounting Office, 425 I Street, NW, Washington, D.C. 20548.

Further information may be obtained from the Regulatory Reports Review Officer, 202-376-5425.

FEDERAL COMMUNICATIONS COMMISSION

Request for clearance of a revision of FCC Form 326, Cable Television Annual Financial Report. The annual filing of this report for each cable television system is required pursuant to FCC rules and regulations (§ 6.405). This report is necessary to enable the Commission to keep abreast of cable developments, fulfill its regulatory responsibilities in this field, and assist Congress in its consideration of related legislative proposals. It is estimated that respondent burden will average one hour per response. The Federal Communications Commission anticipates that approximately 5300 reports will be filed annually.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.75-15594 Filed 6-13-75;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

Receipt of Regulatory Reports Review Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO on June 6, 1975. See 44 U.S.C. 3512 (c) & (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FCC form are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed form, comments (in triplicate) must be received on or before July 7, 1975, and should be addressed to Mr. Monte Canfield, Jr., Director, Office of Special Programs, United States General Accounting Office, 425 I Street NW., Washington, D.C. 20548.

Further information may be obtained from the Regulatory Reports Review Officer, 202-376-5425.

FEDERAL COMMUNICATIONS COMMISSION

Request for clearance of a revision of FCC Form 501, Application for Ship Radio Station License, required to be filed when applying for a new, modified, or renewal ship station license in the case of radiotelephone stations subject to the Safety of Life at Sea Convention and stations having radiotelegraph equipment pursuant to FCC Rules and Regulations (§ 83.36). It is estimated that respondent burden will average twenty minutes per response. The FCC receives approximately 1500 applications annually.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.75-15593 Filed 6-13-75;8:45 am]

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regs.; Temporary Reg. F-339]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent the interests of the executive agencies of the Federal Government in a gas and electric rate proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the California Public Utilities Commission involving the application of the San Diego Gas and Electric Company for an increase in gas and electric rates (Application Nos. 55627 and 55628).

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

ARTHUR F. SAMPSON,
Administrator of General Services.

JUNE 2, 1975.

[FR Doc.75-15509 Filed 6-13-75;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

Advisory Committees; Public Disclosure of Information and Activities

The National Endowment for the Arts utilizes advice and recommendations of advisory committees, including the National Council on the Arts, in carrying out many of its functions and activities.

The Federal Advisory Committee Act (Pub. L. 92-463) governs the formation, use, conduct, management, and accessibility to the public of committees formed to advise and assist the Federal Government. Section 10 of the Act specifies that department and agency heads shall make adequate provisions for participation by the public in the activities of advisory committees, except to the extent a determination is made in writing by the department or agency head that committee activities concern matters listed in the Freedom of Information Act section 552(b) of Title 5 of the United States Code, and the public interest requires such activities to be withheld from disclosure.

In administering the Freedom of Information Act, the Endowment's policy is to make the fullest possible disclosure of records to the public, limited only by obligations of confidentiality and administrative necessity. Consistent with this policy, all Endowment advisory committee meetings except for portions dealing with the review, discussion, evaluation, and/or ranking of grant applications and contract proposals, and internal policy discussions, will be open to the public.

Information and data are furnished to the Endowment by grant applicants with assurance that such information will be treated on a confidential basis and not disclosed to the public. This information may include such matters as details relating to the type of design or work to be performed, adequacy of the applicant's facilities, competence of the applicant's or contractor's staff, proposed budget, and other material which would not otherwise be disclosed. If the process were not to continue on a confidential basis, grant applicants and potential contractors would not supply sufficiently detailed information so essential for complete and effective review. In addition, inasmuch as committee members evaluate their peers, the grant and contract review process, to operate most effectively, requires that members of committees considering such matters feel free to engage in uninhibited discussions and express their full and frank views and judgments to each other.

In the interest of meeting our obligations of confidentiality in reference to matters submitted as part of grant applications and contract proposals, and in order to encourage and insure, for the benefit of the government's review and evaluation process, candid and uninhibited expression of views concerning the merits of grant applications and contract proposals:

It is hereby determined in accordance with the provisions of section 10(d) of the Act that:

(1) The confidentiality required for the frank discussion and evaluation of grant applications and contract proposals, as outlined herein is based on exemption policies recognized in provisions of the Freedom of Information Act, section 552(b) of Title 5 of the United States Code, and in particular, subsections 552 (b) (4) and (5);

(2) The public interest requires the safeguarding of the confidentiality of such matters so the Endowment may continue to receive information and advice necessary for decisions with respect to grant and contract matters; and,

(3) The public interest also requires that meetings or portions thereof held for the sole purpose of considering and/or formulating advice that the committee will give, or a report that the committee will render, involving the internal expression of views and judgments of the members, which if reduced to writing would be exempt from mandatory disclosure under section (b)(5) of Title 5 of the United States Code, be closed to the public.

Therefore, meetings or portions thereof, of all Endowment advisory committees, including the National Council on the Arts, devoted to review, discussion, evaluation, and/or ranking of grant applications, contract proposals, or the formulation of advice shall not be open to the public.

The Executive Secretary of each committee shall prepare a summary of any meeting or portion thereof not open to the public within three (3) business days of the conclusion of the next following meeting of the National Council on the Arts. Such summaries shall be consistent with the considerations which justified the closing of the meeting.

All other advisory committee meetings shall be open to the public unless the Chairman of the National Endowment for the Arts or his designee determines otherwise in accordance with section 10 (d) of the Act.

The Advisory Committee Management Officer shall be responsible for publication of a notice of all advisory committee meetings in the FEDERAL REGISTER or, as appropriate, in local media. Such notice shall be published in advance of the meetings and contain:

(1) Name of the committee and its purpose;

(2) Date, and time of the meeting, and if the meeting is to be open to the public, its location and agenda; and,

(3) A statement that the meeting is open to the public, or, if the meeting or any portion thereof is not to be open to the public, a statement to that effect.

The Advisory Committee Management Officer is designated as the person from whom rosters or lists of committee members may be obtained and from whom minutes of open meetings or open portions thereof may be requested.

Any interested persons may attend, as observers, meetings, or portions thereof, of advisory committees which are open to the public.

Members of the public attending a meeting will be permitted to participate in the committee's discussion at the discretion of the chairman of the committee, if the chairman is a full-time Federal employee; if the chairman is not a full-time Federal employee, then public participation will be permitted at the chairman's discretion with the approval of the full-time Federal employee in attendance at the meeting in compliance with the order.

NANCY HANKS,
Chairman,
National Endowment for the Arts.

[FR Doc.75-15541 Filed 6-13-75;8:45 am]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS' SUBCOMMITTEE ON VERMONT YANKEE NUCLEAR POWER STATION

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' Subcommittee on Vermont Yankee Nuclear Power Station will hold a meeting on June 30, 1975 in Room 1046, 1717 H Street NW., Washington, D.C. The purpose of this meeting will be to develop information for consideration by the ACRS in its review of the application of the Vermont Yankee Nuclear Power Corporation for a license modification to increase the maximum allowable linear heat generation rate of the fuel from 13.4 kw/ft to 14.4 kw/ft. The plant is located about five miles south of Brattleboro, Vermont on the west bank of the Connecticut River in the town of Vernon.

The agenda for the subject meeting shall be as follows:

Monday, June 30, 1975, 9 a.m. until the conclusion of business.

The Subcommittee will hear presentations by representatives of the NRC Staff, the Vermont Yankee Nuclear Power Corporation, and the General Electric Company and will hold discussions with these groups pertinent to its review of the application of the Vermont Yankee Nuclear Power Corporation for a permit to operate the Vermont Yankee Nuclear Power Station at an increased linear heat generation rate.

In connection with the above agenda item, the Subcommittee will hold Execu-

tive Sessions, not open to the public, at 8:30 a.m. and at the end of the day to consider matters relating to the above application. These sessions will involve an exchange of opinions and discussion of preliminary views and recommendations of the Subcommittee Members and internal deliberations for the purpose of formulating recommendations to the ACRS.

In addition to the Executive Sessions, the Subcommittee may hold closed sessions with representatives of the NRC Staff and Applicant for the purpose of discussing privileged information concerning plant physical security and other matters related to plant design, construction and operation, if necessary.

I have determined, in accordance with subsection 10(d) of Pub. L. 92-463, that the above-noted Executive Sessions will consist of an exchange of opinions and formulation of recommendations, the discussion of which, if written, would fall within exemption (5) of 5 U.S.C. 552(b) and fall within exemption (4) of 5 U.S.C. if necessary to discuss certain documents and information which are privileged and fall wthin exemption (4) of 5 U.S.C. 552(b). Fusther, any non-exempt material that will be discussed during the above closed sessions will be inextricably intertwined with exempt material, and no further separation of this material is considered practical. It is essential to close such portions of the meeting to protect the free interchange of internal views, to avoid undue interference with agency or Subcommittee operation, and to avoid public disclosure of proprietary information.

Practical considerations may dictate alterations in the above agenda or schedule.

The Chairman of the Subcommittee 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 mailing 25 copies thereof, postmarked no later than June 23, to the Executive Secretary, Advisory Committee on Reactor Safeguards, Nuclear Regulatory Commission, Washington, D.C. 20555. Such comments shall be based upon the Final Safety Analysis Report for this facility and related documents on file and available for public inspection at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301.

(b) Those persons submitting a written statement in accordance with paragraph (a) above may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement and shall set forth reasons justifying the need for such oral statement and its usefulness to the Subcommittee. To the extent that the time available for the meeting permits, the Subcommittee will receive oral statements during a period of no more than 30 minutes at an appropriate time, chosen by the Chairman of the Subcommittee between the hours of 11 a.m. and 3 p.m. on June 30, 1975.

(c) Requests for the opportunity to make oral statements shall be ruled on by the Chairman of the Subcommittee who is empowered to apportion the time available among those selected by him to make oral statements.

(d) Information as to whether the meeting has been cancelled or rescheduled and in regard to the Chairman's ruling on requests for opportunity to present oral statements, and the time allotted, can be obtained by a prepaid telephone call on June 27, 1975 to the Office of the Executive Secretary of the Committee (telephone 202/634-1920 Attn: John C. McKinley) between 8:15 a.m. and 5 p.m., Eastern Daylight Time.

(e) Questions may be propounded only by members of the Subcommittee and its consultants.

(f) Seating for the public will be available on a first-come, first-served basis.

(g) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct 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.

(h) Persons desiring to attend portions of the meeting where proprietary information, other than plant security information, is to be discussed may do so by providing to the Executive Secretary, ACRS, 1717 H Street NW., Washington, D.C. 20555, seven days prior to the meeting, a copy of an executed agreement with the owner of the proprietary information to safeguard this material.

(i) A copy of the transcript of the open portion of the meeting will be available for inspection on or after July 2, 1975 at the NRC Public Document Room, 1717 H St. NW., Wash., D.C. 20555, and within approximately nine days at the Brooks Memorial Library, 224 Main St., Brattleboro, Vermont 05301. Copies of the transcript may be reproduced in the Public Document Room or may be obtained from Ace Federal Reporters, Inc., 415 Second St. NE., Wash., D.C. 20002 (telephone 202/547-6222) upon payment of appropriate charges.

(j) On request, copies of the minutes of the meeting will be made available for inspection at the NRC Public Document Room, 1717 H St. NW., Wash., D.C. 20555, after September 30, 1975. Copies may be obtained upon payment of appropriate charges.

Dated: June 13, 1975.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.75-15797 Filed 6-13-75;10:23 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS' WORKING GROUP ON SYSTEMS ANALYSIS OF ENGINEERED SAFETY FEATURES

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 ACRS Working Group on Systems Analysis of Engineered Safety Features will hold a closed meeting on July 1, 1975 in Room 1046, 1717 H Street NW., Washington, D.C. 20555. The meeting will begin at 8:30 a.m. and will continue until the conclusion of business. The purpose of the meeting will be to develop information for consideration by the ACRS in its review of the application of systems analysis techniques to the design of engineered safety features of nuclear power plants. The Working Group will hear presentations by representatives of the NRC Staff, Combustion Engineering, Inc., and the Duke Power Company and will hold discussions with these groups pertinent to its review of the application of systems analysis techniques to the design of engineered safety systems.

I have determined that the meeting will consist of discussions of documents and information which are privileged and fall within exemption (4) of 5 U.S.C. 552 (b). Further, any non-exempt material that will be discussed during the above closed session will be inextricably intertwined with exempt material, and no further separation of this material is considered practical. It is essential to close the meeting to avoid public disclosure of proprietary information.

Persons desiring to attend the meeting where proprietary information is to be discussed may do so by providing the Executive Secretary, Advisory Committee on Reactor Safeguards, 1717 H Street NW., Washington, D.C. 20555, seven days prior to the meeting, a copy of an executed agreement with the owner (Combustion Engineering, Inc., Windsor, CT) of the proprietary information to safeguard this material.

Dated: June 13, 1975.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.75-15796 Filed 6-13-75;10:23 am]

SECURITIES AND EXCHANGE COMMISSION

[70-5678]

NATIONAL FUEL GAS CO., ET AL.

Order Authorizing Issue and Sale of Debentures at Competitive Bidding by Holding Company

JUNE 9, 1975.

National Fuel Gas Company, New York, N.Y. ("National"), a registered holding Company, and two of its subsidiary companies, National Fuel Gas Distribution Corporation, Buffalo, N.Y. ("Distribution Corporation") and National Fuel Gas Supply Corporation, Oil City, Penn. ("Supply Corporation"), have filed an application-declaration and amendments thereto with this Commis-

sion pursuant to sections 6(a), 7, 9(a), and (10) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50 promulgated thereunder regarding the following proposed transactions.

National proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 promulgated under the Act, $21,000,000 principal amount of percent Debentures, Series due June 1984. The interest rate of the debentures (which shall be a multiple of ⅛ of 1 percent) and the price, exclusive of accrued interest, to be paid to National (which shall not be less than 99 percent nor more than 102 percent of the principal amount thereof) will be determined by the competitive bidding. The debentures will be issued under an indenture dated as of August 15, 1968, between National and Manufacturers Hanover Trust Company as Trustee, as heretofore supplemented and as to be further supplemented by a Fifth Supplemental Indenture dated as of June 15, 1975. The debentures may not be redeemed prior to June 15, 1980, if such redemption is for the purpose or in anticipation of their refunding through the use, directly or indirectly, of funds borrowed by the company at an effective interest cost of less than the effective interest cost of the debentures.

As of the date the proceeds are available from the sale of the $21,000,000 principal amount of debentures, National proposes to return to Distribution Corporation and Supply Corporation their notes totaling $15,116,600 and $5,883,400 respectively, all of which mature on August 15, 1975, and which were originally issued in 1970 in connection with 8⅜ percent Debentures due August 15, 1975. Concurrently, Distribution Corporation and Supply Corporation propose to issue new notes to National in the same amounts having a maturity date of June 15, 1984. The interest rate per annum will be equal to the effective cost of money incurred by National in the sale of the new debentures, rounded to the next highest multiple of 1/10 of 1 percent. The filing has not been completed with respect to the proposed intrasystem transactions, and, accordingly, jurisdiction will be reserved thereover.

It is stated that the proposed issue and sale of notes by Distribution Corporation are subject to the jurisdiction of the Public Service Commission of New York and the Pennsylvania Public Utility Commission and that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Due notice of the filing of said application-declaration has been given in the manner prescribed by Rule 23 promulgated under the Act (Holding Company Act Release No. 18989), and no hearing has been requested of or ordered by the Commission. Upon the basis of the facts in the record, it is hereby found, with respect to the proposed issue and sale of debentures, that the applicable provisions of the Act and rules promulgated thereunder are satisfied and that no adverse findings are necessary; and that it is appropriate in the public interest and in the interest of investors and consumers that the amended application-declaration in respect of said transaction be granted and permitted to become effective:

It is ordered, Pursuant to the applicable provisions of the Act and the rules thereunder, that the application-declaration, as amended, be, and it hereby is, granted and permitted to become effective forthwith with respect to the proposed issue and sale of debentures, subject to the terms and conditions prescribed in Rules 24 and 50 promulgated under the Act.

It is further ordered, That jurisdiction be, and it hereby is, reserved over the proposed intrasystem transactions as to which the record is not yet complete.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc.75-15554 Filed 6-13-75;8:45 am]

[70-5540]

SYSTEM FUELS, INC.

Post-Effective Amendment Regarding Proposed Acquisition of Land for Coal Production

JUNE 9, 1975.

Notice is hereby given that System Fuels, Inc., 225 Baronne Street, New Orleans, Louisiana 70161 ("SFI"), a jointly-owned nonutility subsidiary company of Arkansas Power & Light Company, Louisiana Power & Light Company, Mississippi Power & Light Company, and New Orleans Public Service, Inc., each an electric utility subsidiary company of Middle South Utilities, Inc. ("Middle South"), a registered holding company, has filed with this Commission a post-effective amendment to the application in this proceeding pursuant to sections 9(a) and 10 of the Public Utility Holding Company Act of 1935 ("Act") regarding the following proposed transactions. All interested persons are referred to the amended application, which is summarized below, for a complete statement of the proposed transaction.

Pursuant to the order of the Commission in this proceeding dated September 26, 1974 (HCAR No. 18579), SFI has purchased a 3,840 acre (more or less) ranch in the Powder River Basin of Wyoming, under which 425,000,000 to 475,000,000 tons of coal have been estimated to be located ("Ranch"). SFI states that this purchase was made pursuant to its responsibility to meet the increasing coal supply needs of the Middle South Utilities System ("System") as the supplier of fuel for the System.

It is now stated that in accordance with its fuel-supply program and to further assure adequate supplies of coal, SFI has sought to acquire various smaller coal-bearing tracts of land adjacent to the Ranch, which is composed of four separate noncontinguous tracts, in order to have possession of a unified interest for mining. To date, SFI has obtained through a nominee an option, at a cost of $1,600, from unaffiliated persons to purchase by warranty deed ("Option Agreement") a 320 acre tract of land contiguous to a portion of the Ranch ("Contiguous Tract"). The option to purchase the Contiguous Tract under the Option Agreement expires July 15, 1975, and excludes any interest of the present owner in the oil, gas, and minerals underlying the land, except coal now owned or in any manner hereafter acquired. Up to 50,000,000 tons of coal are estimated to be located beneath the Contiguous Tract.

SFI acquired the option to purchase the Contiguous Tract on the advice of a coal consulting firm which has been conducting an exploration program for SFI in the Powder River Basin. Should the estimate of the coal consulting firm not be significantly diminished within the option period, SFI intends to exercise its option to purchase the Contiguous Tract for a price of $128,000, subject to certain adjustments stated in the Option Agreement.

Ownership of the Ranch and Contiguous Tract does not insure that SFI will obtain the rights to remove the underlying coal. The coal deposits under these properties and the rights to mine such coal were reserved by the United States of America at the time the Federal Government originally transferred title to the land. The Secretary of the Interior is authorized to offer for leasing, at his discretion, deposits of coal owned by the Federal Government. Such offers are made through a public offer of the deposits by means of competitive bidding, and SFI is in a position to initiate this process by filing an application with the Bureau of Land Management, Department of the Interior. Should SFI fail to be the successful bidder, and thus have only surface rights to the Ranch and Contiguous Tract, SFI intends to divest itself of said properties.

If SFI purchases the Contiguous Tract, it would proceed, as and when the coal reserves are required by the System, to seek to acquire the rights to remove the coal located under the Ranch, the Contiguous Tract, and any other adjacent tracts it may acquire, to obtain any regulatory approvals then required to mine such coal, and, upon receipt of such approvals, to contract for the development and operation of a mine on these properties. The developer and operator of the mine will be unaffiliated with the System. Prior to proceeding with contractual arrangements for the development and operation of the mine, SFI will furnish the Commission with details of such arrangements, including the identity of the developer of the mine, the identity of the operator of the mine, the form of the development and operation contracts, and estimated costs of development and operation.

SFI will obtain funds to purchase the Contiguous Tract by means of loans from Arkansas Power & Light Company, Louisiana Power & Light Company, Mississippi Power & Light Company, and New

Orleans Public Service Inc., pursuant to the Loan Agreement dated January 1, 1974, previously authorized by the Commission in File No. 70-5415.

It is stated that no special and separable fees and expenses are to be incurred in connection with the proposed transaction. No State or Federal commission, other than this Commission has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than July 3, 1975, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment to the application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as now amended or as it may be further amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc.75-15555 Filed 6-13-75;8:45 am]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1146]

LOUISIANA

Declaration of Disaster Area

As a result of the President's declaration I find that Avoyelles, Caldwell, Catahoula, Concordia, Franklin, Grant, Ouachita, West Feliciana and adjacent parishes within the State of Louisiana, constitute a disaster area because of damage resulting from heavy rains, flooding, and tornadoes beginning about March 14, 1975. Eligible persons, firms and organizations may file applications for loan for physical damage until the close of business on August 4, 1975, and for economic injury until the close of business on March 5, 1976, at:

Small Business Administration
District Office
Plaza Tower—17th Floor
1001 Howard Avenue
New Orleans, Louisiana 70113

or other locally announced locations.

Dated: June 9, 1975.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.75-15542 Filed 6-13-75;8:45 am]

VETERANS ADMINISTRATION

VETERANS ADMINISTRATION WAGE COMMITTEE

Meetings

Pursuant to the provisions of section 10 of Pub. L. 92-463, notice is hereby given that meetings of the Veterans Administration Wage Committee will be held on:

Thursday, July 3, 1975
Thursday, August 14, 1975
Thursday, August 28, 1975
Thursday, September 11, 1975
Thursday, September 25, 1975

The meetings will convene at 2:30 p.m. and will be held in Room 1144C, Veterans Administration Central Office, 810 Vermont Avenue, NW., Washington, D.C.

The Committee's primary responsibility is to consider and make recommendations to the Chief Medical Director, Department of Medicine and Surgery, on all matters involved in the development and authorization of wage rate schedules for Federal Wage System employees.

At these scheduled meetings, the Committee wil consider wage survey specifications, wage survey data, local committee reports and recommendations, statistical analyses, and proposed wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92-463, the Federal Advisory Committee Act, meetings may be closed to the public when they are concerned with matters listed under section 552(b), Title 5, United States Code. Two of the matters so listed are those related solely to the internal personnel rules and practices of an agency (5 USC 552(b)(2)), and those involving trade secrets and commercial or financial information obtained from a person and privileged or confidential (5 USC 552(b)(4)).

Accordingly, I hereby determine that the meetings cited above will be closed to the public because the matters considered are related to the internal rules and practices of the Veterans Administration (5 USC 552(b)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 USC 552(b)(4)).

However, members of the public who wish to do so are invited to submit material in writing to the Chairman regarding matters believed to be deserving of the Committee's attention. Additional information concerning these meetings may be obtained by contacting the Chairman, Veterans Administration Wage Committee, Room 1175, 810 Vermont Avenue, NW., Washington, D.C.

Dated: June 10, 1975.

[SEAL] R. L. ROUDEBUSH,
Administrator.

[FR Doc.75-15605 Filed 6-13-75;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

DRAFT ENVIRONMENTAL IMPACT STATEMENT ON PROPOSED OCCUPATIONAL NOISE STANDARD

Availability

On February 19, 1974, the Occupational Safety and Health Administration (OSHA), in accordance with its procedures for environmental impact statements (29 CFR Part 1999), and pursuant to the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 102), announced its intention to prepare an environmental impact statement assessing the impact of a standard to be proposed for occupational noise exposure (39 FR 6119). Subsequently, OSHA published its proposed noise standard on October 24, 1974 (39 FR 37773), and a notice of hearing, to be held beginning June 23, 1975 (40 FR 16336; April 11, 1975).

OSHA has completed a draft environmental impact statement concerning its proposed noise standard. The draft statement has been forwarded to the Council on Environmental Quality, which is expected to publish a formal notice of availability of the statement in the near future. Pending publication of such a notice by the Council, OSHA wishes to inform the public that the draft environmental impact statement on the proposed standard on Occupational Noise Exposure is now available for examination by interested persons at the following address:

Technical Data Center, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-3620, Washington, D.C. 20210.

Persons wishing a copy of the draft statement should address such request to the above address.

Copies of the draft statement are presently being sent to those persons who have so requested.

Signed at Washington, D.C. this 12th day of June, 1975.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.75-15707 Filed 6-13-75;8:45 am]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

JUNE 11, 1975.

An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and

charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

FSA No. 43004—*Joint Water-Rail Container Rates—Seatrain International, S. A.* Filed by Seatrain International, S. A., (No. WEE-9), for itself and interested rail carriers. Rates on general commodities, between rail carrier's terminals in Sacramento and Stockton, California, and ports in Europe.

Grounds for relief—Water competition.

Tariff—Seatrain International, S. A. tariff No. 710-A, I.C.C. No. 16, F.M.C. No. 59. Rates are published to become effective on July 9, 1975.

FSA No. 43005—*Joint Rail-Water Container Rates—United States Lines, Inc.* Filed by United States Lines, Inc., (No. 8), for itself and interested rail carriers. Rates on general commodities, between rail terminals at U.S. Gulf Seaports, and ports in the United Kingdom, Republic of Ireland, Baltic and Continental Europe.

Grounds for relief—Water competition.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.75-15598 Filed 6-13-75;8:45 am]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Applications

JUNE 11, 1975.

The following applications to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065(d)(2)), and notice thereof to all interested persons is hereby given as provided in such rules.

Carriers having a genuine interest in an application may file an original and three copies of verified statements in opposition with the Interstate Commerce Commission on or before July 16, 1975. (This procedure is outlined in the Commission's report and order in Gateway Elimination, 119 M.C.C. 530.) A copy of the verified statement in opposition must also be served upon applicant or its named representative. The verified statement should contain all the evidence upon which protestant relies in the application proceeding including a detailed statement of protestant's interest in the proposal. No rebuttal statements will be accepted.

No. MC 14781 (Sub-No. 10G) (Correction), filed June 3, 1974, published in the FEDERAL REGISTER issue of May 9, 1975, and republished, as corrected, this issue. Applicant: GOTTRY CORP., 999 Beahan Road, Rochester, N.Y. 14624. Applicant's representative: Paul F. Sullivan, 711 Washington Bldg., Washington, D.C. 20005. The purpose of this republication is to state that the correct publication should read: *Commodities* which by reason of size or weight, require the use of special equipment and *self-propelled articles* each weighing 15,000 pounds or more, on trailers, between points in New York on and west of a line beginning at the International Boundary line between the United States and Canada and extending southerly along Interstate Highway 81 to its intersection with New York Highway 12 near Watertown, N.Y., thence along New York Highway 12 via Utica, N.Y. to its intersection with Interstate Highway 81 near Glen, N.Y., thence along Interstate Highway 81 to the New York-Pennsylvania State Boundary line on the one hand, and, on the other, points in Michigan, Illinois, Indiana, Ohio, West Virginia, Virginia, Maryland, Delaware, Pennsylvania, New Jersey, Connecticut, Rhode Island, Massachusetts, New Hampshire, Vermont, Maine, and the District of Columbia. The purpose of this filing is to eliminate the gateways of points in Monroe County and Rochester N.Y.

No. MC 95490 (Sub-No. 35G) (Correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of April 14, 1975, and republished, as corrected, this issue. Applicant: UNION CARTAGE COMPANY, a Corporation, 9A Southwest Cutoff, Worcester, Mass. 01604. Applicant's representative: Leonard A. Jaskiewicz, 1730 M Street, NW., Suite 501, Washington, D.C. 20036. The purpose of this partial correction is to correct part (1) to read: (1) *Alcoholic beverages, soda water, carbonic gas, and containers* therefor, between points in Middlesex, Suffolk, and Essex Counties, Mass., on the one hand, and, on the other, points in Windham, Tolland, and New London Counties, Conn. The purpose of this filing is to eliminate the gateway of Springfield, Mass. The rest of the application remains as originally published.

No. MC 110585 (Sub-No. 16G), filed June 4, 1974. Applicant: REPUBLIC VAN AND STORAGE CO., INC., 9219 Harford Road, Baltimore, Md. 21234. Applicant's representative: John C. Bradley, 618 Perpetual Building, 1111 E Street NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Alabama, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming, and the District of Columbia. The purpose of this filing is to eliminate the gateways of points in Arkansas, Colorado, Alabama, Georgia, Iowa, Idaho, Illinois, Louisiana, Missouri, Nevada, Oklahoma, Pennsylvania, Nebraska, St. Louis, Mo., Tennessee, Utah, Wisconsin, Texas, and Minnesota.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before June 26, 1975. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 9644 (Sub-No. E1), filed June 4, 1974. Applicant: B. T. L. INC., 631 Santa Fe, Kansas City, Mo. 64101. Applicant's representative: John E. Janders, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods, as defined by the Commission, commodities in bulk, and commodities requiring special equipment), (1) between points in Kansas City and North Kansas City, Mo., Kansas City, Kans., and points within 15 miles of the points named, on the one hand, and, on the other, points in that part of Kansas on, east and north of a line beginning at the Kansas-Missouri State line and extending along U.S. Highway 59 to junction Kansas Highway 4, thence along Kansas Highway 4 to junction Kansas Highway 116, thence along Kansas Highway 116 to junction Kansas Highway 16, thence along Kansas Highway 16 to Blaine, thence along Kansas Highway 13 to junction Kansas Highway 177, thence along Kansas Highway 177 to Manhattan, thence along Kansas Highway 18 to junction U.S. Highway 77, thence along U.S. Highway 77 to the Kansas-Nebraska State line; and (2) between points in Kansas City and North Kansas City, Mo., Kansas City, Kans., and points within 15 miles of the points named, on the one hand, and, on the other, points in that part of Nebraska on, south and east of a line beginning at the Kansas-Nebraska State line and extending along U.S. Highway 77 to Lincoln, thence along Nebraska Highway 2 to the Nebraska-Iowa State line; and (3) between points in Kansas City and North Kansas City, Mo., Kansas City, Kans., and points within 15 miles of the points named, on

the one hand, and, on the other, points in that part of Missouri south and west of a line beginning at the Kansas-Missouri State line and extending along U.S. Highway 36 to junction U.S. Highway 69, thence along U.S. Highway 69 to junction Missouri Highway 116, thence along Missouri Highway 116 to junction U.S. Highway 71, thence along U.S. Highway 71 to Kansas City, Mo. The purpose of this filing is to eliminate the gateways of points in Buchanan County, Mo.

No. MC 19806 (Sub-No. E1), filed May 29, 1974. Applicant: CROSSMAN'S VAN & STORAGE, 7135 Germantown Avenue, Philadelphia, Pa. 19119. Applicant's representative: Lester A. Crossman (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (a) between points in Connecticut, Massachusetts, New Jersey, those in New York on and east of U.S. Highway 15, those in Delaware north of the Chesapeake and Delaware Canal, and those in that part of Pennsylvania on and east of line beginning at the Pennsylvania-Maryland State line at its junction with Pennsylvania Highway 74, thence along Pennsylvania Highway 74 to junction Pennsylvania Highway 372, thence along Pennsylvania Highway 372 to Lancaster, Pa., thence along Pennsylvania Highway 501 to Myerstown, Pa., thence along U.S. Highway 422 to junction Pennsylvania Highway 419, thence along Pennsylvania Highway 419 to junction Interstate Highway 78, thence along Interstate Highway 78 to junction Pennsylvania Highway 61, thence along Pennsylvania Highway 61 to junction Pennsylvania Highway 895, thence along Pennsylvania Highway 895 to junction Pennsylvania Highway 443, thence along Pennsylvania Highway 443 to junction U.S. Highway 209, thence along U.S. Highway 209 to Stroudsburg, Pa., thence along U.S. Highway 611 to Delaware Water Gap, Pa. (except South Tamaqua and Stroudsburg, Pa.), on the one hand, and, on the other, points in North Carolina, (b) between points in Connecticut, Massachusetts, New Jersey, those in New York on and east of U.S. Highway 15, those in Delaware on and north of Delaware Highway 8, and those in that part of Pennsylvania on and east of a line beginning at the Pennsylvania-Maryland State line at its junction with Pennsylvania Highway 74, thence along Pennsylvania Highway 74 to junction Pennsylvania Highway 372, thence along Pennsylvania Highway 372 to junction Pennsylvania Highway 272, thence along Pennsylvania Highway 272 to Lancaster, Pa., thence along Pennsylvania Highway 501 to Myerstown, Pa., thence along U.S. Highway 422 to junction Pennsylvania Highway 419, thence along Pennsylvania Highway 419 to junction Interstate Highway 78, thence along Interstate Highway 78 to junction Pennsylvania Highway 61, thence along Pennsylvania Highway 61 to junction Pennsylvania Highway 895, thence along Pennsylvania Highway 895 to junction Pennsylvania Highway 443, thence along Pennsylvania Highway 443 to junction U.S. Highway 209, thence along U.S. Highway 209 to Stroudsburg, Pa., thence along U.S. Highway 611 to Delaware Water Gap, Pa. (except South Tamaqua and Stroudsburg, Pa.), on the one hand, and, on the other, points in Georgia, (d) between points in Connecticut, Massachusetts, New Jersey, New York, those in Delaware on and north of Delaware Highway 16, and those in that part of Pennsylvania on and east of a line beginning at the Pennsylvania-Maryland State line at its junction with Pennsylvania Highway 74, thence along Pennsylvania Highway 74 to junction Pennsylvania Highway 372, thence along Pennsylvania Highway 372 to junction Pennsylvania Highway 272, thence along Pennsylvania Highway 272 to Lancaster, Pa., thence along Pennsylvania Highway 501 to Myerstown, Pa., thence along U.S. Highway 422 to junction Pennsylvania Highway 419, thence along Pennsylvania Highway 419 to junction Interstate Highway 78, thence along Interstate Highway 78 to junction Pennsylvania Highway 61, thence along Pennsylvania Highway 61 to junction Pennsylvania Highway 895, thence along Pennsylvania Highway 895 to junction Pennsylvania Highway 443, thence along Pennsylvania Highway 443 to junction U.S. Highway 209, thence along U.S. Highway 209 to Stroudsburg, Pa., thence along U.S. Highway 611 to Delaware Water Gap, Pa. (except South Tamaqua and Stroudsburg, Pa.), on the one hand, and, on the other, points in South Carolina.

(c) Between points in Connecticut, Massachusetts, New Jersey, those in New York on and east of U.S. Highway 15, those in Delaware on and north of Delaware Highway 16, and those in that part of Pennsylvania on and east of a line beginning at the Pennsylvania-Maryland State line at its junction with Pennsylvania Highway 74, thence along Pennsylvania Highway 74 to junction Pennsylvania Highway 372, thence along Pennsylvania Highway 372 to junction Pennsylvania Highway 272, thence along Pennsylvania Highway 272 to Lancaster, Pa., thence along Pennsylvania Highway 501 to Myerstown, Pa., thence along U.S. Highway 422 to junction Pennsylvania Highway 419, thence along Pennsylvania Highway 419 to junction Interstate Highway 78, thence along Interstate Highway 78 to junction Pennsylvania Highway 61, thence along Pennsylvania Highway 61 to junction Pennsylvania Highway 895, thence along Pennsylvania Highway 895 to junction Pennsylvania Highway 443, thence along Pennsylvania Highway 443 to junction U.S. Highway 209, thence along U.S. Highway 209 to Stroudsburg, Pa., thence along U.S. Highway 611 to Delaware Water Gap, Pa. (except South Tamaqua and Stroudsburg, Pa.), on the one hand, and, on the other, points in Florida.

(e) Between points in Connecticut, Massachusetts, New Jersey, Delaware, and those in New York on and east of a line beginning at the New York-Pennsylvania State line and extending along New York Highway 17 to junction Interstate Highway 87, thence along Interstate Highway 87 to junction New York Highway 7, thence along New York Highway 7 to the New York-Vermont State line, and those in that part of Pennsylvania on and east of a line beginning at the Pennsylvania-Maryland State line at its junction with Pennsylvania Highway 74, thence along Pennsylvania Highway 74 to junction Pennsylvania Highway 372, thence along Pennsylvania Highway 372 to junction Pennsylvania Highway 272, thence along Pennsylvania Highway 272 to Lancaster, Pa., thence along Pennsylvania Highway 501 to Myerstown, Pa., thence along U.S. Highway 422 to junction Pennsylvania Highway 419, thence along Pennsylvania Highway 419 to junction Interstate Highway 78, thence along Interstate Highway 78 to junction Pennsylvania Highway 61, thence along Pennsylvania Highway 61 to junction Pennsylvania Highway 895, thence along Pennsylvania Highway 895 to junction Pennsylvania Highway 443, thence along Pennsylvania Highway 443 to junction U.S. Highway 209, thence along U.S. Highway 209 to Stroudsburg, Pa., thence along U.S. Highway 611 to Delaware Water Gap, Pa. (except South Tamaqua and Stroudsburg, Pa.), on the one hand, and, on the other, points in Illinois and Indiana, and

(f) Between points in Delaware, Maryland, Virginia, West Virginia, those in New Jersey on and south of a line beginning at Trenton, N.J., and extending along U.S. Highway 206 to Hammonton, thence along U.S. Highway 30 to Atlantic City, those in Ohio (except points north of U.S. Highway 6), those in that part of Pennsylvania on and east of a line beginning at the Pennsylvania-Maryland State line at its junction with Pennsylvania Highway 74, thence along Pennsylvania Highway 74 to junction Pennsylvania Highway 372, thence along Pennsylvania Highway 372 to junction Pennsylvania Highway 272, thence along Pennsylvania Highway 272 to Lancaster, Pa., thence along Pennsylvania Highway 501 to Myerstown, Pa., thence along U.S. Highway 422 to junction Pennsylvania Highway 419, thence along Pennsylvania Highway 419 to junction Interstate Highway 78, thence along Interstate Highway 78 to junction Pennsylvania Highway 61, thence along Pennsylvania Highway 61 to junction Interstate Highway 78, thence along Interstate Highway 78 to the Pennsylvania-New Jersey State line (except Easton, Pa.), and the District of Columbia, on the one hand, and, on the other, points in Maine and New Hampshire. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 20582 (Sub-No. E4), filed June 3, 1974. Applicant: HENRY H. STEVENS INC., 1273 Broadway, Flint, Mich. 48506. Applicant's representative: William C. Stevens (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular

routes, transporting: *Household goods*, as defined by the Commission, between points in the Lower Peninsula of Michigan in and north of Benzie, Grand Traverse, Kalkaska, Crawford, Oscoda, and Alcona Counties, and points in Luce, Mackinac and Chippewa Counties, Mich., on the one hand, and, on the other, points in Oklahoma. The purpose of this filing is to eliminate the gateways of Flint, Mich., or points within 25 miles thereof, and Wilson County, Kans.

No. MC 20582 (Sub-No. E14), filed June 3, 1974. Applicant: HENRY H. STEVENS INC., 1273 Broadway, Flint, Mich. 48506. Applicant's representative: William C. Stevens (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in New Hampshire, on the one hand, and, on the other, points in Iowa, Kansas, Nebraska, Mississippi, and points in Kentucky on and west of U.S. Highway 75. The purpose of this filing is to eliminate the gateways of Somerville, Mass., or points within 15 miles thereof, and points in Michigan on, south and west of U.S. Highway 10.

No. MC 20582 (Sub-No. E15), filed June 3, 1974. Applicant: HENRY H. STEVENS, INC., 1273 Broadway, Flint, Mich. 48506. Applicant's representative: William C. Stevens (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Vermont, on the one hand, and, on the other, points in Kansas, Nebraska, Iowa (except Dubuque, Jackson, Clinton, Scott, and Muscatine Counties). The purpose of this filing is to eliminate the gateway of Somerville, Mass., or points within 15 miles thereof, and points in Michigan on, south, and west of U.S. Highway 10.

No. MC 35358 (Sub-No. E26), filed June 4, 1974. Applicant: BERGER TRANSFER & STORAGE, INC., 3720 MacAlaster Drive, NE., Minneapolis, Minn. 55421. Applicant's representative: Andrew R. Clark, 1000 First Nat'l Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Uncrated furniture and uncrated store and office fixtures*, restricted against commodities which because of size or weight require special equipment, between Chicago, Ill., on the one hand, and, on the other, points in Washington, Oregon, California, Nevada, Arizona, Utah, Idaho, Montana, Wyoming, North Dakota, South Dakota, New Mexico, points in Oklahoma on and west of a line beginning at the Oklahoma-Kansas State line and extending along U.S. Highway 169 to junction U.S. Highway 75, thence along U.S. Highway 75 to junction U.S. Highway 82, thence along U.S. Highway 82 to junction U.S. Highway 35E, thence along U.S. Highway 35E to junction U.S. Highway 45, thence along U.S. Highway 45 to the Gulf of Mexico. The purpose of this filing is to eliminate the gateway of Nebraska.

No. MC-35358 (Sub-No. E33), filed June 4, 1974. Applicant: BERGER TRANSFER & STORAGE, INC., 3720 MacAlster Drive, NE., Minneapolis, Minn. 55421. Applicant's representative: Andrew R. Clark, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Uncrated furniture, uncrated store fixtures and furnishings*, from points in South Dakota, to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, West Virginia, Georgia, Florida, Alabama, Ohio, the Lower Peninsula of Michigan, Indiana, Mississippi, points in Louisiana east of U.S. Highway 51, points in Tennessee on and east of U.S. Highway 79, points in Kentucky east of U.S. Highway 41, points in Illinois on and north of U.S. Highway 80, points in Wisconsin on and south of a line beginning at the Wisconsin-Minnesota State line extending along U.S. Highway 16 to junction Wisconsin Highway 21, thence along Wisconsin Highway 21 to junction U.S. Highway 41, thence along U.S. Highway 41 to the Michigan-Wisconsin State line. The purpose of this filing is to eliminate the gateway of Albert Lea, Minn.

No. MC-35358 (Sub-No. E50), filed June 4, 1975. Applicant: BERGER TRANSFER & STORAGE, INC., 3720 MacAlaster Drive, NE., Minneapolis, Minn. 55421, Applicant's representative: Andrew R. Clark, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, restricted to uncrated furniture, uncrated household furnishings and appliances, between points in North Dakota, on the one hand, and, on the other, points in Massachusetts, New York, Pennsylvania, West Virginia, Ohio, Indiana, Kentucky, and points in Michigan south of Michigan Highway 55. The purpose of this filing is to eliminate the gateway of Chicago, Ill.

No. MC-35358 (Sub-No. E52), filed June 4, 1975. Applicant: BERGER TRANSFER & STORAGE, INC., 3720 MacAlaster Drive, NE., Minneapolis, Minn. 55421, Applicant's representative: Andrew R. Clark, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, restricted to uncrated furniture, uncrated fixtures, uncrated furnishings, and uncrated appliances, between points in Montana, on the one hand, and, on the other, points in Massachusetts, New York, Pennsylvania, West Virginia, Ohio, the Lower Peninsula of Michigan, Indiana, Kentucky, points in Illinois on and east of a line beginning at the Missouri-Illinois State line extending along U.S. Highway 55 to junction U.S. Highway 51, thence along U.S. Highway 51 to the Wisconsin-Illinois State line, points in Missouri on and east of U.S. Highway 55, points in Wisconsin on and east of a line beginning at the Wisconsin-Illinois State line extending along U.S. Highway 90 to junction U.S. Highway 151, thence along U.S. Highway 151 to junction Wisconsin Highway 23, thence along Wisconsin Highway 23 to Lake Michigan. The purpose of this filing is to eliminate the gateway of Cook and Lake Counties, Ill.

No. MC-35358 (Sub-No. E53), filed June 4, 1975. Applicant: BERGER TRANSFER & STORAGE, INC., 3720 MacAlaster Drive, NE., Minneapolis, Minn. 55421, Applicant's representative: Andrew R. Clark, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture and store fixtures* and *furnishings*, uncrated, from points in Michigan on and south of Michigan Highway 55 to points in Washington, Oregon, California, Nevada, Arizona, Utah, Idaho, Montana, Wyoming, North Dakota, South Dakota, and points in Iowa on, north and west of a line beginning at the Minnesota-Iowa State line and extending along U.S. Highway 35 to junction U.S. Highway 80 to the Iowa-Nebraska State line, points in Nebraska on and north of U.S. Highway 80, points in Colorado on and west of a line beginning at the Nebraska-Colorado State line extending along U.S. Highway 80 to junction U.S. Highway 25, thence along U.S. Highway 25 to the New Mexico-Colorado State line, and points in New Mexico on and west of a line beginnig at the Colorado-New Mexico State line extending along U.S. Highway 25 to junction U.S. Highway 10, thence along U.S. Highway 10 to the New Mexico-Arizona State line. The purpose of this filing is to eliminate the gateway of Albert Lea, Minn.

No. MC 107107 (Sub-No. E1), filed June 4, 1974. Applicant: ALTERMAN TRANSPORT LINES, INC., P.O. Box 425, Opa Locka, Fla. 33054. Applicant's representative: Ford W. Sewell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, except commodities in bulk, from Dallas and Ft. Worth, Tex., to those points in Florida east of the Ochlockonee River. The purpose of this filing is to eliminate the gateways of Clayton, Cobb, De Kalb, Fulton, and Gwinnett Counties, Ga.

No. MC 107107 (Sub-No. E11), filed June 4, 1974. Applicant: ALTERMAN TRANSPORT LINES, INC., P.O. Box 425, Opa Locka, Fla. 33054. Applicant's representative: Ford W. Sewell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionery*, and *related advertising materials*, from Hackettstown, N.J., points in Louisiana, those in Georgia on and south of a line beginning at Valona,

Ga., and extending along Georgia Highway 99 to junction U.S. Highway 82, thence, along U.S. Highway 82 to the Alabama-Georgia State line, and those in Mississippi and Alabama on and south of U.S. Highway 80. The purpose of this filing is to eliminate the gateway of Jacksonville, Fla.

No. MC 107107 (Sub-No. E12), filed June 4, 1974. Applicant: ALTERMAN TRANSPORT LINES, INC., P.O. Box 425, Opa Locka, Fla. 33054. Applicant's representative: Ford W. Sewell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionery* and *related advertising and promotional materials*, from those points in Florida east of Florida Highway 51 to points in Georgia, South Carolina, those in Tennessee (except Memphis) (Jacksonville, Fla.)*, Alabama, Mississippi, and Louisiana (Pensacola and Tallahassee, Fla.)*; and from those points in Florida west of Florida Highway 51 to those points in Georgia and South Carolina on and east of U.S. Highway 17 (Jacksonville, Fla.)*. The purpose of this filing is to eliminate the gateways as indicated by asterisks above.

No. MC 107107 (Sub-No. E16), filed April 6, 1975. Applicant: ALTERMAN TRANSPORT LINES, INC., P.O. Box 425, Opa Locka, Fla. 33054. Applicant's representative: Ford W. Sewell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Candy*, in vehicles equipped with mechanical refrigeration, from Boston, Brockton, Mansfield, and Wrentham, Mass., to those points in Georgia on and south of U.S. Highway 280 (Jacksonville, Fla.)*, points in Louisiana and those in Alabama and Mississippi on and south of U.S. Highway 80 (Pensacola and Tallahassee, Fla.)*; (2) *foods*, in vehicles equipped with mechanical refrigeration, from Boston and Brockton, Mass., to points in Wayne, Chatham, Lowndes, Ware and Glynn Counties, Ga. (Jacksonville, Fla.)*; (3) *frozen foods*, in vehicles equipped with mechanical refrigeration from Boston and Brockton, Mass., to those points in Georgia on and south of U.S. Highway 280 (Florida and Jacksonville, Fla.)*, those in Louisiana and Texas, and those in Alabama on and south of U.S. Highway 80 (Florida)*, those in Mississippi on and south of U.S. Highway 80 (Tifton, Ga.)*, from Worchester, Mass., to those points in Georgia on and south of a line beginning at the Atlantic Ocean and extending along U.S. Highway 341 to junction U.S. Highway 280, thence along U.S. Highway 280 to the Alabama-Georgia State line (Florida)*, those in Mississippi on and south of U.S. Highway 80 (Tifton, Ga.)*, those in Louisiana, Texas, and those in Alabama on and south of U.S. Highway 80 (Florida)*, from Haverhill, Mass., to points in Louisiana, Texas, those in Alabama on and south of U.S. Highway 80 (Florida)*, and those in Mississippi on and south of U.S. Highway 80 (Tifton, Ga.)*; (4) *frozen foods*, from Haverhill, Mass., to those points in Georgia on and south of U.S. Highway 280 (Florida)*; and (5) *dairy products*, as defined by the Commission, in vehicles equipped with mechanical refrigeration, from Boston and Brockton, Mass., to those points in Georgia on and south of U.S. Highway 280 and those in Alabama on and south of U.S. Highway 80 (Florida and Jacksonville, Fla.)*. The purpose of this filing is to eliminate the gateways as indicated by asterisks above.

No. MC 107107 (Sub-No. E22), filed April 6, 1975. Applicant: ALTERMAN TRANSPORT LINES, INC., P.O. Box 425, Opa Locka, Fla. 33054. Applicant's representative: Ford W. Sewell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen foods*, from Wilmington, Dela., and points in Virginia (except Norfolk, and points in Accomac and Northampton Counties), to those points in Georgia on and south of a line beginning at the Atlantic Ocean and extending along U.S. Highway 341 to junction U.S. Highway 280, thence along U.S. Highway 280 to junction Georgia Highway 27, thence along Georgia Highway 27 to the Georgia-Florida State line, those in Alabama on and south of a line beginning at the Alabama-Georgia State line and extending along U.S. Highway 82 to junction U.S. Highway 80, thence along U.S. Highway 80 to the Alabama-Mississippi State line, and those in Louisiana and Texas (Florida)*; (2) *frozen seafood*, from Norfolk, Va., to points in Louisiana and Texas, those in Georgia on and south of a line beginning at the Atlantic Ocean and extending along U.S. Highway 84 to junction U.S. Highway 82, thence along U.S. Highway 82 to the Georgia-Florida State line, and those in Alabama on and south of U.S. Highway 80 (Florida)*; (3) *meat, meat products, and meat by-products*, as defined by the Commission, in vehicles equipped with mechanical refrigeration, from Emporia, Norfolk, Richmond, Smithfield, and Timberville, Va., to points in Georgia on and south of a line beginning at the Atlantic Ocean and extending along U.S. Highway 84 to junction U.S. Highway 82, thence along U.S. Highway 82 to the Georgia-Florida State line, those in Alabama on and south of Alabama Highway 10 (Florida)*, and those in Louisiana (Jacksonville, Fla.)*, and from Norfolk, Va., to those points in Mississippi on and south of U.S. Highway 80 (Jacksonville, Fla.)*; (4) *fresh meats*, from Emporia, Norfolk, Richmond, Smithfield and Timberville, Va., to points in Texas (Florida)*; and (5) *fresh fruits and fresh vegetables*, from Wilmington, Dela., to those points in Alabama on and south of Alabama Highway 10 (Florida)*. The purpose of this filing is to eliminate the gateways as indicated by asterisks above.

No. MC 107107 (Sub-No. E23), filed April 6, 1975. Applicant: ALTERMAN TRANSPORT LINES, INC., P.O. Box 425, Opa Locka, Fla. 33054. Applicant's representative: Ford W. Sewell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meat by-products*, as defined by the Commission, from Duluth and St. Cloud, Minn., to those points in Alabama on and south of a line beginning at the Alabama-Georgia State line and extending along U.S. Highway 84 to junction Interstate Highway 65, thence along Interstate Highway 65 to junction U.S. Highway 80, thence along U.S. Highway 80 to the Alabama-Mississippi State line, and those in Georgia on and south of U.S. Highway 280 (except Savannah, Ga.) (Florida)*; and *meat, meat products, and meat by-products*, as defined by the Commission, requiring temperature control in transit, from Duluth and St. Cloud, Minn., to Savannah, Ga. (Jacksonville, Fla.)*. The purpose of this filing is to eliminate the gateways as indicated by asterisks above.

No. MC 107107 (Sub-No. E25), filed April 6, 1975. Applicant: ALTERMAN TRANSPORT LINES, INC., P.O. Box 425, Opa Locka, Fla. 33054. Applicant's representative: Ford W. Sewell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meat by-products*, as defined by the Commission, from those points in Minnesota south of U.S. Highway 19, to those points in Alabama on and south of a line beginning at the Alabama-Georgia State line and extending along U.S. Highway 82 to junction Interstate Highway 65, thence along Interstate Highway 65 to junction U.S. Highway 84, thence along U.S. Highway 84 to Montgomery, Ala., thence along U.S. Highway 84 to the Alabama-Mississippi State line, and those in Georgia on and south of U.S. Highway 280, restricted to those commodities requiring temperature control in transit when moving to Savannah, Ga. The purpose of this filing is to eliminate the gateway of Jacksonville, Fla.

No. MC 107107 (Sub-No. E27), filed April 6, 1975. Applicant: ALTERMAN TRANSPORT LINES, INC., P.O. Box 425, Opa Locka, Fla. 33054. Applicant's representative: Ford W. Sewell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meat by-products*, as defined by the Commission, from Green Bay, Wisc., to those points in Alabama on and south of a line beginning at the Alabama-Georgia State line and extending along U.S. Highway 82 to junction Interstate Highway 65, thence along Interstate Highway 65 to junction U.S Highway 84, thence along U.S. Highway 84 to the Alabama-Mississippi State line. The purpose of this filing is to eliminate the gateway of Florida.

No. MC 107107 (Sub-No. E28), filed April 6, 1975. Applicant: ALTERMAN TRANSPORT LINES, INC., P.O. Box 425, Opa Locka, Fla. 33054. Applicant's representative: Ford W. Sewell, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat,*

meat products, and meat by-products, as defined by the Commission, from Indianapolis, Ind., to those points in Alabama on and south of Alabama Highway 10, and those in Georgia on and south of U.S. Highway 280, restricted to commodities requiring temperature control in transit, when moving to Savannah, Ga. The purpose of this filing is to eliminate the gateway of Florida.

No. MC 112822 (Sub-No. E128), filed May 22, 1974. Applicant: BRAY LINES INCORPORATED, P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Robert A. Stone (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Fertilizer, dry,* in bulk, and in bags, from Tonkawa, Okla., to points in Illinois, Kentucky, Louisiana, Minnesota, Mississippi, Tennessee, Wisconsin, and those in Arkansas south and east of a line beginning at the Arkansas-Tennessee State line, and extending along U.S. Highway 64 to junction U.S. Highway 167, thence along U.S. Highway 167 to the Arkansas-Mississippi State line. The purpose of this filing is to eliminate the gateway of the plant site of Solar Nitrogen Chemicals, Inc., at or near Atlas, Mo.

No. MC 112822 (Sub-No. E133), filed May 22, 1974. Applicant: BRAY LINES INCORPORATED, P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Robert A. Stone (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Dry fertilizer materials,* from Beaumont, Tex., to points in Iowa, Michigan, Minnesota, North Dakota, South Dakota, Wisconsin, and those in Illinois on and north of U.S. Highway 36, and those in Indiana on and north of U.S. Highway 40. The purpose of this filing is to eliminate the gateway of the plant site of American Cyanamid Company, at South River (Marion County), Mo.

No. MC 112822 (Sub-No. E148), filed June 3, 1974. Applicant: BRAY LINES INCORPORATED, P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Robert A. Stone (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Frozen foods,* in vehicles equipped with mechanical refrigeration, from points in California (except Imperial, San Bernardino, San Diego, Riverside, and Ventura Counties), to points in Georgia on and north of a line beginning at the Georgia-Alabama State line and extending along Interstate Highway 20 to junction U.S. Highway 129, thence along U.S. Highway 129 to the Georgia-North Carolina State line. The purpose of this filing is to eliminate the gateway of Idaho.

No. MC 112822 (Sub-No. E152), filed June 3, 1974. Applicant: BRAY LINES INCORPORATED, P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Robert A. Stone (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Frozen foods,* in vehicles equipped with mechanical refrigeration, from those points in California on and north of a line beginning at the California-Nevada State line and extending along California Highway 190 to junction U.S. Highway 395, thence along U.S. Highway 395 to junction California Highway 74, thence along California Highway 74 to the Pacific Ocean, to those points in Tennessee east of a line beginning at the Kentucky-Tennessee State line and extending along Alternate U.S. Highway 41 to junction Tennessee Highway 13, thence along Tennessee Highway 13 to the Alabama-Tennessee State line. The purpose of this filing is to eliminate the gateway of Idaho.

No. MC 112822 (Sub-No. E161), filed June 3, 1974. Applicant: BRAY LINE INCORPORATED, P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Robert A. Stone (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Petroleum products,* in packages, from that part of Oklahoma bounded by a line beginning at the Oklahoma-Kansas State line and extending along U.S. Highway 81 to junction U.S. Highway 66, thence along U.S. Highway 66 to junction U.S. Highway 177, thence along U.S. Highway 177 to junction U.S. Highway 60, thence along U.S. Highway 60 to junction U.S. Highway 75, thence along U.S. Highway 75 to the Oklahoma-Kansas State line, to those points in Florida in and east of Jefferson County, Fla. The purpose of this filing is to eliminate the gateway of Wichita, Kans.

No. MC 112822 (Sub-No. E169), filed June 3, 1974. Applicant: BRAY LINES INCORPORATED, P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Robert A. Stone (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Frozen foods,* in vehicles equipped with mechanical refrigeration, from points in California (except Imperial and San Bernardino County, and those points in Riverside County, east of California Highway 86 to junction Interstate Highway 10, thence along Interstate Highway 10 to junction California Highway 62, thence along California Highway 62 to the Riverside-San Bernardino County line), to points in Missouri (except those south of a line beginning at the Kansas-Missouri State line and extending along U.S. Highway 54 to junction U.S. Highway 50, thence along U.S. Highway 50 to the Missouri-Illinois State line. The purpose of this filing is to eliminate the gateway of Idaho.

No. MC 112822 (Sub-No. E197), filed June 5, 1974. Applicant: BRAY LINES INCORPORATED, P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Robert A. Stone (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia,* in bulk, in tank vehicles, from the site of the terminal outlet of Mid-America Pipeline Company at or near Greenwood, Nebr., to points in Arkansas, those in Oklahoma on and east of U.S. Highway 81, and those in Missouri on and south of U.S. Highway 24. The purpose of this filing is to eliminate the gateway of the plant site of Chevron Chemical Company at or near Sugar Creek, Mo.

No. MC 113843 (Sub-No. E390), filed May 22, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Frozen foods,* (1) between points in Massachusetts, on the one hand, and, on the other, points in Ohio, Michigan, Indiana, and Huntington, W. Va.; (2) between points in Franklin County, Mass., and North Adams, Mass., on the one hand, and, on the other, those points in Pennsylvania on and west of a line beginnnig at the Pennsylvania-New York State line and extending along U.S. Highway 15 to junction Pennsylvania Highway 34, thence along Pennsylvania Highway 34 to junction Pennsylvania Highway 274, thence along Pennsylvania Highway 274 to junction Pennsylvania Highway 233, thence along Pennsylvania Highway 233 to junction Interstate Highway 81, thence along Interstate Highway 81 to the Pennsylvania-Maryland State line; (3) between points in Middlesex, Norfolk, Essex, Plymouth, Berkshire, Hampden, Hampshire, and Worchester Counties, Mass., on the one hand, and, on the other, those points in Pennsylvania on and west of a line beginning at the Pennsylvania-New York State line and extending along U.S. Highway 15 to junction Pennsylvania Highway 45, thence along Pennsylvania Highway 45 to junction Pennsylvania Highway 144, thence along Pennsylvania Highway 144 to junction U.S. Highway 322, thence along U.S. Highway 322 to junction U.S. Highway 522, thence along U.S. Highway 522 to the Pennsylvania-Maryland State line; (4) from points in Massachusetts to points in Illinois, Kentucky, Missouri, and West Virginia (except those east and north of a line beginning at the West Virginia-Maryland State line and extending along U.S. Highway 220 to junction U.S. Highway 50, thence along U.S. Highway 50 to the West Virginia-Virginia State line; (5) between Gardner, Mass., on the one hand, and, on the other, Millersburg, Pa.; and (6) between points in Bristol County, Mass., on the one hand, and, on the other, those points in Pennsylvania on and west of a line beginning at the Pennsylvania-New York State line and extending along U.S. Highway 15 to junction U.S. Highway 220, thence along U.S. Highway 220 to the Pennsylvania-Maryland State line. The purpose of this filing is to eliminate the gateway of Elmira, N.Y.

No. MC 113843 (Sub-No. E955), filed December 2, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier,* by motor

vehicle, over irregular routes, transporting: *Frozen foods*, from points in Montgomery and Philadelphia Counties, Pa., to those points in Indiana on, north and west of a line beginning at the Indiana-Ohio State line extending along Indiana Highway 41 to junction U.S. Highway 421, thence along U.S. Highway 421 to junction Indiana Highway 43, thence along Indiana Highway 43 to junction U.S. Highway 231, thence along U.S. Highway 231 to the Ohio River. The purpose of this filing is to eliminate the gateway of Elmira, N.Y.

No. MC 113843 (Sub-No. E956), filed December 2, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from points in Montgomery and Berks Counties, Pa., to Evansville, Ind., and points in Indiana on, north and west of a line beginning at the Indiana-Ohio State line extending along Indiana Highway 14 to junction U.S. Highway 421, thence along U.S. Highway 421 to junction Indiana Highway 43, thence along Indiana Highway 43 to junction Indiana Highway 47, thence along Indiana Highway 47 to junction U.S. Highway 41, thence along U.S. Highway 41 to junction U.S. Highway 36, thence along U.S. Highway 36 to the Indiana-Illinois State line. The purpose of this filing is to eliminate the gateway of Elmira, N.Y.

No. MC 113843 (Sub-No. E957), filed December 2, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned foods*, from points in Virginia on and south of US Highway 40 and east of the Susquehanna River and Chesapeake Bay, to Sault Ste. Marie, Mich., and those points in the Upper Peninsula of Michigan on and west of a line beginning at the Michigan-Wisconsin State line extending along U.S. Highway 8 to Iron Mountain, thence along Michigan Highway 95 to junction U.S. Highway 41, thence along U.S. Highway 41 to Lake Superior. The purpose of this filing is to eliminate the gateway of the plant sites and storage facilities of Duffy-Mott Co., Inc., at or near Hamlin, Holley, and Williamson, N.Y.

No. MC 113843 (Sub-No. E958), filed December 2, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned foods*, from those points in Virginia on and south of U.S. Highway 40 and east of the Susquehanna River and Chesapeake Bay, to those points in Iowa on, north, and west of a line beginning at the Mississippi River and extending along Iowa Highway 64 to junction U.S. Highway 151, thence along U.S. Highway 151 to Cedar Rapids, thence along U.S. Highway 30 to junction U.S. Highway 65, thence along U.S. Highway 65 to the Iowa-Missouri State line. The purpose of this filing is to eliminate the gateway of the plant sites and storage facilities of Duffy-Mott Co., Inc., at or near Hamlin, Holley, and Williamson, N.Y.

No. MC 113843 (Sub-No. E959), filed December 12, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned foods*, from those points in Delaware, Maryland and Virginia on and south of U.S. Highway 40 and east of the Susquehanna River and Chesapeake Bay, to points in North Dakota and South Dakota. The purpose of this filing is to eliminate the gateway of the plant sites and storage facilities of Duffy-Mott Co., Inc., at or near Hamlin, Holley, and Williamson, N.Y.

No. MC 113843 (Sub-No. E960), filed December 2, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned foods*, from those points in Delaware on and south of U.S. Highway 40 and east of the Susquehanna River and Chesapeake Bay, to those points in Iowa on and west of U.S. Highway 69. The purpose of this filing is to eliminate the gateway of the plant sites and storage facilities of Duffy-Mott Co., Inc., at or near Hamlin, Holley, and Williamson, N.Y.

No. MC 113843 (Sub-No. E961), filed December 2, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC. 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned foods*, from those points in Maryland east of the Chesapeake Bay and on and north of a line beginning at the Chesapeake Bay and extending along Maryland Highway 343 to Cambridge, thence along U.S. Highway 50 to junction Maryland Highway 16, thence along Maryland Highway 16 to junction Maryland Highway 14, thence along Maryland Highway 14 to the Maryland-Delaware State line, to those points in Iowa on and west of U.S. Highway 71. The purpose of this filing is to eliminate the gateway of the plant sites and storage facilities of Duffy-Mott Co., Inc., at or near Hamlin, Holley and Williamson, N.Y.

No. MC 113843 (Sub-No. E962), filed December 2, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned foods*, from those points in Virginia on and south of U.S. Highway 40 and east of the Susquehanna River and Chesapeake Bay, to points in Minnesota. The purpose of this filing is to eliminate the gateway of the plant sites and storage facilities of Duffy-Mott Co., Inc., at or near Hamlin, Holley, and Williamson, N.Y.

No. MC 113843 (Sub-No. E963), filed December 2, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned foods*, from those points in Virginia on and south of U.S. Highway 40 and east of the Susquehanna River and Chesapeake Bay, to points in Nebraska. The purpose of this filing is to eliminate the gateway of the plant sites and storage facilities of Duffy-Mott Co., Inc., at or near Hamlin, Holley, and Williamson, N.Y.

No. MC 113843 (Sub-No. E964), filed December 2, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned foods*, from those points in that part of Maryland on and south of U.S. Highway 40 and east of the Susquehanna River and Chesapeake Bay, to points in Minnesota (except those points on and south of a line beginning at the Wisconsin-Minnesota State line extending along U.S. Highway 14 to junction U.S. Highway 63, thence along U.S. Highway 63 to the Minnesota-Iowa State line, and Rochester, Minn.). The purpose of this filing is to eliminate the gateway of the plant sites and storage facilities of Duffy-Mott Co., Inc., at or near Hamlin, Holley, and Williamson, N.Y.

No. MC 113843 (Sub-No. E965), filed December 2, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned foods*, from those points in Maryland east of the Chesapeake Bay and on and south of a line beginning at the Chesapeake Bay extending along Maryland Highway 413 to junction U.S. Highway 13, thence along U.S. Highway 13 to junction Maryland Highway 364, thence along Maryland Highway 364 to the Atlantic Ocean, to those points in Iowa on and west of U.S. Highway 69. The purpose of this filing is to eliminate the gateway of the plant sites and storage facilities of Duffy-Mott Co., Inc., at

or near Hamlin, Holley, and Williamson, N.Y.

No. MC 113843 (Sub-No. E966), filed December 2, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned foods*, from those points in Maryland on and north of a line beginning at the Chesapeake Bay extending along Maryland Highway 343 to Cambridge, thence along U.S. Highway 50 to the Maryland-Delaware State line, to those points in Kansas on and west of a line beginning at the Kansas-Oklahoma State line extending along U.S. Highway 83 to junction Interstate Highway 70, thence along Interstate Highway 70 to junction Kansas Highway 25, thence along Kansas Highway 25 to the Kansas-Nebraska State line. The purpose of this filing is to eliminate the gateway of the plant sites and storage facilities of Duffy-Mott Co., Inc., at or near Hamlin, Holley and Williamson, N.Y.

No. MC 113843 (Sub-No. E967), filed December 2, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from points in Connecticut, Massachusetts, and Rhode Island to points in Indiana. The purpose of this filing is to eliminate the gateway of Elmira, N.Y.

No. MC 113843 (Sub-No. E968), filed December 2, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned foods*, from those points in Delaware and Maryland on and south of U.S. Highway 40 and east of the Susquehanna River and Chesapeake Bay, to those points in the Upper Peninsula of Michigan on and west of a line beginning at the Michigan-Wisconsin State line extending along Michigan Highway 28 to junction U.S. Highway 45, thence along U.S. Highway 45 to junction Michigan Highway 26, thence along Michigan Highway 26 to Lake Superior. The purpose of this filing is to eliminate the gateway of the plant sites and storage facilities of Duffy-Mott Co., Inc., at or near Hamlin, Holley, and Williamson, N.Y.

No. MC 113843 (Sub-No. E969), filed December 2, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, motor vehicle, over irregular routes, transporting: *Canned foods*, from those points in Delaware on and south of U.S. Highway 40 and east of the Susquehanna River and Chesapeake Bay, to those points in Wisconsin, on, north and west of a line beginning at Lake Superior extending along U.S. Highway 2 to junction U.S. Highway 63, thence along U.S. Highway 63 to Hayward, thence along Wisconsin Highway 27 to Padisson, thence along Wisconsin Highway 40 to junction Wisconsin Highway 64, thence along Wisconsin Highway 64 to junction Wisconsin Highway 124, thence along Wisconsin Highway 124 to junction U.S. Highway 53 to Eau Claire, thence along U.S. Highway 12 to the Wisconsin-Minnesota State line. The purpose of this filing is to eliminate the gateway of the plant sites and storage facilities of Duffy-Mott Co., Inc., at or near Hamlin, Holley and Williamson, N.Y.

No MC 113843 (Sub-No. E970), filed December 2, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned foods*, from those points in Maryland on and south of a line beginning at the Chesapeake Bay extending along Maryland Highway 913 to junction U.S. Highway 13, thence along U.S. Highway 13 to junction Maryland Highway 366, thence along Maryland Highway 366 to the Atlantic Ocean, to those points in Missouri on and west of U.S. Highway 65. The purpose of this filing is to eliminate the gateway of the plant sites and storage facilities of Duffy-Mott Co., Inc., at or near Hamlin, Holley, and Williamson, N.Y.

No. MC 113843 (Sub-No. E971), filed December 2, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned foods*, from those points in Virginia on and south of U.S. Highway 40 and east of the Susquehanna River and Chesapeake Bay, to those points in Missouri on and west of a line beginning at the Iowa-Missouri State line extending along U.S. Highway 71 to St. Joseph, thence along U.S. Highway 36 to the Missouri River. The purpose of this filing is to eliminate the gateway of the plant sites and storage facilities of Duffy-Mott Co., Inc., at or near Hamlin, Holley, and Williamson, N.Y.

No. MC 113843 (Sub-No. E972), filed December 2, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned foods*, from those points in Delaware on and south of a line beginning at the Maryland-Delaware State line extending along Delaware Highway 20 to junction U.S. Highway 113, thence along U.S. Highway 113 to junction Delaware Highway 26, thence along Delaware Highway 26 to the Atlantic Ocean, to those points in Missouri on and west of a line beginning at the Arkansas-Missouri State line extending along U.S. Highway 65 to junction Missouri Highway 13, thence along Missouri Highway 13 to junction Interstate Highway 35, thence along Interstate Highway 35 to the Missouri-Iowa State line. The purpose of this filing is to eliminate the gateway of the plant sites and storage facilities of Duffy-Mott Co., at or near Hamlin, Holley, and Williamson, N.Y.

No. MC 113843 (Sub-No. E973), filed December 2, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned foods*, from those points in Delaware and Maryland on and south of U.S. Highway 40 and east of the Susquehanna River and Chesapeake Bay, to those points in Wisconsin on and north of U.S. Highway 18. The purpose of this filing is to eliminate the gateway of the plant sites and storage facilities of Duffy-Mott Co., Inc., at or near Hamlin, Holley, and Williamson, N.Y.

No. MC 113843 (Sub-No. E974), filed December 2, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from points in Lehigh County, Pa., to points in Indiana (except points in Wayne, Randolph, Jay, Adams, Fayette, Union, Franklin, Switzerland, Ohio, Dearborn, and Ripley Counties). The purpose of this filing is to eliminate the gateway of Elmira, N.Y.

No. MC 113843 (Sub-No. E975), filed December 2, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned foods*, from those points in Virginia on and south of U.S. Highway 40 and east of the Susquehanna River and Chesapeake Bay, to points in Kansas on and west of U.S. Highway 83. The purpose of this filing is to eliminate the gateway of the plant sites and storage facilities of Duffy-Mott Co., Inc., at or near Hamlin, Holley and Williamson, N.Y.

No. MC 113843 (Sub-No. E976), filed December 2, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned foods*, from those points in Maryland east of the Chesapeake Bay and on and south of a line beginning at the Chesapeake Bay extending along Maryland Highway 413 to junction U.S.

Highway 13, thence along U.S. Highway 13 to junction Maryland Highway 366, thence along Maryland Highway 366 to the Atlantic Ocean, to those points in Kansas on, north and west of a line beginning at the Kansas-Missouri State line extending along U.S. Highway 59 to junction Kansas Highway 4, thence along Kansas Highway 4 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction U.S. Highway 75, thence along U.S. Highway 75 to the Kansas-Oklahoma State line. The purpose of this filing is to eliminate the gateway of the plant sites and storage facilities of Duffy-Mott Co., Inc., at or near Hamlin, Holley, and Williamson, N.Y.

No. MC 113843 (Sub-No. E977), filed December 2, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *frozen fruits and frozen berries*, from points in Massachusetts and Rhode Island to points in Kentucky. The purpose of this filing is to eliminate the gateways of Geneva, Westfield, and Penn Yan, N.Y.

No. MC 113843 (Sub-No. E978), filed December 2, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *frozen fruits and frozen berries* from points in Massachusetts and Rhode Island to points in Kentucky. The purpose of this filing is to eliminate the gateway of Dundee, N.Y.

No. MC 113843 (Sub-No. E979), filed December 2, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *frozen fruits and frozen berries* from points in Massachusetts, Connecticut, and Rhode Island to points in Oklahoma. The purpose of this filing is to eliminate the gateways of Geneva, Westfield, and Penn Yan, N.Y.

No. MC 113843 (Sub-No. E980), filed December 2, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *frozen fruits and frozen berries* from points in Massachusetts, Connecticut, and Rhode Island to points in Wisconsin. The purpose to this filing is to eliminate the gateways of Geneva, Westfield, and Penn Yan, N.Y.

No. MC 113843 (Sub-No. E981), filed December 2, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *frozen juices and frozen berries* from points in Massachusetts, Connecticut, and Rhode Island to points in Missouri. The purpose of this filing is to eliminate the gateways of Geneva, Westfield, and Penn Yan, N.Y.

No. MC 113843 (Sub-No. E982), filed December 2, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *frozen fruits and frozen berries* from points in Massachusetts to points in South Carolina. The purpose of this filing is to elimniate the gateway of Dundee, N.Y.

No. MC 113843 (Sub-No. E983), filed December 2, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *frozen juices and frozen berries* from points in Massachusetts, Connecticut, and Rhode Island to points in Nebraska. The purpose of this filing is to eliminate the gateways of Geneva, Westfield, and Penn Yan, N.Y.

No. MC 113843 (Sub-No. E984), filed December 2, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *canned foods*, from those points in Maryland and Delaware on and south of U.S. Highway 40 and east of the Susquehanna River and Chesapeake Bay, to those points in Iowa on and west of U.S. Highway 218. The purpose of this filing is to eliminate the gateways of the plant sites and storage facilities of Duffy-Mott Co., Inc., at or near Hamlin, Holley, and Williamson, N.Y.

No. MC 113843 (Sub-No. E985), filed December 2, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *frozen foods* from Milwaukee, Wis., to points in New Jersey. The purpose of this filing is to eliminate the gateway of Elmira, N.Y.

No. MC–113843 (Sub-No. E986), filed December 2, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* from Milwaukee, Wis., to points in Cattaraugus, Chautauqua, and Erie Counties, N.Y. The purpose of this filing is to eliminate the gateway of Buffalo, N.Y.

No. MC–113843 (Sub-No. E987), filed December 2, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Milwaukee, Wis., to those points in New York on and east of a line beginning at the New York-Pennsylvania State line and extending along U.S. Highway 11 to junction with U.S. Highway 104, thence along U.S. Highway 104 to Lake Ontario. The purpose of this filing is to eliminate the gateway of Elmira, N.Y.

No. MC 113843 (Sub-No. E988), filed December 2, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Green Bay, Wis., to Portsmouth, Va. The purpose of this filing is to eliminate the gateway of Elmira, N.Y.

No. MC 113843 (Sub-No. E989), filed December 2, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Milwaukee, Wis., to points in Maryland east of the Chesapeake Bay, and south of the Chesapeake and Delaware Canal. The purpose of this filing is to eliminate the gateway of Elmira, N.Y.

No. MC 113843 (Sub-No. E992), filed December 2, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen food*, from North Brunswick, N.J., to points in Arkansas, Colorado, Kansas, Minnesota, Nebraska, and Oklahoma. The purpose of this filing is to eliminate the gateway of Dundee, N.Y.

No. MC 113843 (Sub-No. E993), filed December 2, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from those points in Pennsylvania on and west of U.S. Highway 15, to points in Vermont and New Hampshire, and those points in Maine on and south of Maine Highway 25. The purpose of this filing is to eliminate the gateways of Yates, Ontario,

Wayne, Onondaga, Monroe, Genesee, Livingston, Chautauqua, and Cattaraugus Counties, N.Y.

No. MC 113843 (Sub-No. E994), filed December 2, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from points in those parts of Delaware, Maryland and Virginia on and south of U.S. Highway 40 and east of the Susquehanna River and Chesapeake Bay. The purpose of this filing is to eliminate the gateway of the facilities of Duffy-Mott Co., Inc., at Williamson, N.Y.

No. MC 113843 (Sub-No. E995), filed December 2, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Centre Hall, Pa., to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and those points in Connecticut on, north and east of a line beginning at the Massachusetts-Connecticut State line extending along U.S. Highway 7 to junction U.S. Highway 44, thence along U.S. Highway 44 to junction U.S. Highway 5, thence along U.S. Highway 5 to the Long Island Sound, and Hartford and New Haven, Conn. The purpose of this filing is to eliminate the gateway of Elmira, N.Y.

No. MC 113843 (Sub-No. E996), filed December 2, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from those points in Pennsylvania on and east of U.S. Highway 15, to points in Arkansas, Colorado, Kansas, Minnesota, Nebraska and Oklahoma. The purpose of this filing is to eliminate the gateway of Dundee, N.Y.

No. MC 113843 (Sub-No. E998) filed December 2, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Milwaukee, Wisc., to points in Delaware. The purpose of this filing is to eliminate the gateway of Elmira, N.Y.

No. MC 113843 (Sub-No. E999), filed December 2, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen food*, from Green Bay, Wis., to Annapolis and Baltimore, Md., and those points in Maryland east of the Chesapeake Bay and south of the Chesapeake and Delaware Canal. The purpose of this filing is to eliminate the gateway of Elmira, N.Y.

No. MC 113843 (Sub-No. E1002), filed December 2, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the District of Columbia to those points in the Upper Peninsula of Michigan on and west of a line beginning at Lake Superior and extending along U.S. Highway 41 to junction Michigan Highway 95, thence along Michigan Highway 95 to the Wisconsin-Michigan State line, and Norway, Mich. The purpose of this filing is to eliminate the gateway of Elmira, N.Y.

No. MC 113843 (Sub-No. E1003), filed December 2, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Philadelphia, Pa., to those points in Indiana on, north and west of a line beginning at the Ohio River and extending along U.S. Highway 41 to junction Indiana Highway 47, thence along Indiana Highway 47 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction Indiana Highway 26, thence along Indiana Highway 26 to the Indiana-Ohio State line, and Anderson and Muncie, Ind. The purpose of this filing is to eliminate the gateway of Elmira, N.Y.

No. MC 113843 (Sub-No. E1004), filed December 2, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Philadelphia, Pa., to those points in New York on and south of a line beginning at the New York-Pennsylvania State line and extending along U.S. Highway 15 to junction New York Highway 17, thence along New York Highway 17 to Lake Erie, and those points in New York beginning at Lake Ontario and extending along New York Highway 3 to Tupper Lake, thence along New York Highway 30 to the United States-Canada International Boundary line. The purpose of this filing is to eliminate the gateway of Elmira, N.Y.

No. MC 113843 (Sub-No. E1005), filed December 2, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Vineland, N.J., to those points in Pennsylvania on and north of a line beginning at Lake Erie and extending along Pennsylvania Highway 8 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction U.S. Highway 15, thence along U.S. Highway 15 to the Pennsylvania-New York State line. The purpose of this filing is to eliminate the gateway of Elmira, N.Y.

No. MC 113843 (Sub-No. E1006), filed December 2, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Marysville, Pa., to those points in Vermont on and north of a line beginning at the Vermont-New Hampshire State line and extending along Interstate Highway 89 to junction Vermont Highway 107, thence along Vermont Highway 107 to junction Vermont Highway 100, thence along Vermont Highway 100 to junction Vermont Highway 73, thence along Vermont Highway 73 to junction Vermont Highway 73A, thence along Vermont Highway 73A to Lake Champlain. The purpose of this filing is to eliminate the gateways of Yates, Ontario, Wayne, Onondaga, Monroe, Genesee, Livingston, Chautauqua, and Cattaraugus Counties, N.Y.

No. MC 113843 (Sub-No. E1008), filed December 2, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Chambersburg, Pa., to those points in New Hampshire on and north of a line beginning at the New Hampshire-Vermont State line and extending along New Hampshire Highway 12/103 to Claremont, thence along New Hampshire Highway 11/103 to Wendell, thence along New Hampshire Highway 11 to junction U.S. Highway 3, thence along U.S. Highway 3 to junction New Hampshire Highway 25, thence along New Hampshire Highway 25 to the New Hampshire-Maine State line. The purpose of this filing is to eliminate the gateways of Yates, Ontario, Wayne, Onondaga, Monroe, Genesee, Livingston, Chautauqua and Cattaraugus Counties, N.Y.

No. MC 113843 (Sub-No. E1009), filed December 2, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Seabrook, N.J., to those points in Arkansas on, north and west of a line beginning at the Arkansas-Missouri State line and extending along U.S. Highway 61 to

junction Arkansas Highway 18, thence along Arkansas Highway 18 to Jonesboro, thence along Arkansas Highway 39 to junction Interstate Highway 40, thence along Interstate Highway 40 to junction Arkansas Highway 33, thence along Arkansas Highway 33 to junction Arkansas Highway 130, thence along Arkansas Highway 130 to junction Arkansas Highway 1, thence along Arkansas Highway 1 to junction Arkansas Highway 54, thence along Arkansas Highway 54 to junction U.S. Highway 65, thence along U.S. Highway 65 to the Arkansas-Louisiana State line. The purpose of this filing is to eliminate the gateway of Dundee, N.Y.

No. MC 113843 (Sub-No. E1010), filed December 2, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen fruits*, from Corinna, Me., to points in Arkansas, Colorado, Iowa, Kansas, Kentucky, Minnesota, Missouri, Nebraska, Oklahoma, Texas, and Wisconsin. The purpose of this filing is to eliminate the gateways of Geneva, Westfield, and Penn Yan, N.Y.

No. MC 113843 (Sub-No. E1013), filed December 2, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Pittston, Pa., to those points in New York on and south of a line beginning at Lake Erie and extending along New York Highway 17 to junction U.S. Highway 15, thence along U.S. Highway 15 to the New York-Pennsylvania State line, and Ogdensburg, N.Y. The purpose of this filing is to eliminate the gateway of Elmira, N.Y.

No. MC 113843 (Sub-No. E1014), filed December 2, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Philadelphia, Pa., to those points in Ohio on and north of a line beginning at Lake Erie and extending along U.S. Highway 6 to Fremont, thence along U.S. Highway 20 to the Ohio-Pennsylvania State line. The purpose of this filing is to eliminate the gateway of Elmira, N.Y.

No. MC 113843 (Sub-No. E1015), filed December 2, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from North Brunswick, N.J., to points in Illinois, Indiana, Michigan, and Missouri. The purpose of this filing is to eliminate the gateway of Elmira, N.Y.

No. MC 114211 (Sub-No. E490), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled tractors, road making machinery and contractors' equipment and supplies*, from points in that part of Minnesota on and west of a line beginning at the Minnesota-Wisconsin State line extending along Interstate Highway 94 to junction Minnesota Highway 3, thence along Minnesota Highway 3 to junction U.S. Highway 52, thence along U.S. Highway 52 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction Interstate Highway 90, thence along Interstate Highway 90 to junction U.S. Highway 218, thence along U.S. Highway 218 to the Minnesota-Iowa State line, and from points in that part of Minnesota on and east of a line beginning at the Minnesota-Wisconsin State line extending along U.S. Highway 12 to junction Interstate Highway 694, thence along Interstate Highway 694 to junction Interstate Highway 494, thence along Interstate Highway 494 to junction U.S. Highway 169, thence along U.S. Highway 169 to junction Minnesota Highway 22, thence along Minnesota Highway 22 to junction Minnesota Highway 109, thence along Minnesota Highway 109 to junction U.S. Highway 16, thence along U.S. Highway 16 to junction U.S. Highway 69, thence along U.S. Highway 69 to the Minnesota-Iowa State line, to points in that part of North Dakota on and north and west of a line beginning at the Minnesota-North Dakota State line extending along Interstate Highway 94 to junction North Dakota Highway 32, thence along North Dakota Highway 32 to junction North Dakota Highway 11.

Thence along North Dakota Highway 11 to junction North Dakota Highway 3, thence along North Dakota Highway 3 to the North Dakota-South Dakota State line; to points in that part of South Dakota on and north and west of a line beginning at the North Dakota-South Dakota State line extending along South Dakota Highway 45 to junction South Dakota Highway 20, thence along South Dakota Highway 20 to junction U.S. Highway 83, thence along U.S. Highway 83 to junction U.S. Highway 12, thence along U.S. Highway 12 to junction South Dakota Highway 20, thence along South Dakota Highway 20 to junction South Dakota Highway 65, thence along South Dakota Highway 65 to junction U.S. Highway 212, thence along U.S. Highway 212 to junction South Dakota Highway 73, thence along South Dakota Highway 73 to junction South Dakota Highway 34, thence along South Dakota Highway 34 to junction U.S. Highway 85, thence along U.S. Highway 85 to the South Dakota-Wyoming State line; to points in that part of Colorado on and west of a line beginning at the Wyoming-Colorado State line extending along U.S. Highway 85 to junction U.S. Highway 287, thence along U.S. Highway 287 to junction U.S. Highway 50, thence along U.S. Highway 50 to the Colorado-Kansas State line; to points in that part of Wyoming on and north and west of a line beginning at the South Dakota-Wyoming State line extending along U.S. Highway 85 to junction U.S. Highway 18/85, thence along U.S. Highway 18/85 to junction U.S. Highway 18/20, thence along U.S. Highway 18/20 to junction Interstate Highway 25, thence along Interstate Highway 25 to the Colorado State line.

To points in that part of Kansas on and south of a line beginning at the Colorado-Kansas State line extending along U.S. Highway 50 to junction U.S. Highway 270, thence along U.S. Highway 270 to the Oklahoma-Kansas State line; to points in Oklahoma on and west of a line beginning at the Kansas-Oklahoma State line extending along U.S. Highway 83 to the Oklahoma-Texas State line, and those points in Oklahoma on and south of a line beginning at the Texas-Oklahoma State line extending along U.S. Highway 62 to junction U.S. Highway 283, thence along U.S. Highway 283 to the Oklahoma-Texas State line; to points in that part of Texas on and west of a line beginning at the Texas-Oklahoma State line extending along U.S. Highway 83 to junction U.S. Highway 62, thence along U.S. Highway 62 to the Texas-Oklahoma State line; to points in that part of Arkansas on and south and east of a line beginning at the Arkansas-Texas State line extending along U.S. Highway 82 to junction U.S. Highway 79, thence along U.S. Highway 79 to the Arkansas-Tennessee State line; to points in that part of Tennessee on and east of a line beginning at the Arkansas-Tennessee State line extending along U.S. Highway 79 to the Kentucky-Tennessee State line; to points in that part of Ohio on and east of a line beginning at the Ohio-Kentucky State line extending along Interstate Highway 71 to junction Ohio Highway 13, thence along Ohio Highway 13 to junction U.S. Highway 250, thence along U.S. Highway 250 to Sandusky, Ohio; to points in that part of Michigan on and north of a line beginning at the Wisconsin-Michigan State line extending along U.S. Highway 8 to junction U.S. Highway 2.

Thence along U.S. Highway 2 to Escanaba; to points in that part of Wisconsin on and north of a line beginning at the Minnesota-Wisconsin State line extending along U.S. Highway 8 to the Wisconsin-Michigan State line; and to points in Washington, Oregon, California, Nevada, Arizona, Idaho, Montana, New Mexico, Louisiana, Mississippi, Alabama, Georgia, Florida, South Carolina, North Carolina, West Virginia, Vermont, New Hampshire, and Maine. The purpose of this filing is to eliminate the gateway of Minneapolis, Minn.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.75-15599 Filed 6-13-75;8:45 am]

[Notice No. 789]

ASSIGNMENT OF HEARINGS

JUNE 11, 1975.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 130288, Richard L. Morgan Agency, now being assigned September 15, 1975 (1 week) at Topeka, Kansas; in a hearing room to be later designated.

MC 10761 Sub 267, Transamerican Freight Lines, Inc., now assigned July 28, 1975 at Amarillo, Texas is canceled and the application is dismissed.

MC-F 12250, Lovelace Truck Service, Inc.—Purchase (Portion)—Atkinson, Inc. and MC 151 Sub 53, Lovelace Truck Service, Inc., now assigned July 21, 1975 (5 days), at Columbus, Ohio, will be held in Room 235, Federal Office Building, 85 Marconi Boulevard, hearing will also be held on July 28, 1975 (5 days), at Indianapolis, Indiana at the Indianapolis Athletic Club, 350 N. Meridian Street, and on August 4, 1975 (5 days) at St. Louis, Missouri, at the Missouri Athletic Club, 405 Washington Avenue.

MC-C-8572, Arrow Stage Lines, Inc., Investigation and Revocation of Certificates, now being assigned September 16, 1975, at Lincoln, Nebraska (2 days), in a hearing room to be later designated.

MC-C-8573, Black Hills Stage Lines, Inc.—Investigation and Revocation of Certificates, now being assigned September 23, 1975 at Lincoln, Nebraska (2 days); in a hearing room to be designated later.

MC 139425 Sub 1, Harold E. Rich, now assigned July 18, 1975 at Los Angeles, California, is canceled and the application is dismissed.

MC-C 8501, Short Freight Lines, Inc. and Van Haaren Specialized Carriers, Inc.—Investigation and Revocation of Certificates, now being continued to July 16, 1975, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 124004 Sub 28, Richard Dahn, Inc., now assigned July 22, 1975 at Chicago, Illinois is postponed to October 1, 1975 (3 days) at Chicago, Illinois; in a hearing room to be designated later.

MC 115667 Sub 8, Arrow Transfer Co., Ltd., now assigned July 15, 1975, at Olympia, Washington, will be held in the Conference Room 6th Floor, Highway Licenses Bldg., 12th & Washington St.

MC 95540 Sub 916, Watkins Motor Lines, Inc., now assigned July 15, 1975, at Chicago, Illinois will be held in Room 1743 Tax Court, Federal Office Bldg., 219 S. Dearborn St.

MC 107496 Sub 975, Ruran Transport Corporation, now assigned July 17, 1975, at Chicago, Illinois, will be held in Room 1743, Tax Court, Federal Office Bldg., 219 S. Dearborn Street.

MC 95876 Sub 159, Anderson Trucking Service, Inc., now assogned July 21, 1975, at Chicago, Illinois, will be held in Room 1614, Court of Claims, Federal Office Bldg., 219 S. Dearborn Street.

MC 106674 Sub 152, Schilli Motor Lines, Inc., now being assigned July 2, 1975 (1 day) at Chicago, Illinois, in Room 1086A, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 136208 Sub 3, Creager Trucking Co., Inc., now assigned July 8, 1975, at Salem, Oregon, will be held in Room E, Labor & Industries Bldg.

MC 107107 Sub 441, Alterman Transport Lines, Inc., has been continued to July 21, 1975 at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 140124, T-Emp Corp., now assigned June 26, 1975, at Washington, D.C. is canceled and transferred to Modified Procedure.

MC 130285, Special Freight Systems, Inc., now being assigned September 23, 1975 (3 days) at St. Paul, Minnesota; in a hearing room to be designated later.

MC 113855 Sub 298, International Transport, Inc., now assigned July 15, 1975, at San Francisco, Calif., will be held in Room 13025, Federal Bldg., & U.S. Courthouse, 450 Golden Gate Ave.

MC 139974, Louie Austin, DBA Austin Truck Service, now assigned July 17, 1975, at San Francisco, Calif., will be held in Room 13025, Federal Bldg., & U.S. Courthouse, 450 Golden Gate Ave.

MC 139134 Sub 2, Kennedy Motors, Inc., now assigned July 21, 1975, at Seattle, Wash., will be held in Room 1070, Federal Office Bldg., 909–1st Avenue.

MC 135519 Sub 5, Anthony G. Ayala, DBA Queen City Trucking, now assigned July 23, 1975, at Seattle, Wash., will be held in Room 846, Federal Building, 915 2nd Avenue.

MC 52858 Sub 112, Convoy Company, now assigned July 28, 1975, at Anchorage, Alaska, will be held in the Anchorage Holiday Inn, 239 West 4th Avenue.

[SEAL] JOSEPH M. HARRINGTON,
Secretary.

[FR Doc.75-15597 Filed 6-13-75;8:45 am]

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PART II

DEPARTMENT OF LABOR

Office of the Secretary of Labor

■

SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM

DEPARTMENT OF LABOR

Office of the Secretary of Labor

[29 CFR Part 89]

SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM

Notice of Proposed Rulemaking

Pursuant to section 902(b) (2) of Title IX of the Older Amercians Comprehensive Services Amendments of 1973 (Pub. L. 93-29, 87 Stat. 62), the Department of Labor published regulations in the FEDERAL REGISTER (39 FR 20452) on Monday, June 10, 1974, to implement the Senior Community Service Employment Program. Because of severe time constraints, these regulations were codified as Part 89, Title 29 of the Code of Federal Regulations without prior issuance as a proposed rulemaking document. It is the policy of the Department of Labor to invite and receive comments from interested persons concerning codified documents published without prior public notification. Accordingly, interested persons were invited to submit comments to the Department with regard to the new Part 89.

A number of comments were received and evaluated by the Department pursuant to this invitation. Numerous recommendations for the improvement of these regulations were also generated within the Department since their publication. As a result of the comments and recommendations, it has been determined advisable to revise Part 89 with respect to format, section numbering, and several areas of substantive content. This determination was reached in view of the need to improve the regulations in terms of clarity, thoroughness, and precision of meaning. In addition to correcting editorial shortcomings, a need was also noted to revise many stated requirements and procedures related to the award of Federal funds, project operations, and project administration.

The priority consideration reserved for grant applications submitted by State and local agencies which have been awarded grants under the Comprehensive Employment and Training Act of 1973 as now provided by § 89.7(b) will be eliminated. This action is being taken in response to Congressional intent that the program be implemented primarily through the national contracts approach.

The $3.00 per hour limitation on enrollee wages as now provided by § 89.28 (c) will be changed to a prevailing wage limitation in the new § 89.32. This action is being taken to prevent inequity where an enrollee performs work assignments for which wages are usually higher than $3.00 per hour.

The enrollee eligibility criteria now stated in § 89.16 will be clarified and made more precise in the new § 89.19. This action is being taken to provide more detailed and specific guidance to project sponsor organizations in determining the eligibility of applicants for enrollment under a project.

The enrollment priorities now stated in § 89.17 will be revised in the new § 89.20, which gives priority to persons who apply for re-enrollment under extenuating circumstances, disabled veterans, persons in the most aggravated economic distress, and persons 60 years old or older. This action is being taken to provide project sponsor organizations with more detailed and specific guidance in selecting eligible persons for enrollment.

The limitation of 16 hours per month on reimbursable enrollee training time as now provided by § 89.22(b) will be eliminated in the new § 89.26. This action is being taken in recognition that enrollees who are given technical or paraprofessional work assignments may require more extensive training than can be accomplished in 16 hours per month.

A section concerning the hiring of temporary enrollees will be added as the new § 89.34. This action is being taken to specifically authorize project sponsor organizations to enroll persons over and above their planned slot levels in order to effectively use project funds which might otherwise remain unspent.

Subpart E, now entitled Contract Administration, will be retitled Administrative Standards for Project Agreements with Public and Private Institutions of Higher Education, Public and Private Hospitals, and Other Public and Private Nonprofit Organizations. The new Subpart E will contain and reflect administrative guidelines recently proposed by the General Services Administration with respect to organizations of this type.

This proposed rulemaking document should be considered as a complete revision of Part 89, which bears review in depth. Interested persons may participate in this proposed rulemaking process by submitting written data, views, and arguments pertaining to the proposed revision of Part 89 to the Assistant Secretary for Manpower, United States Department of Labor, 601 D Street, NW., Washington, D.C. 20213. Attention: Associate Manpower Administrator for Manpower Development Programs, Room 6000. Comments received on or before July 14, 1975, will be considered before final action is taken on this proposal. Copies of all written comments received will be available for examination by interested persons in room 6402, Patrick Henry Building, 6th and D Streets NW., Washington, D.C. The proposal may be changed in light of the comments received.

In consideration of the foregoing, it is proposed to amend Title 29 by revising Part 89 to read as follows:

PART 89—SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM

Subpart A—General

Subpart B—Award of Federal Funds

Subpart C—Project Operations

Subpart D—Administrative Requirements for Project Grants to State and Local Governments

Subpart E—Administrative Standards for Project Agreements With Public and Private Institutions of Higher Education, Public and Private Hospitals, and Other Public and Private Nonprofit Organizations

Subpart F—Interagency Agreements

Subpart G—Assessment and Evaluation

Sec.
89.96 General.
89.97 Responsibilities of the Secretary.
89.98 Limitation.

Subpart H—Consultation With Other Agencies

89.99 Consultation.

AUTHORITY: Pub. L. 93-29, sec. 902(b)(2); 87 Stat. 62; 42 U.S.C. 3061.

Subpart A—General

§ 89.1 Scope and purpose.

(a) This Part 89 contains the regulations of the Department of Labor for the Senior Community Service Employment Program which is authorized under the Older American Community Service Employment Act, Title IX of the Older Americans Comprehensive Services Amendments of 1973. The Senior Community Service Employment Program is designed to provide, foster, and promote useful part-time work opportunities in community service activities for economically disadvantaged persons who are 55 years old or older.

(b) Statutory authority for the regulations contained in this part is found in Section 902(b)(2) of Title IX of the Older Americans Comprehensive Services Amendments of 1973, Pub. L. 93-29; 42 U.S.C. 3061.

§ 89.2 Allotment of funds.

(a) The Secretary shall allot funds for projects in each State in accordance with the distribution formula contained in section 906(a) of the Act.

(b) As the number of persons aged 55 or older in each State must be considered in allotting funds to the States, the Secretary shall use the appropriate population figures contained in the most recent census reports published or prepared by the U.S. Department of Commerce.

(c) The Secretary may adjust the allotment to a State only as permitted by section 906(b) of the Act.

(d) The amount allotted for projects within a State shall be apportioned among areas within the State in an equitable manner, taking into consideration the proportion which eligible persons in each area bears to the total number of such persons in that State and taking into consideration the relative distribution of eligible individuals residing in rural and urban areas within the State.

§ 89.3 Definitions.

The following definitions consistent with section 907 of the Act apply to all sections of this part:

"Act" means the Older American Community Service Employment Act of 1973, Title IX of the Older Americans Comprehensive Services Amendments of 1973, Pub. L. 93-29.

"Annual family income" means the annual sum of money received by a family which is to be computed in accordance with procedures established by the Department.

"Cash welfare payment" means any regular cash payment provided to a family under Aid to Families with Dependent Children, Supplementary Security Income, or any other regular cash payments provided by a State or local governmental welfare agency.

"Community service" means social, health, welfare, educational, library, recreational, and other similar services; conservation, maintenance or restoration of natural resources; community betterment or beautification; antipollution and environmental quality efforts; economic development; and other types of services which the Secretary may include in a project agreement. It excludes building and highway construction work (except that which is normally performed by the project sponsor) and work which inures primarily to the benefit of a private profit-making organization.

"Department" means the United States Department of Labor and includes each of its operating agencies and other organizational units.

"Economically disadvantaged person" means a person who is a member of a family which receives regular cash welfare payments or whose annual income in relation to family size does not exceed the poverty level determined in accordance with criteria established and updated by the U.S. Office of Management and Budget.

"Enrollee" means an individual who is eligible, receives services, and is employed under a project.

"Eligible organization" means an organization which is legally capable of receiving and using Federal funds under the Act and entering into a project agreement with the Secretary. Eligible organizations are limited to:

(a) States and agencies of a State;

(b) Units of local government and their agencies;

(c) Public and private nonprofit agencies and organizations other than political parties;

(d) Federal establishments and agencies; and

(e) Indian tribes on Federal or State reservations.

"Host agency" means a public agency or private nonprofit organization (excluding political parties) other than a project sponsor or subproject sponsor, which provides a work-site and work supervision for project enrollees.

"Indian tribe" means a tribe, band, or group of American Indians or Alaskan natives identified on the basis of historical, geographical or cultural characteristics, or subpart of such a tribe, band, or group.

"Local government" means a local unit of government including specifically a county, municipality, city, town, township, local public authority, special district, intrastate district, council of governments, sponsor group representative organization, and other regional or interstate government entity, or any agency or instrumentality of a local government except institutions of higher education, hospitals, and school districts.

"Project" means an undertaking by a project sponsor pursuant to a project agreement between the Secretary and the project sponsor which provides for the employment of eligible individuals and the delivery of associated services.

"Project agreement" means a legally binding agreement in document form which is a grant, contract, or other form of agreement entered into between the Secretary and an eligible organization and which awards Federal funds and provides for authorized activities under the Act.

"Project sponsor" means an eligible organization which has entered into a project agreement with the Department.

"State" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and, for the purposes of Subpart D, includes any agency or instrumentality of a State, exclusive of institutions of higher education and hospitals.

"Subproject" means a separately identifiable portion of a project which involves the enrollment and employment of eligible individuals and the general administrative and supervisory functions associated therewith.

"Subproject agreement" means an agreement entered into between a project sponsor and an eligible organization which provides for the transfer of Federal funds to the eligible organization for the purpose of carrying out a subproject.

"Subproject sponsor" means an eligible organization which has entered into a subproject agreement with a project sponsor.

Subpart B—Award of Federal Funds

§ 89.5 General.

(a) The Secretary may make such grants, contracts, or other agreements to provide for the award of Federal funds to eligible organizations as may be necessary to carry out the purposes of the Act.

(b) Each grant, contract, or other agreement shall be developed and executed in accordance with the provisions of this Subpart B.

§ 89.6 Soliciting applications for Federal funds.

(a) The Secretary may, at any time, solicit or request eligible organizations to submit application for funds. The Secretary may limit solicitation to organizations which he determines have special or unique capabilities to undertake a project or which, under the statute, must receive special consideration in the award process.

(b) A solicitation for an application is not an assurance or commitment from the Department that an application will be approved for funding.

(c) In soliciting applications, the Secretary will specify program requirements to which the proposal or application must assure adherence as a condition for approval or acceptance. These specifications may include, but are not limited to:

(1) The performance period of the project;

(2) The amount of Federal funds to be awarded, including when necessary a State-by-State breakdown of the total amount;

(3) The minimum required sponsor contribution to the costs of the project; and

(4) Performance goals such as the number of enrollment positions to be established, the date by which all or nearly all enrollment positions are to be filled, and the number of unsubsidized placements to be achieved.

§ 89.7 Application format and content.

(a) When the applicant is a State or unit of local government, exclusive of institutions of higher education and hospitals, the application shall follow the format prescribed in Federal Management Circular (FMC) 74-7, Attachment M.

(b) When the applicant is an organization other than those described in paragraph (a) of this section, the application shall be prepared in the format prescribed by the Department.

(c) As a condition for approval an application for funds must indicate or contain the following:

(1) The performance period of the project;

(2) A project budget for both the Department's share and the sponsor's share which accounts for administrative costs, enrollee wages, enrollee fringe benefits, enrollee transportation costs, and other enrollee costs;

(3) A description of objectives and need for the project;

(4) A description of the results or benefits to be derived from the project, including benefits which will accrue to project enrollees and benefits which will accrue generally to the community or communities in which the project is to operate;

(5) A description of operational methods, arrangements, or procedures to be used for providing enrollee:

(i) Recruitment and selection;

(ii) Physical examinations;

(iii) Orientation;

(iv) Assessment;

(v) Pre-job training;

(vi) Placement into subsidized jobs;

(vii) Training for those placed into subsidized employment;

(viii) Supportive services;

(ix) Transportation;

(x) Placement into unsubsidized employment including follow-up; and

(xi) Due process for resolving issues which might arise between an enrollment applicant or enrollee and the project sponsor;

(6) Quantitative performance goals including;

(i) The number of enrollment positions to be established;

(ii) The date by which all, or nearly all, enrollment positions are expected to be filled; and

(iii) The number of unsubsidized placements to be achieved;

(7) A description of the steps to be taken by the project sponsor to evaluate project performance in light of anticipated results and benefits;

(8) A description of how the project sponsor will establish cooperative relationships, liaison, and working linkages with other manpower programs and agencies, with agencies concerned with or experienced in problems of aging, and, if any, with other types of organizations;

(9) A description of and justification for any project activity to be carried out under subproject agreement;

(10) The specific geographic location or locations of project activity including, in cases of multi-State projects, a State-by-State breakout as to funds budgeted and enrollment positions planned;

(11) The project staff structure, including brief position descriptions for nonsecretarial and nonclerical staff;

(12) A description of the arrangements or agreements made with any labor organization which is necessarily concerned with the project; and

(13) When the applicant is an organization other than a State or unit of local government, a description of the general structure of the organization and a certified statement by a Certified Public Accountant attesting to the adequacy of the applicant's financial management system.

§ 89.8 Submitting an application.

(a) Before preparing and submitting an unsolicited application, eligible organizations are strongly encouraged to contact the Department for information concerning the availability of funds and the specific procedures involved in the preparation and submission of an application. In this regard, interested parties should contact:

Associate Manpower Administrator for Manpower Development Programs
Room 6000, Patrick Henry Building
601 D Street, NW.
Washington, D.C. 20213

(b) The Senior Community Service Employment Program is covered by the project notification and review procedures set forth in Office of Management and Budget (OMB) Circular A-95, Part I.

(1) Applicants must provide adequate and timely notification of intent to apply to the appropriate State and areawide planning and development clearinghouses.

(2) Applicants must provide the appropriate State or areawide clearinghouse a copy of the completed application if the clearinghouse so requests.

(3) Applicants must include with the completed application when it is submitted to the Department:

(i) Any comments and recommendations made by or through clearinghouses along with a statement that the comments were considered prior to submission of the application, or

(ii) A statement that proper notification procedures were followed and that no comments were received.

(c) An eligible organization may submit an application to the Department at any time. The application, along with the comments and statements required by paragraph (b) of this section, should be forwarded to the Associate Manpower Administrator for Manpower Development Programs whose address is given in paragraph (a) of this section.

§ 89.9 Review.

(a) The Secretary will review and consider for approval each application which is submitted by an eligible organization. This includes both solicited and unsolicited applications.

(b) In reviewing and considering an application, the Secretary will determine whether:

(1) Funds are available for the proposed project;

(2) The application assures compliance with the requirements of the Act, the regulations promulgated under the Act, and other applicable law;

(3) The application is complete and has been prepared in accordance with the instructions of the Department;

(4) The appropriate State and areawide planning and development clearinghouses have been adequately notified of the application;

(5) Any comment received by or through a clearinghouse evidences noncompliance with the Act, the regulations promulgated under the Act, or other applicable law on the part of the applicant; and

(6) The application assures an effective use of funds consistent with the statute.

§ 89.10 Rejection.

(a) When the review of an application reveals that it is not approvable, the Secretary will notify the applicant in writing that the application is rejected. This notification will include the reason or reasons for rejection.

(b) The rejection of a proposal or application is a final act and is not subject to further administrative review.

(c) A rejection will not prejudice or affect the review and consideration of any future application submitted by an eligible organization.

(d) The Department will notify the appropriate State and areawide planning and development clearinghouses of a rejection.

§ 89.11 Negotiation.

(a) When the review of an application reveals that it is generally adequate, the Secretary may negotiate with the eligible organization to arrive at a project agreement. The subjects of negotiation may include, but are not limited to:

(1) Project components;

(2) Subproject sponsors;

(3) Funding level, including budget line items; and

(4) Performance goals.

(b) The Secretary may reject any proposed project component described in the application if he determines that the component will not serve the purposes of the Act.

(c) The Secretary may, if negotiation does not produce a mutually acceptable conclusion, reject the application. In this event, the Secretary will provide written notification in accordance with § 89.10.

§ 89.12 Award.

(a) The Secretary may, if an application assures an agreement which is advantageous, approve the application and award funds without negotiation.

(b) The Secretary may also approve an application as revised during negotiation.

(c) Award of funds will be accomplished through the execution of a legally binding agreement in document form. The document, which will be prepared by the Department, will contain:

(1) The application as approved by the Secretary; and

(2) Department of Labor requirements for project administration.

(d) When the project sponsor is a unit of State or local government, the Secretary shall use a grant agreement to implement the project and award funds.

(e) When the project sponsor is a nonprofit organization, public or private, other than a unit of State or local government, the Secretary shall use a grant agreement or a contract, whichever is appropriate, to implement the project and award funds. Determination as to the most appropriate of these two legal instruments shall be based, in each case, upon the following general criteria:

(1) The contract is the appropriate instrument when the Department has a need to exercise considerable direction and control over the project.

(2) The grant is the appropriate instrument when the Department does not need to exercise considerable direction and control over the project.

(f) When the project sponsor is a unit of the Federal Government other than the Department of Labor, the Secretary shall use an interagency agreement, which will be in document form, to implement the project and award Federal funds.

(g) The Department will notify the appropriate State and areawide planning and development clearinghouses of funding award actions.

Subpart C—Project Operations

§ 89.15 General.

(a) This Subpart C states the basic guidelines and standards which shall be followed and enforced in the operation of projects under the Act. Adherence to the requirements of this subpart is a condition for the use of funds provided under the Act.

(b) The basic design of a project, as outlined in these guidelines and standards, is intended to provide a two-fold benefit.

(1) *Benefits accruing to eligible persons who enroll in a project.* The persons to be served and enrolled by projects are economically disadvantaged individuals who are 55 years old or older. The basic thrust of a project shall be to provide these individuals with the general benefits resulting from subsidized part-time employment and a moderate level of related supportive services. Specifically, the benefits and services to be provided enrollees are:

(i) Wages;

(ii) The restorative experience of community service work;

(iii) A renewed sense of personal value arising from involvement with the community and the mainstream of life generally;

(iv) The acquisition or revitalization of specific job skills through limited pre-job training and continued training on-the-job;

(v) The upgrading of jobseeking skills;

(vi) Yearly physical examination;

(vii) Assistance with personal and job-related problems through counseling and referral to capable human service agencies;

(viii) Provision of important consumer related information in areas such as Social Security benefits, income tax requirements, nutrition, personal health, and so forth; and

(ix) In some cases, placement into the regular, competitive labor market.

(2) *Benefits to communities.* Projects shall also provide the community or communities in which they operate with a Federally subsidized pool of manpower which can be drawn upon to upgrade existing human services or to establish new ones. It is not intended that this pool of manpower be used to displace already employed workers, to provide services or perform work assignments which inure mainly to the benefit of private, profit-making organizations, or to construct highways. Projects shall enable communities to enhance or establish human service activities which could not normally be enhanced or established through existing local resources.

§ 89.16 Basic responsibilities of the project sponsor.

The Department will hold the project sponsor responsible for:

(a) Following and enforcing the requirements set forth in the Act, regulations promulgated under the Act, and all other applicable laws;

(b) Implementing and carrying out the project in accordance with the terms and provisions of the project agreement; and

(c) Assuring that, to the extent feasible, the project enrolls and serves minority, Indian, and limited English-speaking eligible individuals in proportion to their numbers within the geographical jurisdiction of the project.

§ 89.17 Cooperative relationships.

Each project sponsor shall, to the maximum extent feasible, establish and maintain cooperative relationships and working linkages with:

(a) Other manpower and manpower related agencies and, in particular, with agencies operating programs through the Department, including State employment security agencies and prime sponsors under title I of the Comprehensive Employment and Training Act of 1973 (Pub. L. 93-203); and

(b) State and area agencies on aging and with other programs and projects being conducted under the various titles of the Older Americans Act.

§ 89.18 Recruitment and selection.

Project sponsors shall recruit and select eligible individuals in sufficient numbers for enrollment under the project. All enrollment vacancies shall be listed with the appropriate State employment security agency. Recruitment efforts shall ensure that enrollment positions within the project are occupied to the fullest possible extent.

§ 89.19 Eligibility for enrollment in a project.

(a) *General.* The eligibility criteria set forth in this section shall be followed by project sponsors in determining the eligibility of persons for enrollment in the project. These criteria apply to:

(1) Individuals who apply for enrollment in a project and who have not previously been enrolled in the project;

(2) Individuals who apply for re-enrollment in a project and whose last previous enrollment was terminated for reasons other than extended illness or placement into unsubsidized employment;

(3) Individuals who apply for re-enrollment in a project and whose last previous enrollment was terminated for reasons of extended illness or placement into unsubsidized employment; and

(4) Individuals actually enrolled in a project.

(b) *Criteria.* The eligibility criteria relate to age, physical and mental capacity, and economic status. The criteria pertaining to age and physical and mental capacity apply to all determinations of eligibility. There are, however, two different criteria which pertain to economic status; and the appropriate criterion must be applied to each situation.

(1) *Age.* To be eligible for enrollment in a project, an individual must be 55 years old or older. No person may be determined ineligible solely for reasons of advanced age, and no upper-age limitation may be used.

(2) *Physical and mental capacity.* To be eligible, an individual must be physically and mentally capable of performing part-time employment duties. Project sponsors are cautioned, however, that unfavorable determinations in this area are to be made with utmost care, since project sponsors may structure employment positions under a project to fit the physical and mental capabilities of the individual enrollees. Unfavorable determinations in this area must be documented to the fullest extent possible with objective material.

(3) *Economic status.* There are two criteria which pertain to the economic status of the individual. The less rigorous criterion (as described in paragraph (b)(3)(ii) of this section) applies to individuals who are actually enrolled in a project and to individuals who apply for re-enrollment under certain extenuating circumstances. The reason for applying a less rigorous criterion to individuals actually enrolled is to prevent a situation in which an individual would be fired merely because his or her non-project income has risen slightly. Also, individuals who seek re-enrollment after being forced to quit because of extended illness must be treated on a basis equal to individuals actually enrolled. Similarly, equal treatment must be accorded to former enrollees who were placed into unsubsidized employment from a project

and were subsequently terminated from that employment, since individuals are encouraged by projects to accept unsubsidized employment.

(i) *Regular economic status criterion.* Applicants for enrollment in a project who have not previously been enrolled in the project and applicants for re-enrollment in a project whose last previous enrollment was terminated for reasons other than extended illness or placement into unsubsidized employment must be economically disadvantaged as defined in § 89.3.

(ii) *Special economic status criterion.* Applicants for re-enrollment in a project whose last previous enrollment was terminated for reasons of extended illness or placement into unsubsidized employment and individuals actually enrolled in a project must be either:

(A) Members of a family which receives regular cash welfare payments; or

(B) Members of a family whose annual income does not exceed by more than $500 the poverty level determined in accordance with criteria established and updated by the U.S. Office of Management and Budget.

(4) *Employment status—no requirement.* An individual's employment status does not bear on his or her enrollment eligibility. If the individual is employed at the time the eligibility determination is made, but such employment does not provide the family with an economic status above the applicable level set forth in this section, the employment is deemed insufficient for the family's economic needs.

(5) *No additional criteria.* Project sponsors and their agents may not impose any additional condition or requirement for enrollment eligibility.

(c) *Special responsibilities of the project sponsor.*

(1) Project sponsors shall obtain the personal information necessary for a proper determination of eligibility for each individual.

(i) The information, which shall be obtained primarily through personal interview, shall be recorded on an adequate client intake or application form.

(ii) The information shall be authenticated by the dated signature of the individual on the client intake or application form. Although project sponsors are responsible for assuring that the required personal information reported by individuals appears reasonably reliable and consistent, project sponsors need not conduct investigations of any individual being considered to ascertain the veracity of the information.

(2) With respect to individuals enrolled in a project, the Department may, from time to time, require the project sponsor to update personal records to indicate the individual's current family income, exclusive of wages earned under the project to determine the eligibility of individuals for continuing enrollment. In such cases, the project sponsor shall require each enrollee to sign and date a written statement which indicates his current annual family income and whether or not the family is receiving regular cash welfare payments. Enrollees who are consequently determined to be ineligible for continued enrollment shall be given one month's notice by the project sponsor that their enrollment is to be terminated.

(3) Project sponsors shall record each determination (preferably on the same form used for client intake or application purposes in cases of prospective enrollees and on an adequate termination form in cases of actual enrollees) by indicating the date, the name and title of the project official who made the determination (with the official's written initials), and the grounds for any unfavorable determination.

(4) If at any time the project sponsor discovers that an individual was incorrectly determined to be eligible as a direct result of false information from that individual, the individual's enrollment shall be terminated immediately.

(5) In cases where an individual was incorrectly determined to be eligible through no fault of his own, the project sponsor shall, when such error is discovered, provide the individual with one month's notice that his enrollment is to be terminated. Similarly, if the project sponsor discovers at any time that an enrollee has received an increment in outside income which is sufficient to make the individual ineligible for continuing enrollment, the project shall provide the individual with one month's notice that his enrollment is to be terminated.

(6) When unfavorable determinations of eligibility are made, the project sponsor shall explain to the individual the reason or reasons for the determination. The project sponsor shall inform each individual affected by an unfavorable determination that he or she may appeal the determination pursuant to § 89.31.

(7) When an unfavorable determination of eligibility is made, the project sponsor shall ensure that the individual receives such assistance, short of enrollment in the project, as the project is able to provide. This may include, but is not limited to, referral to a potential unsubsidized employment position, referral to a more appropriate manpower program, referral to the local office of the State employment security agency, and referral to any other local agency which may be capable of assisting the individual.

§ 89.20 Enrollment priorities.

(a) In selecting eligible individuals for entry into the project, the priorities described below shall be observed. The priorities are listed in order of precedence.

(1) *First.* Priority shall be given to individuals who are applying for re-enrollment in the project and whose last previous enrollment was terminated for reasons of extended illness or placement into unsubsidized employment and to individuals who are disabled veterans, i.e., persons entitled to disability compensation under the laws administered by the Veterans' Administration whose discharge or release from active duty was for disability incurred or aggravated in the line of duty.

(2) *Second.* Priority shall be given to individuals who are the most economically disadvantaged. In determining the severity of an individual's economic situation, project officials responsible for selecting enrollees may consider: The extent to which the individual's annual family income is below the poverty level; the urgency of the family's immediate economic needs including, but not limited to, needed income for subsistence, housing, and medical expenses; and the extent to which financial assistance is being provided to the family from other programs and welfare sources.

(3) *Third.* Priority shall be given to individuals who are 60 years old or older.

(4) *Additional priorities.* Program sponsors may establish additional or supplementary priorities only with the prior written approval of the Department of Labor Contract/Grant Officer. Any additional or supplementary priorities may not, however, take precedence over the priorities listed above.

(b) *Conversion to permanent enrollment status.* The priorities established in paragraph (a) of this section do not apply to the conversion of temporary enrollees to permanent enrollment status. Temporary enrollees must be given first consideration for enrollment on a "permanent" basis whenever a "permanent" position becomes available. Selection for conversion to permanent status must be based solely on the earliest selection for temporary enrollment, i.e., temporary enrollees with the most seniority shall be selected for conversion first. However, selection among eligible individuals for enrollment on a temporary basis shall be made in accordance with the priorities described in paragraph (a) of this section.

§ 89.21 Physical examinations.

(a) Each individual selected for enrollment shall undergo a physical examination prior to taking part in the employment activities under the project.

(b) Each individual enrolled shall undergo a physical examination at least once each year while enrolled in the project.

(c) Project sponsors are encouraged to obtain these medical services through locally available resources at no cost or reduced cost to the project. However, the costs of such examinations are an allowable fringe benefit for individuals enrolled in a project.

§ 89.22 Orientation.

Each individual enrolled in a project shall, as soon as practicable, receive a formal orientation to the project. The orientation shall provide the new enrollee with information about the project related to:

(a) Project objectives;

(b) available employment opportunities and work assignments;

(c) available training;

(d) available supportive services;

(e) the responsibilities of enrollees; and

(f) the rights and privileges of enrollees.

§ 89.23 Assessment.

Project sponsors shall assess each new enrollee to determine the most suitable, available, part-time community service job for the individual. The assessment, which shall be made in consultation with the new enrollee, should consider the individual's job preferences, work history, skills and aptitudes. Every reasonable attempt should be made to decide upon a job position which will be personally rewarding and will provide the individual with an opportunity to make the most effective use of his or her skills and aptitudes.

§ 89.24 Pre-job training.

(a) Project sponsors may provide new enrollees with job-related training prior to and as preparation for their actual placement into productive, subsidized community service work under the project. This training may be delivered through lectures, seminars, classroom instruction, or other arrangements. Project sponsors are encouraged to obtain training services through locally available resources at no cost or reduced cost to the project.

(b) Pre-job training, combined with time spent in orientation, shall be completed by the 4th week of the individual's enrollment, except when extended periods are specifically authorized in the project agreement or authorized in writing by the Department of Labor Contract/Grant Officer.

(c) Time spent by enrollees in orientation and pre-job training shall be considered as employment under the project and shall be reimbursed at the Federal or State minimum wage, whichever is higher.

§ 89.25 Subsidized employment.

(a) *Placement.* As soon as possible after the completion of an enrollee's orientation and pre-job training (if any), the project sponsor shall place the enrollee into a subsidized, part-time community service job. If possible, however, the project sponsor should place any recent enrollee in an unsubsidized job. Subsidized jobs may be:

(1) Positions which have been established and which are supervised by the project sponsor or his agent directly; or

(2) Positions which have been established by or in consultation with a qualifying host agency and which are supervised by the host agency.

(b) *Hours of work.* (1) Subsidized employment positions under a project may not provide for more than 1300 hours of work annually.

(2) Subsidized employment positions under a project may not provide for more than 30 hours of work in a given week.

(3) Project sponsors may not require any enrollee to work more than 24 hours in a given week.

(4) Unless shorter periods are specifically authorized by the project agreement or in writing by the Department of Labor Contract/Grant Officer, project sponsors shall offer each enrollee an opportunity to work an average of at least 20 hours per week. However, if it is mutually agreeable to the enrollee and the project sponsor, an enrollee may work an average of less than 20 hours per week.

(5) The project sponsor shall, to the extent possible, ensure that enrollees work during normal business hours if they so desire.

(c) *Location.* Enrollees shall be employed at worksites in or near the communities in which they reside.

(d) *Work assignments.* (1) Acceptable work assignments for enrollees are those which contribute to the general welfare of the community. Enrollees may be employed in projects or at facilities which involve community services such as social, health, welfare, education, library, recreational, and other similar services; conservation, maintenance or restoration of natural resources; community betterment or beautification; anti-pollution and environmental quality efforts; economic development; and other services which are essential and necessary to the community; except that (i) enrollees may not be employed in projects involving the construction, operation or maintenance of any facility used as a place for sectarian religious instruction or worship, and (ii) enrollees may not be assigned work involving building and construction of highways or to work which inures primarily to the benefit of private, profit-making organizations.

(2) Project sponsors shall give special and demonstrable emphasis to work assignments which involve activities delivering direct services to the low-income elderly and the elderly in general and which deliver direct services to the economically disadvantaged. Furthermore, project sponsors shall, to the extent feasible, give qualified enrollees consideration for work assignments involving the administration of the project.

(e) *Supervision.* Project sponsor shall ensure that enrollees receive adequate orientation and instruction from their worksite supervisors with regard to job responsibilities and duties and job safety. Project sponsors shall ensure that enrollees receive the jobsite supervision necessary for productive, effective work. Where an enrollee has been assigned to a host agency, the project sponsor or his agent shall make frequent visits to the enrollee's jobsite to determine if host agency supervision is adequate and if the enrollee's job duties and hours are in accord with the requirements of this section. The enrollee's work performance shall also be discussed with host agency supervisors to determine if there are any problem areas which the project sponsor might be able to assist in resolving.

§ 89.26 Training after placement.

(a) Project sponsors are encouraged to provide enrollees with continued training after they have been placed into productive, part-time community service work under the project. This training, when it is conducted, should be concerned mainly with teaching and upgrading job skills so that enrollees are enabled to make the most effective use of their talents and abilities. It may also be concerned with teaching of jobseeking skills in preparation for unsubsidized employment and with providing the enrollees with important consumer information in such areas as Social Security benefits, personal health, nutrition, tax requirements, and retirement laws. Such training may be delivered through lectures, seminars, classroom instruction, or through other arrangements. Project sponsors are encouraged to seek and obtain such training services through locally available resources at no cost or reduced cost to the project.

(b) Training shall be conducted during normal working hours or in lieu of normal working hours. Time spent by an enrollee in training shall be considered as employment under the project and shall be reimbursed at the individual's established rate of pay.

(C) The amount of time spent by an enrollee in training shall be reasonable and consistent in light of the enrollee's work assignment. It is recognized that certain work assignments, such as those of a paraprofessional character, may require considerable and continuous training or technical instruction. For this reason, no arbitrary time limitations for "post-placement" training is imposed on individual enrollees. However, project sponsors should not schedule yearly wage-reimbursable training for their enrolees which exceeds, in the aggregate, 20 percent of the total enrollee manhours to be worked during that year.

§ 89.27 Enrollee supportive services.

(a) Project sponsors shall provide job-related and personal counseling to enrollees to assist them in resolving problems which might adversely affect their successful participation. This assistance shall be offered willingly to enrollees and shall, as a minimum, provide knowledgeable referral to capable, local service agencies.

(b) If not available from local resources, project sponsors may provide enrollees with incidentals necessary for their successful participation, such as: work shoes, badges, uniforms, safety and eye glasses, and tools.

§ 89.28 Enrollee transportation.

(a) Project sponsors may make arrangements and expend project funds for the transportation of enrollees, provided the transportation is either accomplished in the direct performance of employment or employment-related activities or is accomplished from central pick-up points to worksites in cases where public transportation is inadequate. Project sponsors are encouraged to seek and obtain transportation services for enrollees from local resources at no cost or reduced cost to the project.

(b) When enrollee transportation is accomplished by privately-owned automobile, reimbursement shall be made at the mileage rate currently in effect for Department of Labor staff.

§ 89.29 Placement into unsubsidized employment.

(a) Project sponsors shall work to place enrollees into unsubsidized employment in private or public sector jobs, thereby creating opportunities for

additional persons to enroll in and benefit from the project.

(b) The number of enrollees placed annually from a project should equal at least 10 percent of the number of enrollment positions provided by the project.

(c) In pursuing this goal, project sponsors are encouraged to:

(1) Seek the assistance of the local office of the State employment security agency in identifying suitable, unsubsidized job openings and other forms of job-related assistance the agency is capable of providing;

(2) Seek the assistance of other local manpower agencies, including prime sponsors under the Comprehensive Employment and Training Act, in identifying job openings or training opportunities;

(3) Prevail upon host agencies to accept qualified enrollees into their regular, unsubsidized work force; and

(4) Contact public and private employers directly to identify suitable job openings.

(d) Project sponsors shall follow-up on enrollees who are placed into unsubsidized employment or into a job-training program. As a minimum, follow-up shall be accomplished and documented in the first month after placement and once enrollee is subsequently discovered to be again in the sixth month. If the former unemployed, the project sponsor shall grant him or her special consideration, as provided by § 89.20, for re-enrollment in the project.

§ 89.30 Duration of enrollment.

No time limitation on enrollment may be established or used within any project.

§ 89.31 Adverse actions against enrollees.

Each project sponsor shall establish procedures for resolving any issue arising between it and an enrollee or an enrollment applicant. Such proedures shall include an opportunity for an informal conference and a prompt determination of the issue. Such procedures shall also include a notice setting forth the grounds for any adverse action proposed to be taken against an enrollee by the project sponsor and giving the enrollee an opportunity to respond. If an issue cannot be resolved, the enrollee or enrollment applicant may request a review of the issue by the Department.

§ 89.32 Enrollee wages.

(a) While engaged in orientation or pre-placement training, enrollees shall be paid the Federal or State minimum wage, whichever is higher.

(b) Upon placement into productive, part-time, community service work under the project, enrollees shall receive wages at a rate no less than the highest of the following:

(1) The minimum wage which would be applicable to the employee under the Fair Labor Standards Act of 1938, if section 6(a)(1) of the Act applied to the participant and if he were not exempt under section 13 thereof; or

(2) The State or local minimum wage for the most nearly comparable covered employment.

(c) Except as provided by paragraph (b) of this section, enrollees shall be paid at the prevailing rate of pay for persons employed in similar public or community service occupations by the project sponsor, the subproject sponsor, or the host agency as appropriate.

(d) Project sponsors may not use Federal funds to compensate enrollees for more than 1,300 hours of work, including orientation and training, in any 12-month period.

§ 89.33 Enrollee fringe benefits.

Projects shall establish a single, uniform package of fringe benefits for enrollees employed under the project in accordance with the following guidelines.

(a) The following fringe benefits shall be provided to enrollees employed under a project:

(1) All fringe benefits required by law;

(2) Where enrollees are not covered by the State Worker's Compensation Law, the project sponsor shall provide either through insurance by a recognized, or by self-insurance as allowed by State law, that enrollees enjoy worker's compensation coverage equal to that provided by law for covered employment;

(3) The project sponsor shall assure that enrollees in positions which are covered by the State Unemployment Insurance laws participate in the State Unemployment Insurance program. In the event that the services of enrollees are not covered by the State Unemployment Insurance laws, the project sponsor shall be responsible for providing from project funds a system of severance benefits for enrollees unemployed after participation in the project. This system shall provide severance benefits equivalent to the unemployment insurance to which the enrollees would be entitled had their services for the project sponsor been covered by the State Unemployment Insurance laws; and

(4) Physical examinations as required by § 89.21 of this part.

(b) The following fringe benefits will be allowable provided they are administered uniformly to all enrollees within a project or subproject and conform to the established policy of the project sponsor or subproject sponsor for regular employees:

(1) Annual leave;

(2) Sick leave;

(3) Holidays;

(4) Health insurance; and

(5) Any other fringe benefit provided pursuant to the established policy of the project sponsor or subproject sponsor for regular employees, except as limited by paragraph (c) of this section.

(c) Expenditures into a retirement fund for enrollees under the Act may be made only under one of the following conditions:

(1) Payments are for retirement benefits that are part of a consolidated package, including such benefits as health insurance and worker's compensation, if separation of the benefits is not allowed; or

(2) Payments are for enrollees whom the project sponsor or subproject sponsor intends to hire into a permanent, unsubsidized job, provided that payments on behalf of such enrollees are made into and retained in a reserve account, and not paid into the retirement fund until the enrollee has acquired regular employee status.

§ 89.34 Temporary enrollees.

Where a portion of project funds is not being utilized as a result of enrollee absenteeism, attrition, or enrollees who voluntarily work fewer hours per week than normal, the project sponsor may use these funds during the period of the project agreement by enrolling additional eligible individuals on a temporary basis. The number of temporary enrollees may not, however, exceed 20 percent of the total number of enrollment positions established under the project agreement and payments to them may not exceed the amount of the unutilized funds available. Each person enrolled on a temporary basis shall be informed that the employment is of a temporary nature and might be terminated. Project sponsors shall give temporary enrollees first consideration, in the order of their seniority on the project, for permanent enrollment positions when they become available. Project sponsors shall exercise this flexibility judiciously to prevent large numbers of terminations at the completion of a project agreement.

§ 89.35 Working conditions for enrollees.

No enrollee may be permitted to work in buildings or surroundings or under working conditions which are unsanitary, hazardous or dangerous to his or her health or safety.

§ 89.36 Non-Federal status of enrollees.

Enrollees who are employed in any project funded under the Act are not Federal employees as a result of such employment, and are not subject to the provisions of part III of title 5, U.S.C.

§ 89.37 Nondiscrimination and equal employment opportunities.

(a) No person shall on the grounds of race, creed, color, handicap (as defined in paragraph (g) of this section), national origin, sex, political affiliation, or beliefs be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any project or activity funded in whole or in part with funds made available under the Act.

(b) When the Secretary determines that a project sponsor has failed to comply with the requirements of paragraph (a) of this section, he shall notify the project sponsor of the noncompliance and request the project sponsor to secure compliance. If the project sponsor fails or refuses to secure compliance, the Secretary may terminate financial assistance under the Act and:

(1) May refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

(2) May, if appropriate, exercise the powers and functions provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000(d)); or

(3) May take other actions as may be provided by law.

(c) When a matter under this section is referred to the Attorney General, or when the Secretary of Labor believes that a pattern or practice of discrimination exists, the Attorney General may bring a civil action in any appropriate United States District Court, including injunctive relief.

(d) The Secretary shall enforce the provisions of paragraph (a) of this section with regard to discrimination on the basis of sex in accordance with sections 602 and 603 of the Civil Rights Act of 1964.

(e) This section shall not affect any other legal remedy that a person may have if that person is excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with any project or activity receiving assistance under the Act.

(f) The project sponsor shall be responsible for assuring that no discrimination prohibited by this section occurs in any project for which it has responsibility, and shall establish an effective mechanism for this purpose.

(g) The term "handicapped individual" means any individual who (1) has a physical or mental impairment which substantially limits one or more of such person's major life activities, (2) has a record of such an impairment, or (3) is regarded as having such an impairment.

(h) Every grant or contract made pursuant to the Act shall contain a certification statement signed by the project sponsor concerning the provision of equal employment opportunity under the project agreement.

§ 89.38 Special limitations on project activities.

(a) No project under this part may involve political activities, and neither the project nor the funds provided therefore, nor the personnel employed in the administraiton of the project, shall be in any way or to any extent engaged in the conduct of political activities in contravention of Chapter 15 of Title 5, U.S.C.

(b) Participants employed by a state or local government in the administration of the program and participants whose principal employment is with a state or local government and is in connection with an activity financed by other Federal grants or loans are covered by the Hatch Act.

(c) No enrollee in any project under this part may be employed in the construction, operation, or maintenance of part of any facility which is used or which will be used for sectarian instruction or as a place of religious worship.

§ 89.39 Nepotism.

No project sponsor, subproject sponsor or host agency may hire a person into a funded position if a member of his or her immediate family is employed in an administrative capacity for the same project sponsor, subproject sponsor or host agency. However, where an applicable State or local law regarding nepotism exists which is more restrictive than this policy, the project sponsor should follow the State or local statute in lieu of this policy. For purposes of this section, the term "member of the immediate family" includes: Wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, daughter-in-law, son-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent and stepchild. The term "administrative capacity" includes those who have selection, hiring or supervisory responsibilities for project enrollees, or operational responsibility for the project.

§ 89.40 Maintenance of effort.

(a) Employment of enrollees funded under the Act shall be only in addition to employment which would otherwise be funded by the project sponsor, the sub-project sponsor, and the host agencies without assistance under the Act.

(b) Projects funded under the Act:

(1) Shall result in an increase in employment opportunities over those which would otherwise be available;

(2) May not result in the displacement of currently employed workers, including partial displacement such as a reduction in hours of non-overtime work, wages, or employment benefits;

(3) May not impair existing contracts for service or result in the substitution of Federal funds for other funds in connection with work that would otherwise be performed; and

(4) May not substitute project jobs for existing federally assisted jobs.

§ 89.41 Sponsor share of the costs of the project.

The Secretary will pay not more than 90 percent of the cost of any project which is the subject of an agreement entered into under this part, except that the Secretary is authorized to pay all of the costs of any such project which is (1) an emergency or disaster project or (2) a project located in an economically depressed area as determined in consultation with the Secretary of Commerce or with other appropriate Federal agencies.

§ 89.42 Limitations on Federal funds.

(a) No more than 15 percent of the Federal funds provided to a project sponsor under the Act may be expended for administrative costs. Administrative costs include, but are not limited to salaries, wages and fringe benefits for project administrators; costs of consumable office supplies used by project staff; costs incurred in the development, preparation, presentation, management and evaluation of the project; the costs of establishing and maintaining accounting and management information systems; cost incurred in the establishment and maintenance of advisory councils; travel of project administrators; rent, utilities, custodial services and indirect costs allowable to the project; training of staff and technical assistance to subproject sponsor staff; costs of equipment and material for use by staff; and audit services. Project sponsors may lower these costs by using enrollees in the administration of the project. In such event, wages, fringe benefits, and travel costs for such enrollees shall be charged as enrollee costs.

(b) No less than 70 percent of the Federal funds provided to a project sponsor under the Act may be expended for enrollee wages and fringe benefits. Enrollee wages are the wages paid to enrollees for their hours of employment, including orientation and pre-job training, under the project; and enrollee fringe benefits are the fringe benefits provided to enrollees for their hours of employment, including orientation and pre-job training under the project.

(c) Federal funds provided to a project sponsor under the Act which are not budgeted or expended for administrative costs, enrollee wages and enrollee fringe benefits may be budgeted and expended for enrollee transportation costs (as authorized by § 89.28) and for other enrolee costs including, but not limited to:

(1) Enrollee training costs, including costs for instructors; classroom rental; training supplies, materials, and equipment; tuition; and other costs directly attributable to the training of enrollees;

(2) The costs of special job-related or personal counseling for enrollees; and

(3) The costs of incidentals necessary for successful enrollee participation such as work shoes, badges, uniforms, safety and eyeglasses, and tools, when these items are unavailable without cost.

(d) No Federal funds provided to a project sponsor under the Act may be expended directly or indirectly for the purchase, erection, or repair of any building except for:

(1) Minor remodeling of a public building necessary to make it suitable for use by project administrators;

(2) Minor repair and rehabilitation of private residences performed in conjunction with local public housing programs intended to benefit low-income families or individuals; and

(3) Minor repair and rehabilitation of publicly used facilities performed to beautify, improve or restore the facilities to the general betterment of the community.

(e) Within the limitations stated in paragraphs (a) through (d) of this section, no Federal project funds may be expended for purposes other than those permitted by the applicable Federal cost principles.

(1) The cost principles in Subpart 1–15.7 of Title 41 of the Code of Federal Regulations apply to project sponsors which are units of State or local government.

(2) The cost principles in Subpart 1–15.3 of Title 41 of the Code of Federal Regulations apply to project sponsors which are institutions of higher education.

(3) The cost principles in Subpart 1–15.2 of Title 41 of the Code of Federal Regulations apply to project sponsors which are not units of State or local gov-

ernment or institutions of higher education.

§ 89.43 Subproject agreements.

(a) Project sponsors may award project funds and enter into agreements (subgrants, contracts, or subcontracts) with other organizations to implement subprojects only if specifically authorized to do so by the basic project agreement. A subproject is any separately identifiable portion of total project activities which involves the enrollment and employment of eligible individuals and the general supervision and management of that portion of the total project activities.

(b) Project sponsors may enter into subproject agreements only with "eligible organizations" as defined in § 89.3.

(c) Subproject agreements may not provide for project activity, including the employment of eligible individuals, past the completion date of the basic project agreement.

(d) Project sponsors shall be held directly responsible for the performance and manner of performance of all activity which they implement under subproject agreements.

Subpart D—Administrative Requirements for Project Grants to State and Local Governments

§ 89.51 General.

This Subpart D states the Department's administrative requirements, standards, and procedures for grants awarded under the Act to State and local governments. These requirements, standards, and procedures reflect those authorized and required by Federal Management Circular (FMC) 74-7. This Subpart D explicates the material contained in FMC 74-7 as it applies to State and local governments which are awarded grants under the Act. Each State and local government which is awarded a grant under the Act must conform to these administrative requirements, standards, and procedures. Hereinafter, State and local governments which are awarded a grant under the Act are referred to as "grantees."

§ 89.52 Cash depositories.

(a) Any moneys advanced to a grantee are "public moneys" (owned by the Federal Government) and must be deposited in a bank with FDIC insurance coverage; and the balances exceeding FDIC coverage must be collaterally secure, as provided for in 12 U.S.C. 265.

(b) Except as provided by paragraph (a) of this section, there are no Department of Labor requirements for the physical segregation of cash depositories for grant funds which are provided to the grantee, nor are there any other requirements or eligibility standards for cash depositories in which Federal grant funds are deposited by the grantee.

(c) A separate bank account may be used when payments under letter of credit are made on a "checks paid" basis in accordance with agreements entered into by a grantee, the Federal Government, and the banking institutions involved.

(d) Consistent with the national goal of expanding the opportunities for minority business enterprises, grantees are encouraged to use minority banks.

§ 89.53 Bonding and insurance.

Each grantee shall apply its normal bonding and insurance requirements, including fidelity bonds, to protect the interest of the Federal Government.

§ 89.54 Records maintenance.

(a) Each grantee shall retain for a period of at least three years all financial records, supporting documents, statistical records, and all other records pertinent to the project. The retention period starts from the date of the submission of the final expenditure report or, for grants which are renewed annually, from the date of the submission of the annual expenditure report, except that:

(1) The records shall be retained beyond the three-year period for as long as any audit findings remain unresolved;

(2) Records for nonexpendable property acquired with grant funds shall be retained for three years after its final disposition; and

(3) When grant records are transferred to or maintained by the Department, the three-year retention requirement does not apply to the grantee with respect to these records.

(b) Grantees may substitute microfilm copies in lieu of original records only with the written permission of the Grant Officer.

(c) When the Department determines that certain grant records have long-term or historical retention value, the grantee shall, upon the Department's request, deliver the records to the Department. The grantee may request an arrangement to retain the records when they are needed for joint use.

(d) The Secretary of Labor and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the grantee and its subproject sponsors which are pertinent to the grant project for the purpose of making audit, examination, excerpts and transcripts.

(e)(1) Each grantee shall maintain confidentiality of information regarding applicants, project participants or their immediate families that identifies or may be used to identify them, and which may be obtained through application forms, interviews, tests, reports from public agencies or counselors, or any other source. Without the permission of the applicant or participant, such information shall be divulged only as necessary for purposes related to the performance or evaluation of the grant to persons having official responsibilities in connection with the grant and to governmental authorities to the extent necessary for the proper administration of law.

(2) No restrictions are placed on the grantee which will limit public access to grant records not covered by paragraph (e)(1) of this section except that such records shall remain confidential when confidentiality is necessary for any of the following reasons:

(i) To prevent a clearly unwarranted invasion of personal privacy;

(ii) To specifically comply with any Federal Executive Order or statute requiring the record to be kept secret;

(iii) To protect commercial or financial information obtained from a person or a firm on a privileged or confidential basis; or

(iv) To avoid the disclosure of any other information which can be exploited for personal gain.

(f) Grantees shall maintain records on each project participant, including:

(1) Personal identifying information and characteristics;

(2) Residence;

(3) Project job description;

(4) Project activities and supportive services in which the individual participated; and

(5) Status of the participant upon termination from the project.

(g) Grantees shall maintain a record of each determination of participant eligibility, including any grounds for an unfavorable determination. This requirement applies to persons who apply for enrollment and to persons who become enrolled and are subsequently determined to be ineligible for continuing enrollment.

(h)(1) The names of all participants supported under the Act are considered public information.

(2) Other information regarding applicants, project participants or their immediate families, which may be obtained through application forms, interviews, tests, reports from public agencies or counselors or any other source, shall be made available to the public by the grantee to the same degree it makes such information available about its own employees in the governmental jurisdiction. Without the permission of the applicant or participant, such information which is not normally made available to the public on the grantee's own employees in the governmental jurisdiction shall be divulged only as necessary for purposes related to the performance or evaluation of the grant under the Act to persons having responsibilities under the grant, including those furnishing services to the project under subgrant or contract, and to governmental authorities to the extent necessary for the proper administration of law.

(3) The names of all individuals employed in staff positions under the Act are considered public information. A grantee shall make other information available to the public pertaining to individuals employed in staff positions under the Act in the same manner and to the same extent as such information is made available on its regular employees.

§ 89.55 Single State agency not required.

No single State agency or multimember board or commission need be established or designated to administer or supervise the administration of grant projects under the Act.

§ 89.56 Project income.

(a) In accordance with section 203 of the Intergovernmental Cooperation Act of 1968 (Pub. L. 90–577), the Federal Government will not hold any grantee which is a State or an agency or instrumentality of a State accountable for interest earned on grant funds pending their disbursement for project purposes.

(b) Grantees which are units of local government shall return to the Federal Government all interest earned on advances of grant funds (42 Comp. Gen. 289).

(c) Proceeds from the sale of real and personal property, either provided by the Federal Government or purchased in whole or in part with Federal funds, shall be handled in accordance with the MA Property Handbook which implements Attachment N of FMC 74–7.

(d) Royalties received from copyrights and patents during the grant period shall be retained by the grantee and be added to the funds already committed to the program. After termination or completion of the grant, the Federal share of royalties, which is any amount in excess of $200 received annually, shall be returned to the Department.

(e) All other gross income earned by grant-supported activities during the grant period shall be retained by the grantee and shall be added to funds committed to the project and be used to further project objectives.

§ 89.57 Matching share.

The criteria and procedures for evaluating and determining the allowability of cash and in-kind contributions made by grantees to satisfy the 10 percent matching requirement are those set forth in Attachment F of FMC 74–7.

§ 89.58 Standards for grantee financial management systems.

(a) Each grantee shall operate a financial management system which provides for:

(1) Accurate, current, and complete disclosure of the financial results of the grant project in accordance with the Federal reporting requirements;

(2) Records which identify the source and application of funds for grant-supported activities, including records containing information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income;

(3) Effective control over and accountability for all funds, property and other assets to safeguard these assets and to ensure that they are used only for authorized purposes;

(4) The comparison of actual costs with amounts budgeted for the grant;

(5) Procedures to minimize the time elapsing between the transfer of funds from the U.S. Treasury and the disbursement by the grantee when funds are advanced by the Federal Government;

(6) Drawdowns from the U.S. Treasury through the commercial bank as close as possible to the time of disbursements when advances are made by the letter-of-credit method;

(7) Procedures for determining the allowablity and allocability of costs in accordance with the provisions of FMC 74–4; and

(8) Accounting records which are supported by source documentation, including, in the case of enrollee wage and fringe benefit costs, time and attendance records.

(b) Each grantee shall audit or have audited the grant financial records to determine, at a minimum, the fiscal integrity of financial transactions and reports, and the compliance with laws, regulations and administrative requirements. The grantee shall schedule these audits with reasonable frequency, usually annually, but not less frequently than once every two years. The grantee shall establish a systematic method to assure timely and appropriate resolution of audit findings and recommendations.

(c) Because the Department requires financial reporting on an accrual basis, the grantee shall, when its own accounting system is not kept on that basis, develop the required reporting information through analysis of documentation on hand or on the basis of best estimates.

(d) Each grantee shall require subgrantees or contractors (i.e., recipients of subgrants or contracts which are passed through by the grantee) to adopt all the standards set forth in this section, except the standard applicable to letter-of-credit drawdowns as described in paragraph (a) (6) of this section.

§ 89.59 Financial reporting requirements.

(a) Each grantee shall periodically submit a Financial Status Report which, on an accrual basis, indicates total costs incurred by cost category including indirect costs, if any. This report shall be prepared to concide with the ending dates for Federal fiscal year quarters and shall be submitted to the Department no later than 30 days after the end of the quarterly reporting period. If the grant period ends at a date other than the last day of a Federal fiscal year quarter, a final report covering the entire grant period shall also be required. Grantees must certify to the accuracy and completeness of the costs reported.

(b) Each grantee shall periodically submit a Report of Federal Cash Transactions. Grantees which receive annual grants totalling $1 million or more shall submit this report monthly; and all other grantees shall submit it quarterly.

(c) Specific instructions and procedures for preparing and submitting the Financial Status Report and the Report of Federal Cash Transactions are contained in the Forms Preparation Handbook. These written procedures and instructions implement Attachment H of FMC 74–7. The Department will furnish a copy of the Handbook to each grantee.

§ 89.60 Monitoring and reporting project performance.

(a) Each grantee shall continually monitor the performance of grant supported activities to assure that project goals are being achieved and that the requirements of the Act and the regulations in this part are being met.

(b) Each grantee shall periodically submit a Senior Community Service Employment Program Quarterly Progress Report (QPR). This report shall be prepared to coincide with the ending dates for Federal fiscal year quarters and shall be submitted to the Department no later than 30 days after the end of the quarterly reporting period. If the grant period ends at a date other than the last day of a Federal fiscal year quarter, a final report covering the entire grant period shall also be required. The Department will provide specific instructions to grantees for the preparation of this report. The QPR provides the following types of information:

(1) Enrollment level, enrollment turnover and placements into unsubsidized jobs;

(2) The allocation of subsidized job positions among specific community service areas;

(3) The aggregate characteristics profile of project enrollees;

(4) The average wage received by project enrollees; and

(5) A brief narrative account of significant project accomplishments and problem areas.

(c) Each grantee shall, without regard to normal reporting periods, advise the Grant Officer of the following types of conditions as soon as they become known:

(1) Problems, delays, or adverse conditions which may materially affect the ability to attain project goals with an indication of what corrective action has been or will be taken and an indication of the Federal assistance, if any, which may be helpful in resolving the situation; and

(2) Favorable developments or events which will materially assist the project in meeting or exceeding its intended purposes and goals.

(d) If a performance review conducted by the grantee discloses the need for grant budget revision, the grantee shall submit a request for revision to the Grant Officer.

(e) The Department will make onsite visits as frequently as is practicable to review project accomplishments and management control systems and to provide technical assistance. Grantees shall cooperate fully with the Department in the performance of these visits.

§ 89.61 Payment procedures.

(a) Consistent with the requirements, criteria and standards stated in Attachment J of FMC 74–7, grant payments will be made through a letter of credit, an advance by Treasury check, or a reimbursement by Treasury check.

(b) Specific instructions and procedures for preparing forms associated with grant payments are contained in the Forms Preparation Handbook.

(c) The Department may withhold payments for proper charges if the grantee has failed to comply with project objectives, grant award conditions, or Federal reporting requirements or if the

grantee is indebted to the United States and collection of the debt will not impair the accomplishment of the objectives of any grant program sponsored by the United States. When it determines to withhold payments, the Department will inform the grantee with reasonable notice that payments will not be made for obligations incurred after a specified date until the conditions are corrected or the indebtedness to the United States is liquidated.

§ 89.62 Budget revision procedures.

(a) The grant budget is the approved financial plan for both the Federal and nonfederal shares to carry out the purposes of the grant as set forth in the grant agreement document. Grantees shall promptly request prior written approvals from the Grant Officer for budget revision whenever:

(1) The revision results from a net increase or decrease from the anticipated enrollment level of 15 percent or more or from other significant changes in the scope of the grant project;

(2) the revision indicates a need for additional Federal funding;

(3) the Federal share of the grant budget is over $100,000 and the cumulative amount of transfers among direct cost object class budget categories exceeds or is expected to exceed $10,000, or 5 percent of the total grant budget, whichever is greater;

(4) the Federal share of the grant budget is $100,000 or less and the cumulative amount of transfers among direct cost object categories exceeds or is expected to exceed 5 percent of the total grant budget;

(5) the revision involves the transfer of amounts budgeted for indirect costs to absorb increases in direct costs;

(6) the revision pertains to the addition of cost items requiring approval in accordance with the provisions of FMC 74-4; or

(7) the grantee plans to transfer Federal funds allotted for enrollee wages and fringe benefits to other categories of expense.

(b) Before deviating from the grant budget in any manner described in paragraph (a) of this section, the grantee must obtain the prior written approval of the Grant Officer. All other deviations from the grant budget may be undertaken by the grantee without the approval of the Grant Officer. These deviations include the use of additional grantee funds to further the purposes of the project and the transfer of amounts budgeted for direct costs to absorb authorized increases in indirect costs. However, no grantee may deviate from the grant budget in a manner which violates the limitations on Federal funds stated in § 89.42.

(c) Each grantee shall promptly notify the Grant Officer when the amount of Federal funds authorized is expected to exceed actual needs by more than $5,000 or 5 percent of the Federal grant, whichever is greater.

(d) When requesting approval for budget revisions grantees must use the budget forms which are used in the grant agreement document. However, grantees may request by letter the cost item approvals required by FMC 74-4.

(e) Under normal circumstances, the Department will notify the grantee of budget revision approvals or disapprovals within 30 days of receipt of the request. If the revision request is still under consideration at the end of 30 days, the Department will inform the grantee in writing as to when the Department's decision will be forthcoming.

§ 89.63 Grant closeout procedures.

(a) Subsequent to the completion date of the grant, i.e., the date stated in the grant agreement document or any amendment thereto upon which Federal assistance under the grant ends, the grant must be closed out. Grant closeout is the process by which the Department determines that all required administrative actions and all required grant work have been completed by the grantee and the Department. The Department will notify each grantee of the procedures involved in the closeout of the grant. These procedures are described in paragraphs (a)(1) through (a)(8) of this section.

(1) If grant payments are made on a letter of credit, the Department will notify the grantee that the letter of credit is to be cancelled and that, following cancellation, any further payments under the grant will be made by Treasury check upon submission and approval of the required payment requests.

(2) Upon receipt and approval of the necessary requests, the Department will make prompt payment to the grantee for allowable reimbursable costs under the grant being closed out.

(3) Upon the Department's request, the grantee shall immediately refund any unencumbered balance of cash drawn down from the letter of credit or advanced by Treasury check. Items to be included with the refund check are detailed in the Forms Preparation Handbook.

(4) Within 90 days after the completion date, the grantee shall submit the following financial and inventory reports which are described in the Forms Preparation Handbook:

(i) A final Financial Status Report;

(ii) A final Report of Federal Cash Transactions;

(iii) The Grantee's Assignment of Refunds, Rebates, and Credits;

(iv) Bank Statement—Special Bank/Financial Account;

(v) Cancellation/Adjustment of Fidelity Bond;

(vi) A list of possible claimants for unclaimed checks cancelled or payment stopped;

(vii) Grant Closeout Tax Certification;

(viii) Government Property Inventory; and

(ix) Inventory Certificate.

(5) Within 90 days after the completion date, the grantee shall submit the Grantee's Release form as described in the Forms Preparation Handbook.

(6) Within 30 days after the completion date, the grantee shall submit a final Senior Community Service Employment Program Quarterly Progress Report.

(7) After receipt of the documents and final reports described in paragraphs (a)(4) through (a)(6) of this section, the Department will make settlement for any upward or downward adjustment to the Federal share of costs.

(8) In the event a final audit has not been performed prior to closeout of the grant, the Department retains the right to recover an appropriate amount after fully considering the recommendations on disallowed costs resulting from the final audit.

(b) Suspension of a grant is an action by the Secretary which temporarily suspends Federal assistance under the grant pending corrective action by the grantee or pending a decision by the Secretary to terminate the grant. In the event that the Secretary determines that a grantee has failed to comply with stipulations, standards, or conditions of the grant agreement, the Secretary may, on reasonable notice to the grantee, suspend the grant, and withhold further payments, or prohibit the grantee from incurring additional obligations of grant funds, pending corrective action by the grantee or a decision to terminate in accordance with paragraph (c)(1) of this section. The Secretary may allow all necessary and proper costs which the grantee could not reasonably avoid during the period of suspension provided that they meet the provisions of FMC 74-4.

(c) The termination of a grant is the cancellation of Federal assistance, in whole or in part, under a grant at any time prior to the completion date.

(1) The Secretary may terminate any grant in whole, or in part, at any time before the date of completion, whenever it is determined that the grantee has failed to comply with the conditions of the grant. The Secretary will promptly notify the grantee in writing of the determination and the reasons for the termination, together with the effective date. Payments made to grantees or recoveries by the Department under grants terminated for cause shall be in accord with the legal rights and liabilities of the parties.

(2) A grant may be terminated in whole or in part when both the grantee and the Secretary agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date and, in the case of partial terminations, the portion to be terminated. The grantee shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. The Secretary will allow full credit to the grantee for the Federal share of the noncancellable obligations, properly incurred by the grantee prior to termination.

§ 89.64 Property management standards.

Standards for the management, control, and disposition of grant-acquired property are contained in the MA Property Handbook. Grantees must adhere to

the standards set forth in the handbook. A copy of the handbook, which implements Attachment N of FMC 74–7, will be furnished by the Department to each grantee.

§ 89.65 Procurement standards.

The standards to be used by grantees for the procurement of supplies, equipment, and other services with Federal grant funds are those stated in Attachment O of FMC 74–7. The term "procurement" does not include the award of subproject agreements described in § 89.43. The standards in Attachment O of FMC 74–7 do not, therefore, apply to the process by which a grantee awards a subproject agreement.

Subpart E—Administrative Standards for Project Agreements With Public and Private Institutions of Higher Education, Public and Private Hospitals, and Other Public and Private Nonprofit Organizations

§ 89.71 General.

This Subpart E states the Department's administrative requirements, standards, and procedures for project agreements awarded under the Act to public and private institutions of higher education, public and private hospitals, and other public and private nonprofit organizations, including Indian Tribes. These requirements, standards, and procedures reflect those described by the General Services Administration in their notice of proposed rulemaking for 34 CFR 258 which was published Monday, February 10, 1975, in the FEDERAL REGISTER (40 FR 6304–6312). The requirements, standards, and procedures stated in this subpart will be amended as any subsequent effective regulations in 34 CFR 258 might indicate. Each public or private institution of higher education, public or private hospital, or other public or private nonprofit organization, including any Indian Tribe, which is awarded a project agreement under the Act must conform to these requirements, standards and procedures. Hereinafter, these types of organizations will be referred to as "recipients."

§ 89.72 Cash depositories.

(a) A separate bank account shall be used when letter-of-credit agreements entered into by the recipient, the Federal Government and the bank involved provide that drawdowns will be made when the recipient's checks are presented to the bank for payment.

(b) Any Federal project funds which are advanced to a recipient are subject to the control and regulation of the United States and its officers, agents or employees (public moneys as defined in Treasury Circular No. 176). Funds advanced must be deposited in a bank with Federal Deposit Insurance Corporation (FDIC) insurance coverage; and the balance exceeding FDIC coverage must be collaterally secured. In order to ensure that security is obtained, a special bank account with a lien in favor of the Federal Government is required when funds are advanced to a recipient.

(c) Except as provided by paragraphs (a) and (b) of this section, there are no Department of Labor requirements for the physical segregation of cash depositories for project funds which are provided to the recipient, nor are there any other requirements or eligibility standards for cash depositories in which Federal project funds are deposited by the recipient.

(d) Consistent with the national goal of expanding opportunities for minority business enterprises, recipients are encouraged to use minority banks (a bank at least 50 percent owned by minority group members).

§ 89.73 Bonding and insurance.

(a) When advance payments are made to the recipient, the recipient shall obtain fidelity bond coverage which meets the specifications described in paragraphs (a)(1) through (a)(6) of this section.

(1) Fidelity bond coverage shall be in the form of a blanket position bond with an approved corporate surety covering any and all officers and employees of the recipient organization who are involved in the activities of the project.

(2) The amount of the bond shall be $25,000 or the amount of the advance payment, whichever is less.

(3) If possible, both the recipient and the Secretary of Labor shall be named as the insureds. If this is not possible, the recipient shall be named as the insured.

(4) The period of coverage shall be at least one year, with a discovery period of no less than one year after the cancellation or other termination of the bond.

(5) The bond shall stipulate that the Department of Labor Contract Grant Officer be given 35 days advance notice by the surety prior to making any material change in, or cancellation of, the bond. The advance notice shall be provided by certified mails.

(6) If the bond covers advance payments under funding agreements with more than one agency, the bond shall include a recovery provision for each Federal agency involved.

(b) Recipients shall obtain and maintain in force during the lifetime of the project agreement "third person liability insurance" of the types and in the amounts described in this paragraph.

(1) The recipient shall obtain and maintain Worker's Compensation insurance for his staff in the amounts required by State law. Worker's Compensation insurance coverage for project enrollees shall meet the requirements stated in § 89.34.

(2) The recipient shall obtain and maintain Occupational Diseases Insurance as required by applicable law. In an area where all occupational diseases are not compensable under applicable law, insurance for occupational diseases shall be secured under the employer liability section of the recipient's insurance policy. Minimum coverage per incident is $100,000.

(3) The recipient shall obtain and maintain Employer Liability insurance to cover any liability imposed upon the recipient, by law, for damages on account of personal injuries, including death resulting therefrom, sustained by the recipient's employees by reason of accident minimum coverage per incident is $100,000.

(4) The recipient shall obtain and maintain General Liability Insurance (Bodily Injury) to provide coverage against claims arising from bodily injury or death to third parties occurring on the recipient's business premises or through the recipient's operations, except those arising from motor vehicles away from the premises, those covered by Worker's Compensation Law, and other exclusions stated in the policy. The minimum coverage for bodily injury is $100,000 per person and $300,000 per accident.

(5) The recipient shall obtain and maintain automobile liability insurance. The required coverage is $100,000 per person and $300,000 per accident for bodily injury and $25,000 per accident for property damage. The types and amounts stated for vehicle insurance must apply to any vehicle operated or used in connection with project activities. In the event a privately-owned vehicle is used, the Federal Government's share of insurance premiums, including any additional coverage required to conform with the requirements of this paragraph, shall be prorated in accordance with the vehicle's actual use while conducting activities under the project.

§ 89.74 Records maintenance.

(a) Each recipient shall retain for a period of at least three years all financial records, supporting documents, statistical records, and all other records pertinent to the project. For types of project agreements other than contracts the retention period starts from the date of the submission of the final expenditure report or, for agreements which are renewed annually, from the date of the submission of the annual expenditure report. For contracts, the retention period starts from the date of final payment. For all types of project agreements, however:

(1) The records shall be retained beyond the three-year period for as long as any audit findings remain unresolved;

(2) records for nonexpendable property acquired with Federal project funds shall be retained for three years after its final disposition; and

(3) when project records are transferred to or maintained by the Department, the three-year retention requirement does not apply to the recipient with respect to these records.

(b) Recipients may substitute microfilm copies in lieu of original records only with the written permission of the Contract/Grant Officer.

(c) When the Department determines that certain project records have long-term or historical retention value, the recipient shall, upon the Department's request, deliver the records to the Department. However, the recipient may request an arrangement to retain the

records when they are continuously needed for joint use.

(d) The Secretary of Labor and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the recipient and its agents which are pertinent to the project for the purpose of making audit, examination, excerpts and transcripts.

(e)(1) Each recipient shall maintain confidentiality of information regarding applicants, project participants or their immediate families that identifies or may be used to identify them, and which may be obtained through application forms, interviews, tests, reports from public agencies or counselors, or any other source. Without the permission of the applicant or participant, such information shall be divulged only as necessary for purposes related to the performance or evaluation of the project to persons have official responsibilities in connection with the project and to governmental authorities to the extent necessary for the proper administration of law.

(2) No restrictions are placed on the recipient which will limit public access to project records not covered by paragraph (e)(1) of this section except that records must remain confidential when confidentiality is necessary for any of the following reasons:

(i) To prevent a clearly unwarranted invasion of personal privacy;

(ii) To specifically comply with a Federal Executive Order or statute requiring the record to be kept secret;

(iii) To protect commercial or financial information obtained from a person or a firm on a privileged or confidential basis; or

(iv) To avoid the disclosure of any other information which can be exploited for personal gain.

(f) Recipients shall maintain records on each project participant, including:

(1) Personal identifying information and characteristics;

(2) Residence;

(3) Project job description;

(4) Project activities and supportive services in which the individual participated; and

(5) Status of the participant upon termination from the project.

(g) Recipients shall maintain a record of each determination of participant eligibility, including any ground for an unfavorable determination. This requirement applies to persons who apply for enrollment and to persons who become enrolled and are subsequently determined to be ineligible for continuing enrollment.

§ 89.75 Project income.

(a) In accordance with section 203 of the Intergovernmental Cooperation Act of 1968 (Pub. L. 90-577), the Federal Government will not hold any recipient which is an instrumentality of a State accountable for interest earned on project funds pending their disbursement for project purposes.

(b) Recipients which are not instrumentalities of a State shall remit to the Federal Government all interest earned on advances of Federal project funds.

(c) Proceeds from the sale of real and personal property, either provided by the Federal Government or purchased in whole or in part with Federal funds, shall be handled in accordance with the Property Handbook for MA Contractors.

(d) Royalties received as a result of copyrights or patents will be retained by the recipient unless the terms of the project agreement provide otherwise.

(e) All other gross income earned by project activities during the project agreement period shall be retained by the recipient and shall be added to funds committed to the project and be used to further eligible project objectives.

§ 89.76 Matching share.

(a) Definitions of terms for the purposes of this section are provided in this paragraph.

(1) "Project costs" means all allowable costs incurred by a recipient (as set forth in the applicable Federal cost principles) and the value of in-kind contributions made by third parties in accomplishing the objectives of the project agreement during the project period.

(2) "Matching share" means that portion of the project costs not borne by the Federal Government.

(3) "Cash contributions" means the recipient's cash outlay, including the outlay of money contributed to the recipient by non-Federal parties.

(4) "In-kind contributions" means the value of noncash contributions provided by the recipient and non-Federal third parties. Property purchased with Federal funds may not be considered as any part of the recipient's in-kind contribution. In-kind contributions may be in the form of real property and nonexpendable personal property, and the value of goods and services directly benefitting the project.

(b) The matching share may consist of items described in this paragraph.

(1) The matching share may include charges incurred by the recipient as project costs. It is acknowledged that not all charges require cash outlays by the recipient during the project period, such as depreciation and use charges for buildings and equipment.

(2) The matching share may include project costs financed with cash contributed or donated to the recipient by public agencies and institutions, and private organizations and individuals.

(3) The matching share may include project costs represented by services and real and personal property, or use thereof, donated by public agencies and institutions, and private organizations and individuals.

(c) All contributions, both cash and in-kind, will be accepted as part of the recipient's matching share when the contributions meet all the following criteria:

(1) Are verifiable from the recipient's records;

(2) are not included as contributions to any other Federally assisted program;

(3) are necessary and reasonable for proper and efficient accomplishment of project objectives;

(4) are types of charges which would be allowable under the applicable cost principles;

(5) are not paid by the Federal Government directly or indirectly under another agreement; and

(6) conform to the other requirements and standards stated in this section.

(d) Values for recipient in-kind contributions will be established in accordance with the applicable cost principles.

(e) Specific procedures for recipients in establishing the value of in-kind contributions from non-Federal third parties are described in this paragraph.

(1) Volunteer services may be furnished by professional and technical personnel, consultants, and other skilled and unskilled labor. Volunteer service may be counted toward the matching share if the service is an integral and necessary part of the approved project. Rates for volunteers must be consistent with those paid for similar work in the recipient's organization. In instances when the required skills are not found in the recipient's organization, rates must be consistent with those paid for similar work in the labor market in which the recipient competes for the kind of services involved. When an employer other than the recipient furnishes the services of an employee, these services must be valued at the employee's regular rate of pay (excluding fringe benefits and overhead costs) provided that these services are in the same skill for which the employee is normally paid.

(2) Donated expendable personal property includes such items as expendable equipment, office supplies, laboratory supplies or workshop and classroom supplies. Values assessed to expendable personal property included in the matching share must be reasonable and must not exceed the market value of the property at the time of the donation.

(3)(i) Depreciation or use charges may be made for the contributed use of equipment, buildings, or land which directly supports project activities. The full value of equipment or other capital assets and fair rental charges for land may be included only if permitted and approved by the Department in writing.

(ii) The value of donated property will be determined in accordance with the usual accounting policies of the recipient with the following qualifications:

(A) The value of donated land and buildings may not exceed its fair market value at the time of donation as established by an independent appraiser (e.g., certified real property appraiser or Government Services Administration (GSA) representative);

(B) The value of donated nonexpendable personal property may not exceed the fair market value of equipment and property of the same age and condition at the time of donation;

(C) The value of donated space may not exceed the fair rental value of comparable space as established by an independent appraiser of comparable space and facilities in a privately owned building in the same locality; and

(D) The value of loaned equipment may not exceed its fair rental value.

(f) Volunteer services contributed from non-Federal third parties must be documented, to the extent feasible, by the same methods used by the recipient for its employees. Also, the basis used for determining the value of personal services, material, equipment and land contributed from non-Federal third parties must be documented.

§ 89.77 Standards for recipient financial management systems.

(a) Each recipient shall operate a financial management system which provides for:

(1) Accurate, current, and complete disclosure of the financial results of the project in accordance with the Federal reporting requirements;

(2) Records which identify the source and application of funds for federally supported project activities, including records containing information pertaining to Federal project awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income;

(3) Effective control over and accountability for all funds, property and other assets to safeguard these assets and to ensure that they are used only for authorized purposes;

(4) The comparison of actual costs with amounts budgeted for the project;

(5) Procedures to minimize the time elapsing between the transfer of funds from the U.S. Treasury and the disbursement by the recipient when funds are advanced by the Federal Government;

(6) Drawdowns from the U.S. Treasury through the commercial bank as close as possible to the time of disbursements when advances are made by the letter-of-credit method;

(7) Procedures for determining the allowability and allocability of costs in accordance with the applicable Federal cost principles and the terms of the project agreement; and

(8) Accounting records which are supported by source documentation, including, in the case of enrollee wage and fringe benefit costs, time and attendance records.

(b) Each recipient shall conduct or arrange for examinations in the form of audits or internal audits of it financial transactions. These examinations may be performed only by individuals who are sufficiently independent of those who authorize the expenditure of Federal funds to produce unbiased opinions, conclusions or judgments. These examinations shall be made to ascertain the effectiveness of the financial management system and internal procedures that have been established to meet the terms and conditions of the project agreement. Examinations should be conducted on an organizationwide basis to test the fiscal integrity of financial transactions, as well as compliance with the terms and conditions of the project agreement. The tests must include appropriate sampling from the project agreement. Examinations must be conducted with reasonable frequency, but not less frequently than once every two years. The recipient shall establish a systematic method to assure timely and appropriate resolution of audit findings and recommendations.

(c) Because the Department requires financial reporting on an accrual basis, the recipient shall, when its own accounting system is not kept on that basis, develop the required reporting information through analysis of documentation on hand or on the basis of best estimates.

(d) Recipients shall require subproject sponsors to adopt the standards stated in this section, except those for letter-of-credit drawdowns as described in paragraph (a)(6) of this section.

§ 89.78 Financial reporting requirements.

(a) Each recipient shall periodically submit a Financial Status Report which, on an accrual basis, indicates total costs incurred by cost category including indirect costs, if any. This report shall be prepared to coincide with the ending dates for Federal fiscal year quarters and shall be submitted to the Department no later than 30 days after the end of the quarterly reporting period. If the project period ends at a date other than the last day of a Federal fiscal year quarter, a final report covering the entire project period shall also be required. Recipients must certify to the accuracy and completeness of the costs reported.

(b) Each recipient shall periodically submit a Report of Federal Cash Transactions. Recipients which receive advances totalling $1 million or more per year shall submit this report monthly; and all other recipients shall submit it quarterly.

(c) Specific instructions and procedures for preparing and submitting the Financial Status Report and the Report of Federal Cash Transactions are contained in the Forms Preparation Handbook. The Department will furnish a copy of the handbook to each recipient.

§ 89.79 Monitoring and reporting project performance.

(a) Each recipient shall continually monitor the performance of project activities to assure that project goals are being achieved and that the requirements of the Act and the regulations in this part are being met.

(b) Each recipient shall periodically submit a Senior Community Service Employment Program Quarterly Progress Report (QPR). This report shall be prepared to coincide with the ending dates for Federal fiscal year quarters and shall be submitted to the Department no later than 30 days after the end of the quarterly reporting period. If the project period ends at a date other than the last day of a Federal fiscal year quarter, a final report covering the entire project period shall also be required. The QPR shall be submitted for each subproject in cases where the recipient conducts a multi-city and multi-State project. The Department will provide specific instructions to recipients for the preparation of this report. The QPR provides the following types of information:

(1) Enrollment level, enrollment turnover and placements into unsubsidized jobs;

(2) The allocation of subsidized job positions among specific community service areas;

(3) The aggregate characteristics profile of project enrollees;

(4) The average wage received by project enrollees; and

(5) A brief narrative account of significant project accomplishments and problem areas.

(c) Each recipient shall, without regard to normal reporting periods, advise the Contract/Grant Officer of the following types of conditions as soon as they become known:

(1) Problems, delays, or adverse conditions which may materially affect the ability to attain project goals with an indication of what corrective action has been or will be taken and an indication of the Federal assistance, if any, which may be helpful in resolving the situation; and

(2) Favorable developments or events which will materially assist the project in meeting or exceeding its intended purposes and goals.

(d) If a performance review conducted by the recipient discloses the need for project budget revision, the recipient shall submit a request for revision to the Contract/Grant Officer.

(e) The Department will make onsite visits as frequently as is practicable to review project accomplishments and management control systems and to provide technical assistance. Recipients shall cooperate fully with the Department in these visits.

§ 89.80 Payment procedures.

(a) Consistent with all applicable Federal requirements, payments to recipients will be made through letter-of-credit, advance by Treasury check, or reimbursement by Treasury check. The Department will provide specific instructions and procedures to each recipient.

(b) The Department may withhold payments for proper charges if the recipient has failed to comply with project objectives, award conditions, or Federal reporting requirements or if the recipient is indebted to the United States and the collection of the debt will not impair the accomplishment of the objectives of any project or program sponsored by the United States. When it determines to withhold payments, the Department will inform the recipient with reasonable notice that payment will not be made for obligations incurred after a specified date until the conditions are corrected or the indebtedness to the United States is liquidated.

§ 89.81 Budget revision procedures.

(a) The project budget is the approved financial plan for both the Federal and non-federal shares as set forth in the project agreement document. Recipients shall promptly request the prior written approval from the Contract/Grant Officer for budget revision whenever:

(1) The revision results from a net increase or decrease from the anticipated enrollment level of 15 percent or more, or from other significant changes in the scope of the grant project;

(2) The revision indicates a need for additional Federal funding;

(3) The Federal share of the budget is over $100,000 and the cumulative amount of transfers among direct cost object class budget categories exceeds or is expected to exceed 5 percent of the total budget;

(4) The revision involves the transfer of amounts budgeted for indirect costs to absorb increases in direct costs or vice versa;

(5) The revision pertains to expenditures which require approval in accordance with FMC 73-8 (34 CFR Part 254); or

(6) The recipient plans to transfer Federal funds allotted for enrollee wages and fringe benefits to other categories of expense.

(b) Before deviating from the project budget in any manner described in paragraph (a) of this section, the recipient must obtain the prior written approval of the Contract/Grant Officer. All other deviations from the project budget may be undertaken by the recipient without the approval of the Contract/Grant Officer. These deviations include the use of additional recipient funds to further the purposes of the project. However, no recipient may deviate from the project budget in a manner which violates the limitations on Federal funds stated in § 89.42.

(c) Each recipient shall promptly notify the Contract/Grant Officer when the amount of Federal funds authorized is expected to exceed actual needs by more than $5,000 or 5 percent of the Federal award, whichever is greater.

(d) When requesting approval for budget revisions, recipients must use the budget forms which are used in the project agreement document.

(e) Under normal circumstances, the Department will notify the recipient of budget revision approvals or disapprovals within 30 days of receipt of the request. If the revision request is still under consideration at the end of 30 days, the Department will inform the recipient in writing as to when the Department's decision will be forthcoming.

§ 89.82 Closeout procedures.

Subsequent to the completion date of the agreement, i.e., the date stated in the agreement document or any amendment thereto upon which Federal assistance under the agreement ends, the agreement must be closed out. Closeout is the process by which the Department determines that all required administrative actions and all required project work have been completed by the recipient and the Department. The Department will notify each recipient of the procedures involved in the closeout of the agreement. These procedures are described in this section.

(a) If payments are made on a letter of credit, the Department will notify the recipient that the letter of credit is to be cancelled and that, following cancellation, any further payments under the agreement will be made by Treasury check upon submission and approval of the required payment requests.

(b) Upon receipt and approval of the necessary requests, the Department will make prompt payment to the recipient for allowable reimbursable costs under the agreement being closed out.

(c) Upon the Department's request, the recipient shall immediately refund any unencumbered balance of cash drawn down from the letter of credit or advanced by Treasury check. Items to be included with the refund check are detailed in the Forms Preparation Handbook.

(d) Within 90 days after the completion date, the recipient shall submit the following financial and inventory reports:

(1) A final Financial Status Report;

(2) A final Report of Federal Cash Transactions;

(3) The Assignment of Refunds, Rebates, and Credits;

(4) Bank Statement-Special Bank/Financial Account;

(5) Cancellation/Adjustment of Fidelity Bond;

(6) A list of possible claimants for unclaimed checks cancelled or payment stopped;

(7) Closeout Tax Certification;

(8) Government Property Inventory; and

(9) Inventory Certificate.

(e) Within 90 days after the completion date, the recipient shall submit the required Release form.

(f) Within 30 days after the completion date, the recipient shall submit a final Senior Community Service Employment Program Quarterly Progress report.

(g) After receipt of the documents and final reports described in paragraphs (a) through (f) of this section, the Department will make settlement for any upward or downward adjustment to the Federal share of costs.

(h) In the event a final audit has not been performed prior to closeout of the agreement, the Department retains the right to recover an appropriate amount after fully considering the recommendations on disallowed costs resulting from the final audit.

§ 89.83 Suspension and termination procedures.

(a) Suspension of an agreement is an action by the Secretary which temporarily suspends Federal assistance under the agreement pending corrective action by the recipient or pending a decision by the Secretary to terminate the agreement. In the event that the Secretary determines that a recipient has failed to comply with stipulations, standards, or conditions of the agreement, the Secretary may, on reasonable notice to the grantee, suspend the agreement, and withhold further payments, or prohibit the recipient from incurring additional obligations of Federal funds, pending corrective action by the recipient or a decision to terminate in accordance with paragraph (b)(1) of this section. The Secretary may allow all necessary and proper costs which the recipient could not reasonably avoid during the period of suspension provided that they meet the provisions of the applicable cost principles.

(b) The termination of an agreement is the cancellation of Federal assistance, in whole or in part, under an agreement at any time prior to the completion date.

(1) The Secretary may terminate any agreement in whole, or in part, at any time before the date of completion, whenever it is determined that the recipient has failed to comply with the conditions of the agreement. The Secretary will promptly notify the recipient in writing of the determination and the reasons for the termination, together with the effective date. Payments made to recipients or recoveries by the Department under agreements terminated for cause shall be in accord with the legal rights and liabilities of the parties.

(2) An agreement may be terminated in whole or in part when both the recipient and the Secretary agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date and, in the case of partial terminations, the portion to be terminated. The recipient shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. The Secretary will allow full credit to the recipient for the Federal share of the noncancellable obligations, properly incurred by the recipient prior to termination.

(3) If the agreement is in the form of a contract, the Contracting Officer may cancel the agreement (i.e., contract) in whole or in part whenever the Contracting Officer determines that termination would be in the best interest of the Government.

§ 89.84 Property management standards.

Standards for the management, control, and disposition of property acquired under the agreement are contained in the Property Handbook for MA Contractors. Recipients shall adhere to the standards set forth in the handbook. A copy of the handbook will be furnished by the Department to each recipient.

§ 89.85 Procurement standards.

(a) Recipients shall procure supplies, equipment and other services with Federal project funds in an effective manner and in compliance with the provisions of applicable Federal law and executive orders. Recipients shall rely on the private sector to provide goods and services to the extent feasible. The term "procurement" refers to the acquisition of

supplies, equipment and other services from outside sources which are to be used by the recipient in carrying out its organizational mission and responsibilities under the project. The term "procurement" does not refer to the award of subproject agreements. The standards described in this section do not, therefore, apply to the process by which the recipient awards a subproject agreement, except as otherwise noted specifically in this section.

(b) The recipient shall maintain a code or standard of conduct which shall govern the performance of its officers, employees and agents in the award and administration of procurement contracts and subproject agreements using Federal project funds. The recipient's officers, employees and agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from actual or potential contractors or subproject sponsors. The recipient's code or standard of conduct shall provide for disciplinary actions against persons who violate the code or standard.

(c)(1) All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. The recipient should be alert to organizational conflicts of interest or noncompetitive practices among contractors which may eliminate competition or otherwise restrain trade. Procurement awards shall be made to the bidder/offeror with the lowest bid provided the bidder/offeror is responsible and its bid/offer is responsive to the solicitation and is most advantageous to the recipient, price and other factors considered. Solicitations for procurements must describe clearly the requirements which the bidder/offeror must meet in order for the bid/offer to be evaluated by the recipient. Any and all bids/offers may be rejected when it is in the recipient's interest to do so.

(2) All awards of subproject agreements must be made on the most practical competitive basis. Recipients are encouraged to consider as many potential subproject sponsors in an area as is reasonable in order to select the one which assures the most effective use of Federal project funds.

(d) Recipients shall establish procurement procedures which, as a minimum, are based on the requirements described in this paragraph.

(1) Proposed procurement actions shall include procedure to assure the avoidance of purchasing unnecessary or duplicative items. When appropriate, an analysis shall be made of lease and purchase alternatives to determine which would be the most economical, practical procurement.

(2) Solicitations for supplies and services shall be based upon a clear and accurate description of the technical requirements for the material, product or service to be procured. Such a description shall not, in competitive procurements, contain features which unduly restrict competition. "Brand name or equal" description may be used as a means to define the performance or other salient requirements of a procurement and when so used the specific features of the name brand which must be met by bidders/offerors shall be clearly specified.

(3) Positive efforts must be made by recipients to utilize small businesses and minority-owned businesses as sources of supplies and services. These efforts should focus on allowing these types of sources the maximum feasible opportunity to compete for procurement awards under the project agreement.

(4) The type of procuring instruments used, e.g., fixed price contracts, cost reimbursement contracts, purchase orders, and incentive contracts, shall be determined by the recipient to be appropriate for the particular procurement and for promoting the best interests of the project. The "cost plus a percentage of cost" method of contracting may not be used.

(5) Procurement contracts may be made only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of the proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources, or accessibility to other necessary resources.

(6) No proposed sole source procurement contracts in which the aggregate expenditure is expected to exceed $5,000 may be awarded without prior written approval from the Contract/Grant Officer.

(7) Procurement records and files for purchases in excess of $10,000 shall include:

(i) Basis for contractor selection;

(ii) Justification for lack of competition when competitive bids or offers are not obtained and the written authority of the Contract/Grant Officer for the noncompetitive procurement as is required by paragraph (d)(7) of this section; and

(iii) Basis for award cost or price.

(8) A system for procurement contract administration shall be maintained to ensure contractor conformance with terms, conditions and specifications of the contract and to ensure adequate and timely followup of all purchases.

(e) In addition to provisions which provide for a sound and complete agreement, the recipient shall include in procurement agreements the provisions described and required by paragraphs (e)(1) through (e)(5) of this section. These provisions shall also be applied to subcontracts.

(1) Contracts in excess of $10,000 shall contain provisions or conditions that will allow for administrative, contractual, or legal remedies in instances in which contractors violate or breach contract terms and provide for such remedial actions as may be appropriate.

(2) All contracts in excess of $10,000 must contain suitable provisions for termination by the recipient including the manner by which termination will be effected and the basis for settlement. In addition, these contract provisions must describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

(3) Contracts or agreements, the principal purpose of which is to create, develop, or improve products processes, or methods; or for exploration into fields which directly concern public welfare, shall contain a notice to the effect that matters regarding rights to inventions and materials generated under the contract or agreement are subject to the Department's regulations and recipient's regulations. The contractor must be advised as to the source of additional information regarding these matters.

(4) All negotiated procurement contracts in excess of $2,500 shall include a provision to the effect that the recipient, the Department, the Comptroller General of the United States, and any of their duly authorized representatives, shall have access to any books, documents, papers and records of the contractor which are directly pertinent to the activities of the project.

(5) Procurement agreements and subproject agreements in excess of $100,000 shall contain a provision which requires the awardee to agree to comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act of 1970. Violations must be reported to the Department and the Regional Office of the Environmental Protection Agency.

(f) The standards contained in this section in no way relieve the recipient of contractual responsibilities arising under its contracts or subproject agreements. The recipient is the responsible authority, without recourse to the Department, regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements and subproject awards entered into in support of the project agreement. This includes disputes, claims, protests of award, source evaluation, or other matters of a contractual nature. Matters concerning violation of law are to be referred to the appropriate local, State, or Federal authority.

Subpart F—Interagency Agreements

§ 89.91 Administration

(a) The Secretary will require other Federal establishments which receive and utilize funds under the Act to submit financial reports and project progress reports. However, the Secretary will not require these reports to be submitted more frequently than quarterly.

(b) The Secretary will require other Federal establishments which receive and utilize funds under the Act to maintain the standard records on individual participants and participant activities.

(c) In all aspects of project administration other than those described in paragraphs (a) and (b) of this section, Federal establishments which receive and utilize funds under the Act may use their normal administrative procedures.

Subpart G—Assessment and Evaluation

§ 89.96 General.

This Subpart G sets forth the procedures which will be observed by the Department in assessing and evaluating the results and effectiveness of projects under the Act. The Department will assess project sponsors to determine whether they are carrying out the purposes and provisions of the Act in accordance with their project agreements. The Secretary will also evaluate the overall program conducted under the Act to aid in the overall administration of the Act.

§ 89.97 Responsibilities of the Secretary.

(a) As used in this section, the term "assessment" means the Federal review of the performance of individual project sponsors; and the term "evaluation" means the Federal study of the overall results and effectiveness of the Senior Community Service Employment Program.

(b) The Secretary has the responsibility to determine whether project sponsors are operating in accord with their respective project agreements in carrying out the purposes and provisions of the Act and are demonstrating maximum efforts to achieve the stated goals and objectives of their projects.

(c)(1) Assessment will be conducted through the review of required periodic reports and, as necessary, will be supplemented with special reports from project sponsors, the examination of records maintained by project sponsors, selective on-site reviews, including the investigation of allegations or complaints, or other examination as may be deemed necessary and appropriate by the Secretary.

(2) Assessment may also be conducted for purposes of offering technical assistance and recommendations for corrective actions to project sponsors as considered necessary.

(d) The Secretary has the responsibility to provide for the continuing evaluation of all projects and activities conducted under the Act. The studies will include examination of:

(1) Cost in relation to effectiveness;

(2) Impact on communities and participants;

(3) Implications for related programs;

(4) Extent to which the needs of the target client group are being met;

(5) Adequacy of mechanisms for the administration of the Senior Community Service Employment Program;

(6) Opinions of participants about the strengths and weaknesses of projects; and

(7) The extent to which artificial barriers restricting employment and advancement opportunities in organizations receiving funds under the Act have been removed.

(e) The Secretary will compile, on a State, regional, and national basis, information obtained from periodic reports or special reports, surveys or samples required from project sponsors, including information related to:

(1) Enrollee characteristics;

(2) Levels of enrollment and turnover in enrollment;

(3) Allocation of enrollment positions among specific areas of community service employment; and

(4) Costs.

(f) Evaluations carried out in accordance with paragraph (d) of this section may be conducted directly by the Department or through contract, grant or other arrangement as the Secretary deems necessary and appropriate.

§ 89.98 Limitation.

The Secretary may not, in arranging for the evaluation of projects under the Act, utilize for such evaluation any nongovernmental individual institution or organization which is associated with any project as a consultant, technical advisor or in any similar capacity.

Subpart H—Consultation With Other Agencies

§ 89.99 Consultation.

(a) The Secretary will consult with, and obtain the written views of, the Commissioner of the Administration on Aging prior to the establishment or revision of general policy in the administration of the Act.

(b) The Secretary will consult and cooperate with the Director of the Community Services Administration, the Secretary of Health, Education, and Welfare, and the heads of other Federal agencies carrying out related programs, in order to achieve optimal coordination with these other programs and to otherwise carry out the Department's responsibilities under section 905(b) of the Act.

Signed at Washington, D.C. this 10th day of June, 1975.

JOHN T. DUNLOP,
Secretary of Labor.

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