federal register

WEDNESDAY, JULY 9, 1975

WASHINGTON, D.C.

Volume 40 ■ Number 132

Pages 28785–29065

PART I

HIGHLIGHTS OF THIS ISSUE

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

(Continued inside)

July 9, 1975—Pages 28785–29065

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.

federal register
Phone 523–5240
Area Code 202

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

The FEDERAL REGISTER provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $5.00 per month or $45 per year, payable in advance. The charge for individual copies is 75 cents for each issue, or 75 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.

contents

list of cfr parts affected

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

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

5 CFR
213 (2 documents) ---- 28806

7 CFR
26 ---- 28785
271 ---- 28786
272 ---- 28786
1446 ---- 28787
1464 ---- 28788
PROPOSED RULES:
1099 ---- 28807

9 CFR
PROPOSED RULES:
92 ---- 28807

10 CFR
860 ---- 28789

14 CFR
71 ---- 28790

19 CFR
127 ---- 28790
133 ---- 28790
PROPOSED RULES:
24 ---- 28807

20 CFR
PROPOSED RULES:
401 ---- 28810
405 ---- 28810

21 CFR
27 (2 documents) ---- 28791
510 ---- 28791
522 ---- 28792
556 ---- 28792

29 CFR
94 ---- 28980
97 ---- 28980
1952 ---- 28792
PROPOSED RULES:
570 ---- 28814

39 CFR
3002 ---- 28792

40 CFR
PROPOSED RULES:
2 ---- 28814
52 ---- 28815
60 ---- 28814
61 ---- 28814
79 ---- 28814
125 ---- 28814
167 ---- 28814
180 ---- 28814

45 CFR
249 ---- 28793
1060 ---- 28793
1067 ---- 28794
1220 ---- 28799

46 CFR
506 ---- 28801

47 CFR
1 ---- 28803
73 ---- 28803
76 ---- 28804
PROPOSED RULES:
21 ---- 28816
43 ---- 28816
76 ---- 28816

49 CFR
571 ---- 28805

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

FEDERAL REGISTER PAGES AND DATES—JULY

Pages	*Date*
27637–27924	1
27925–28045	2
28046–28443	3
28445–28599	7
28601–28783	8
28785–29065	9

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.)

Rules Going Into Effect Today

DOT/FHA National maximum speed limit and maximum vehicle size and weight; establishment..... 34519; 6–9–75

Next Week's Deadlines for Comments On Proposed Rules

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

Raisins produced from grapes grown in Calif.; payment rate change for box rental; comments by 7–18–75. 27485; 6–30–75

Rural Electrification Administration—

Civil rights compliance; change in requirements; comments by 7–15–75. 24738; 6–10–75

CONSUMER PRODUCT SAFETY COMMISSION

Bicycles; banning and safety regulations; comments by 7–18–75. 25480; 6–16–75

ENVIRONMENTAL PROTECTION AGENCY

Procurement under EPA grants; maximum standards; comments by 7–15–75..... 24534; 6–9–75

FARM CREDIT ADMINISTRATION

Farm credit institutions; administration of; comments by 7–18– 75. 25474; 6–16–75

FEDERAL COMMUNICATIONS COMMISSION

Amateur radio service; comments by 7–16–75..... 26048; 6–20–75

Cable television: Application for authorization; comments by 7–16–75. 27051; 6–26–75

Class E citizens radio service; deferral of action on proposals; comments by 6–16–75; reply comments by 7–16–75..... 11612; 3–12–75

Domestic-public radio service; comments by 7–18–75.... 24021; 6–4–75

FM broadcast stations, Arkansas and Missouri; table of assignments; order extending time for filing comments and reply comments; comments by 7–14–74; reply comments by 7–22–75..... 26560; 6–24–75

FM broadcast stations; table of assignments: Me., comments by 7–17–75. 24573; 10–6–75

FM Broadcast stations; table of assignments; comments by 7–18–75. 24751; 6–10–75

Renewal of Broadcast Station license; revision of FCC Form 303 application; comments by 7–15–75. 24540; 6–9–75

FEDERAL HOME LOAN BANK BOARD

Federal savings and loan system drive-in facilities; proposed expansion of allowable functions; comments by 7–15–75 ..... 25030; 6–12–75

FEDERAL RESERVE SYSTEM

Truth in lending; description in transactions; comments by 7–18–75. 26571; 6–24–75

FEDERAL TRADE COMMISSION

Trade practice rules (Industry Guides); recission of; comments by 7–14–75. 21047; 5–15–75

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Food and Drug Administration—

Food for special dietary uses; identity standards; comments by 7–14–75..... 23243; 5–28–75

Social and Rehabilitation Service—

Grants to States for public assistance programs; procedures for reconsidering disallowances of Federal financial participation; comments by 7–17–75..... 25599; 6–17–75

INTERIOR DEPARTMENT

Fish and Wildlife Service—

Addition of Santee National Wildlife Refuge, S.C., to list of areas open to hunting of big game; comments by 7–15–75..... 25217; 6–13–75

Migratory bird hunting: species identification; comments by 7–17–75. 27943; 7–2–75

JUSTICE DEPARTMENT

Drug Enforcement Administration—

Schedules of controlled substances; librax and minrium excepted from schedule IV; comments by 7–15–75..... 24217; 6–5–75

LABOR DEPARTMENT

Office of the Secretary—

Walsh-Healey Public Contracts Act; definition of regular dealer for used automatic data processing equipment; comments by 7–14–75. 25219; 6–13–75

NUCLEAR REGULATORY COMMISSION

Standards for protection against radiation; personnel monitoring reports; comments by 7–14–75. 23478; 5–30–75

SECURITIES AND EXCHANGE COMMISSION

Investment advisers; disclosure and recordkeeping requirements; comments by 7–18–75.. 24756; 6–10–75

Oil and gas reserve disclosure; definitions and classifications; comments by 7–15–75..... 25230; 6–13–75

TRANSPORTATION DEPARTMENT

Coast Guard—

Carriage of portable tank having a gross weight of 55,000 pounds or less; allowance; comments by 7–16–75..... 24532; 6–9–75

Nonapproved lifesaving devices on white water canoes and kayaks; proposed revocation of exception; comments by 7–15–75. 25026; 6–12–75

Federal Aviation Administration—

Proposed alteration of special air traffic rules; Valparaiso, Fla.; comments by 7–14–75. 20826; 5–13–75

Restricted areas and continental control area; comments by 7–14–75..... 20825; 5–13–75

Southern region; alteration of transition area; comments by 7–17–75. 25601; 6–17–75

Transition areas, Chicago and Indiana; comments by 7–14–75. 25027, 25028; 6–12–75

Transition areas; Flemingsburg, Ky.; comments by 7–16–75. 25480; 6–16–75

TREASURY DEPARTMENT

Internal Revenue Service—

War veteran organizations; exemptions; comments by 7–17–75. 25476; 6–16–75

Next Week's Meetings

AGRICULTURE DEPARTMENT

Forest Service—

Timpas Unit Grazing Advisory Board; be held in Great Falls, Mont. (open), 7–15–75..... 24547; 6–9–75

CIVIL RIGHTS COMMISSION

Delaware State Advisory Committee, to be held in Arlington, Va. (open), 7–15–75..... 25621; 6–17–75

Illinois State Advisory Committee; to be held in Chicago, Ill. (open), 7–16–75..... 26056; 6–20–75

Maine State Advisory Committee; to be held at Augusta, Me. (open), 7–16–75..... 27072; 6–26–75

Michigan State Advisory Committee; to be held at Port Sanalic, Mich. (open), 7–18–75..... 27072; 6–26–75

Montana State Advisory Committee; to be held in Great Falls, Mont. (open), 7–19–75..... 26056; 6–20–75

COMMERCE DEPARTMENT

Domestic and International Business Administration—

Importers' Textile Advisory Committee; to be held at Washington, D.C. (open with restrictions), 7–16–75. 24761; 6–10–75

Numerically Controlled Machine Tool Technical Advisory Committee; to be held at Washington, D.C. (partially closed), 7–15–75. 24948; 6–11–75

Social and Economic Statistics Administration—

Census Advisory Committee on the Black Population for the 1980 Census; to be held at Suitland, Md. (open), 7–18–75. 25242; 6–13–75

DEFENSE DEPARTMENT

Office of the Secretary—

Advisory Group on Electron Devices; to be held in New York, N.Y. (closed), 7–15 and 7–16–75. 27062; 6–26–75

Defense Science Board Task Force on Accuracy; to be held in El Segundo, Calif. (closed), 7–15 and 7–16–75 (rescheduled from 7–16 and 7–17–75)..... 26573; 6–24–75

Executive Committee of the Defense Advisory Committee on Women in the Services; to be held in Washington, D.C. (open), 7–18–75. 25832; 6–19–75

Wage Committee; to be held at Washington, D.C. (closed), 7–15–75..... 25235; 6–13–75

DEFENSE MANPOWER COMMISSION

Defense Manpower Commission; to be held at Washington, D.C. (open with restrictions), 7–17–75. 23364; 5–29–75

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

High Energy Physics Advisory Panel; to be held in Germantown, Md. (open with restrictions), 7–17–75. 26581; 6–24–75

ENVIRONMENTAL PROTECTION AGENCY

Effluent Standards and Water Quality Information Advisory Committee; to be held in Lexington, Ky. (open), 7–18 and 7–19–75.. 27513; 6–30–75

FEDERAL COMMUNICATIONS COMMISSION

Radio Technical Commission for Marine Services, RTCM Executive Committee; to be held in Washington, D.C., 7–17–75..... 27968; 7–2–75

Radio Technical Commission for Marine Services, Special Subcommittee No. 68; to be held in Washington, D.C., 7–17–75 ..... 27967; 7–2–75

FEDERAL ENERGY ADMINISTRATION

Consumer Affairs/Special Impact Advisory Committee; to be held in Washington, D.C. (open), 7–17–75. 27523; 6–30–75

Wholesale Petroleum Advisory Committee; to be held at Boston, Mass. (open), 7–14–75.... 27074; 6–26–75

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Food and Drug Administration—

Commissioner of Food and Drug Administration; on performance standards for dental X-ray film; to be held at Rockville, Md. (open), 7–16–75..... 27959; 7–2–75

Obstetrics and Gynecology Advisory Committee; to be held at Rockville, Md. (open and closed), 7–17 and 7–18–75. 27068; 6–26–75

Ophthalmic Drugs Advisory Committee; to be held at Rockville, Md. (open), 7–14–75.. 27068; 6–26–75

Panel on Review of Cold, Cough, Allergy, Bronchodilators, and Antiasthmatic Drug Products; to be held in Washington, D.C. (partially open), 7–17 and 7–18–75. 25841; 6–19–75

Panel on Review of Gastroenterology-Urology Devices; to be held in Washington, D.C. (partially open), 7–14–75..... 25841; 6–19–75

Panel on Review of General and Plastic Surgery Devices; to be held in Washington, D.C. (partially closed), 7–18–75. 25842; 6–19–75

Panel on Review of Tropical Analgesics; to be held in Washington, D.C. (partially closed), 7–15 and 7–16–75..... 25841; 6–19–75

National Institute of Education—

National Council on Educational Research; to be held in Washington, D.C. (open), 7–18–75. 27505; 6–30–75

National Council on Educational Research; to be held in Washington, D.C. and Calif. (open with restrictions), 7–18, 9–18, and 11–21–75 25615; 6–17–75

National Institutes of Health—

Clinical Applications and Prevention Advisory Committee; to be held in Bethesda, Md. (open with restrictions), 7–14 and 7–15–75. 24763; 6–10–75

Coordinate Toxicology and Related Programs Committee; to be held in Bethesda, Md. (open), 7–16 and 7–17–75..... 26302; 6–23–75

National Cancer Institute Smoking and Health Program Contractors; to be held in Hot Springs, Va. (open with restrictions), 7–17 and 7–18–75..... 23779; 6–2–75

Recombinant DNA Molecule Program Advisory Committee; to be held in Woods Hole, Mass. (open partially), 7–18 and 7–19–75. 24764; 6–10–75

Virus Cancer Program Scientific Review Committee A; to be held in Bethesda, Md. (open partially), 7–14 and 7–15–75. 24763; 6–10–75

Office of the Secretary—

Consumer Advisory Council; to be held in Washington, D.C. (open), 7–14–75..... 27070; 6–26–75

Health Insurance Benefits Advisory Council, to be held in Washington, D.C. (open), 7–16 and 7–17–75. 25616; 6–17–75

Social Security Administration—

Supplemental Security Income Study Group; to be held at Baltimore, Md. (open), 7–16–75. 27070; 6–26–75

Supplemental Security Income Study Group; to be held in Washington, D.C. (open), 7–17–75. 27070; 6–26–75

INTERIOR DEPARTMENT

National Park Service—

Gateway National Recreation Area Advisory Commission; to be held at Brooklyn, N.Y. (open), 7–14–75. 25499; 6–16–75

JUSTICE DEPARTMENT

Law Enforcement Assistance Administration—

National Advisory Committee for Juvenile Justice and Delinquency Prevention; to be held in Chicago, Ill. (open), 7–17 and 7–18–75. 27270; 6–27–75

LABOR DEPARTMENT

Occupational Safety and Health Administration—

Standards Advisory Committee on Agriculture; to be held in Salt Lake City, Utah (open), 7–15–75. 27537; 6–30–75

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

Meeting in Washington, D.C. (open), 7–14 and 7–15–75.. 25042; 6–12–75

NATIONAL ADVISORY COUNCIL ON THE EDUCATION OF DISADVANTAGED CHILDREN

Committee on Early Childhood Education; to be held in Washington, D.C., 7–17–75..... 27984; 7–2–75

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Federal-State Partnership Advisory Panel to the National Endowment for the Arts; held in Washington, D.C. (open with restrictions), 7–14 and 7–15–75..... 27283; 6–27–75

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Genetic Biology; to be held in Washington, D.C. (closed), 7–14 and 7–15–75.. 26598; 6–24–75

Advisory Panel for Weather Modification; to be held in Boulder, Colo. (open), 7–13 through 7–15–75. 26598; 6–24–75

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Combustion Engineering System 80; to be held in Washington, D.C. (open partially), 7–18–75 ..... 27986; 7–2–75

STATE DEPARTMENT

International Book and Library Programs, Government Advisory Committee; to be held in Washington, D.C. (open), 7–17–75..... 24546; 6–9–75

TRANSPORTATION DEPARTMENT

Federal Highway Administration—

National Advisory Committee on Uniform Traffic Control Devices; to be held in San Diego, Calif. (open), 7–16 thru 7–18–75. 26054; 6–20–75

Next Week's Public Hearings

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Federal Insurance Administration—

Flood plain management criteria; to be held in New York, N.Y., 7–14–75. 25479; 6–16–75

Office of Interstate Land Sales Registration—

Green Sand Subdivision Units I and II; to be held in Washington, D.C., 7–17–75. 26577; 6–24–75

Lake Chapparal; to be held in Washington, D.C., 7–16–75. 26578; 6–24–75

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. Statutes citation. Subsequent lists will appear every day in the FEDERAL REGISTER, and copies of the laws may be obtained from the U.S. Government Printing Office.

H. R. 6054..... Pub. Law 94–52
Office of Environmental Quality, further appropriation authorizations
(July 3, 1975; 89 Stat. 258)

S. J. Res. 98..... Pub. Law 94–53
Valley Forge, Pennsylvania, flying of the flag of the United States twenty-four hours each day
(July 4, 1975; 89 Stat. 259)

rules and regulations

Title 7—Agriculture

CHAPTER I—AGRICULTURAL MARKETING SERVICE, DEPARTMENT OF AGRICULTURE

PART 26—GRAIN STANDARDS

Effective Date of Regulations

Statement of considerations. On December 30, 1974, there was published in the FEDERAL REGISTER (39 FR 45018) a notice announcing a proposal to implement the provisions of section 12 of the U.S. Grain Standards Act (7 U.S.C. 87a) and §§ 26.55(b)(2) and 26.57 of the regulations thereunder (7 CFR 26.55(b)(2) and 26.57) by requiring, effective March 1, 1975, the mandatory retention by official inspection personnel or official inspection agencies of file samples for grain inspections in accordance with the provisions of § 26.57 of the regulations. Interested parties were given until January 27, 1975, to submit written data, views, or arguments with respect to this notice.

Twenty-five commentors representing official inspection agencies, grain industry firms, and an individual responded to the December 30, 1974, notice published in the FEDERAL REGISTER. Two of the commentors supported the retention of file samples as proposed. Fifteen commentors representing official inspection agencies and eight grain industry firms opposed retention of file samples because of increased costs, suggested shorter retention periods, or suggested that retention of file samples be based on needs in individual areas. The principal points raised by the opposing commentors and the Department's response to them are as follows:

A. *Increased costs.* Nine official inspection agencies and five grain industry firms opposed the mandatory retention of file samples for submitted sample inspections and trucklot inspections because of costs of additional storage space and handling of samples. One official inspection agency and two grain industry firms opposed mandatory retention of file samples representing any inspections because of additional costs for storage space and handling of samples. The Department believes that the savings to the applicant for inspection as a result of using file samples for reinspection and appeal inspections will more than offset the cost of retaining the file samples. However, the Department has concluded that retention of file samples for trucklot inspections and submitted sample inspections is not necessary for those inspections that grade U.S. No. 1 and are available for supervision purposes, otherwise 2 calendar days if applicant or his agent receives notice of inspection results on date of inspection, otherwise 4 calendar days.

B. *Shorter retention periods for outbound carlots.* Three official inspection agencies opposed the retention of file samples for out-carlot inspections longer than 7 days. The Department has concluded that the 15-day retention period for file samples representing out-carlot inspections is necessary to permit comparison of origin and destination grades and to assist in resolving intermarket differences. A shorter period of retention for such file samples would not meet the intended purpose. Accordingly, no change is being made in this provision.

C. *Retention based on needs in individual areas.* Two official inspection agencies and one national inspection group suggested that retention of file samples be based on needs in each area. The Department has concluded that it would not be practicable to provide a separate file sample retention plan for each of the 111 agencies or persons designated to operate as official inspection agencies in the United States. Such individual area file sample retention plans would (1) be a deterrent to uniformity of the program; (2) compound problems in supervision; and (3) confuse applicants shipping between areas as to availability of file samples for reinspections or appeal inspections. Accordingly, no provision is being made for retention of file samples based on each individual area need.

The mandatory retention of file samples was proposed as a means of improving the national inspection system by providing to applicants and interested parties of original inspections, the right to a reinspection or an appeal inspection. The most effective means of insuring the right to reinspection or appeal inspection is a program whereby file samples are available as a basis for such reinspection or appeal inspection. The file sample retention program will be useful to all applicants including country elevators and producers.

Official inspection records indicate that where file samples are available, such file samples are being used in increasing numbers for appeal inspections. The retention of file samples is considered by the Department to be an additional means of protecting the integrity of official inspection certificates when such file samples are available for supervision inspections, resolving intermarket complaints, and for use in handling special requests from applicants; i.e., requests for samples to demonstrate class and quality of grain to foreign buyers. Therefore, after consideration of the comments filed with respect to the December 30, 1974, notice published in the FEDERAL REGISTER, needs and circumstances of local markets, and other information available to the Department, it has been concluded that retention of file samples is needed. It is further concluded that file samples of inbound truck inspections and file samples of submitted sample inspections do not need to be retained if the grade of the grain is U.S. No. 1 and the samples are available for supervision purposes.

Accordingly, the provisions of § 26.55(b)(2) are being implemented as follows:

§ 26.55 Maintenance and availability of records.

* * * * *

(b) *Records on inspection activities.* The complete record shall include (1) detailed work records, (2) official file samples, and (3) official certificates, as prescribed in §§ 26.56, 26.57, and 26.58. The record for each inspection shall be kept in such manner as to permit comparison with the record for other inspections on the same identified grain.

* * * * *

§ 26.57 of the regulations will be implemented with paragraph (f) revised as follows:

§ 26.57 File samples.

(a) *General.* For each official inspection, an official file sample shall be maintained in accordance with paragraphs (b) through (h) in this section: *Provided,* That no file sample need be maintained for checkweighing and other types of inspections which are not based on an examination of the grain in a sample.

(b) *Who shall maintain samples.* File samples shall be maintained by the official inspection personnel who performed the inspection or by the official inspection agency that conducted the inspection: *Provided,* That no file sample need be maintained by a licensed employee of a grain elevator or warehouse: *And provided further,* That if a file sample maintained by an official inspection agency is used for an appeal or review inspection, the field office which conducted the appeal or review inspection shall thereafter have the responsibility for maintaining the sample.

(c) *Size of sample.* Each file sample shall consist of a worked portion and an unworked portion: *Provided,* That if the inspection does not require the use or examination of the grain in both portions, and if the applicant will not desire a portion of the sample during the prescribed retention period, only one portion is required to be maintained. Each file sample shall be of such size as will

permit a reinspection, an appeal inspection, or a review inspection for the kind (scope) of inspection for which the sample was obtained. (In the case of a submitted sample inspection, if an undersized sample is received, the entire sample shall be retained.)

(d) *Containers.* Each sample shall be retained in such container and in such manner as will retain the representativeness of the sample from the time it is obtained or received by the official inspection personnel until it is discarded. High moisture samples, infested samples, and other problem samples shall be retained in accordance with the instructions.

(e) *File system.* To facilitate the full use of file samples, each official inspection agency and each field office shall establish and maintain, in accordance with the instructions, a uniform file sample system which has been approved by the Administrator. The instructions may prescribe the kind and size of the file sample containers, the method of identification, and methods for retaining the representativeness of the samples.

(f) *Retention periods.* (1) Each file sample shall be retained for the following applicable period of time which is necessary for the handling of a reinspection, an appeal inspection, or a trade complaint:

Type of carrier (or container)	*Retention period (calendar days)*
Rail cars:	
In (other than en route)[1]	[2] 5–7
Out	15
Trucks:	
In (other than en route)[1]	[3] 0–2–4
Out	7
Barges:	
In (other than enroute)[1]	10
Out	30
Bins and tanks	[4] 2–4
Submitted samples	[5] 0–2–4

Ships:	*Composite samples*	*Sublot samples*
In	[6]	7
Out (domestic)	[6]	15
Out (export)	90	30

[1] The retention period for an "IN" (en route) movement shall be the same as for an "OUT" movement in the identified carrier.

[2] 5 calendar days if applicant, or his agent, receives notice of inspection results on the date of inspection, otherwise 7 calendar days.

[3] No retention needed if the grain is graded U.S. No. 1 and the file samples are available for supervision purposes. Otherwise, 2 calendar days if applicant or his agent receives notice of inspection results on date of inspection, otherwise 4 calendar days.

[4] 2 calendar days if applicant, or his agent, receives notice of inspection results on the date of inspection, otherwise 4 calendar days.

[5] If the identification of an unofficial sample is the same as the identification of a carrier, the retention period for the sample shall be the same as for an "OUT" movement in the identified carrier.

[6] The retention of composite samples for "IN" and for "OUT (Domestic)" ship lots shall be optional with the official inspection personnel and the official inspection agency.

Samples may be kept for longer periods of time as desired at the option of the persons or agency maintaining the samples.

(2) For good cause shown, and upon request by the official inspection personnel or the official inspection agency, and with the approval of the Administrator, specified samples or classes of samples may be retained for agreed shorter periods of time.

(3) In determining the retention period, the time period shall begin on the date of the inspection involved.

(g) *Furnishing file samples to field offices.* (1) Upon request by a field office, a file sample retained by official inspection personnel or by an official inspection agency shall be furnished to the field office for an appeal inspection or a review inspection.

(2) If a sample is furnished to a field office, no portion of the sample need be retained by the official inspection personnel or the official inspection agency.

(3) Official inspection agencies furnishing file samples to a field office for appeal inspections may, upon request, be reimbursed at the rate prescribed in § 26.72, by the Grain Division for the cost of locating and sending the samples.

(h) After official file samples have been retained the prescribed period of time, they may be disposed of in accordance with the provisions of § 26.19.

(Section 12 and 16, 82 Stat. 766 and 768 (7 U.S.C. 87a and 87e) 37 FR 28464 and 28476).

Effective date. The provisions shall become effective August 8, 1975.

Done in Washington, D.C. on: July 3, 1975.

JOHN C. BLUM,
Acting Administrator.

[FR Doc.75-17750 Filed 7-8-75;8:45 am]

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

[Amdt. No. 66]

PART 271—PARTICIPATION OF STATE AGENCIES AND ELIGIBLE HOUSEHOLDS

PART 272—PARTICIPATION OF RETAIL FOOD STORES, WHOLESALE FOOD CONCERNS, MEAL SERVICES, AND BANKS

Food Stamp Coupons

Pursuant to the authority contained in the Food Stamp Act of 1964, as amended (78 Stat. 703, as amended; U.S.C. 2011–2026), regulations governing the operation of the Food Stamp Program are hereby amended.

As a result of delivery and production problems with the new denominations of coupons implemented March 1, 1975, many parts of the country were forced to use old coupons during March, April and May. Because of this the transition period during which retail food stores and meal services may continue to accept the 50-cent, 2-dollar, and old series 5-dollar coupons has been extended until August 31, 1975.

After that date, the old series of coupons will remain obligations of the United States Government. Retail food stores, wholesale food concerns and meal services may redeem old series coupons at commercial banks through September 30, 1975. These amendments provide methods by which authorized firms still in possession of 50-cent, 2-dollar and old series 5-dollar coupons after September 30, 1975, may redeem them.

Although it is the policy of the Department that 30-days' notice be given to proposed rulemaking, in view of the immediate need to publish this amendment it has been determined impracticable and contrary to public interest to give notice of proposed rulemaking with respect to this amendment.

Accordingly, Parts 271 and 272 of Chapter II, Title 7, Code of Federal Regulations, are amended as follows:

1. In § 271.9, paragraph (a) is amended to read as follows:

§ 271.9 Use or redemption of coupons by eligible households.

(a) The head of the eligible household or his authorized representative shall sign each book of coupons provided to the head of the household or his authorized representative. The coupons may be used only by the head of the household or other persons selected by him to purchase eligible food for the household, except that eligible households residing in certain designated areas of the State of Alaska may purchase with their food coupons, hunting and fishing equipment. Coupons may not be used for deposit on bottles or other returnable food containers. Uncanceled and unendorsed coupons of 1-dollar (and through August 31, 1975, 50-cent) denomination returned as change by authorized retail food stores or meal services may be presented as payment for eligible food purchased in or delivered by an authorized retail food store or prepared and served by a meal service. All other coupons which have been detached from the coupon book prior to the time of purchase or delivery of eligible food may be presented as payment for eligible food purchased in or delivered by an authorized retail food store or meal service, only if the coupons are accompanied by the coupon books which bear the same serial numbers as the detached coupons. It is the right of the head of the household or his authorized representative to detach the coupons from the book. Fifty-cent, 2-dollar, and old series 5-dollar denomination coupons, which were previously issued to the household may be used to purchase eligible foods in authorized retail food stores and meal services through August 31, 1975.

* * * * *

2. In § 272.2, paragraphs (d) and (e) are amended to read as follows:

§ 272.2 Participation of retail food stores and meal services.

* * * * *

(d) No retail food store or meal service authorized to receive coupons shall accept coupons marked "paid," "canceled," or "specimen," coupons marked with the name or authorization number of any other firm, coupons bearing the name of any bank, or coupons of other than 1-dollar (and through August 31, 1975, 50-cent) denominations which have

been detached from the coupon books prior to the time of purchase or delivery of eligible food unless the detached coupons are accompanied by the coupon books which bear the same serial numbers that appear on the detached coupons. Retail food stores or meal services may not accept 50-cent, 2-dollar, or old series 5-dollar food coupons after August 31, 1975. It is the right of the head of the household or his selected representative to detach the coupons from the book.

(e) Change in cash shall not be given for coupons. An authorized food retailer or meal service must use for the purpose of making change in an amount of 1-dollar (or 50 cents through August 31, 1975) or more, those uncanceled and unmarked coupons having a denomination of 1-dollar (or 50 cents through August 31, 1975) which were previously accepted in exchange for eligible foods. If change in an amount of less than 1-dollar (or 50 cents through August 31, 1975) is required, the eligible household shall have the option of receiving credit from the authorized firm for future delivery of an equivalent value of eligible foods, or of trading out in eligible food the difference between the cost of the purchase and the next higher 1-dollar (or 50 cents through August 31, 1975) increment, or of paying in cash the difference between the cost of the purchase and the next lower 1-dollar (or 50 cents through August 31, 1975) increment. Credit in excess of 99 cents shall not be returned in coupon transactions.

3. In § 272.4, a new paragraph (d) is added to read as follows:

§ 272.4 Procedure for redeeming coupons.

* * * * *

(d) Old series food coupons in 50-cent, 2-dollar and 5-dollar denominations may be redeemed by authorized retail food stores, meal services or wholesale food concerns at commercial banks through September 30, 1975. After this date the old series coupons may be redeemed only by making a claim to FNS under § 272.7 (d).

4. In § 272.5, paragraph (a) is amended to read as follows:

§ 272.5 Participation of banks.

(a) Banks may accept coupons for redemption from authorized retail food stores, authorized meal services, and authorized wholesale food concerns in accordance with the provisions of this part and the instructions of the Federal Reserve Banks. Old series food coupons in 50-cent, 2-dollar, and 5-dollar denominations may be accepted for redemption through September 30, 1975. Coupons submitted to banks for credit or for cash must be properly endorsed in accordance with § 272.4 and shall be accompanied by a properly executed redemption certificate. No bank shall knowingly accept coupons used by ineligible persons or transmitted for collection by unauthorized firms or any other unauthorized persons, partnerships, corporations, or other legal entities. Banks may require persons presenting coupons for redemption to show their authorization card. The redemption certificates shall be held by the receiving bank until final credit has been given by the Federal Reserve Bank after which the wholesale food concerns' redemption certificates shall be forwarded to the FNS Field Office and the retail food stores' and meal services' redemption certificates to:

ADP Field Office
Food Stamp Control Unit
Food and Nutrition Service, USDA
3930 West 65th Street
Minneapolis, Minnesota 55435

Coupons accepted for deposit or for payment in cash must be canceled by or for the first bank receiving the coupons by indelibly marking "paid" or "canceled" together with the name of the bank, or its routing symbol transit number, on the coupons by means of an appropriate stamp. A portion of a coupon consisting of less than three-fifths of a whole coupon shall not be accepted for redemption by banks. Banks which are members of the Federal Reserve System, nonmember clearing banks, and nonmember banks which have arranged with a Federal Reserve Bank to deposit coupons for credit to the account of a member bank on the books of the Fededal Reserve Bank may forward canceled coupons directly to the Federal Reserve Bank for payment in accordance with applicable regulations or instructions of the Federal Reserve Banks. Other banks may forward canceled coupons through ordinary collection channels.

* * * * *

5. In § 272.7, a new paragraph (d) is added to read as follows and the current paragraph (d) is relettered paragraph (e):

§ 272.7 Determination and disposition of claims—retail food stores, meal services, and wholesale food concerns.

* * * * *

(d) After September 30, 1975, FNS may redeem the old series food coupons issued in 50-cent, 2-dollar, and 5-dollar denominations when they are presented for redemption. Firms presenting the coupons for redemption shall submit the coupons to the local FNS Field Office with a properly completed redemption certificate and a written statement, signed by a representative of the firm, detailing the circumstances of the acceptance of the coupons.

* * * * *

Effective date: This amendment shall become effective July 1, 1975.

Dated: June 30, 1975.

(Catalog of Federal Domestic Assistance Programs, No. 10.551, National Archives Reference Services)

(78 Stat. 703, as amended (U.S.C. 2011-2026))

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc.75-17752 Filed 7-8-75;8:45 am]

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

PART 1446—PEANUTS

1975 Crop Peanut Warehouse Storage Loans

On January 27, 1975, notice of proposed rule making regarding loan and purchase rates for 1975 crop peanuts and operating provisions to carry out the 1975 crop peanut loan and purchase program was published in the FEDERAL REGISTER (40 FR 4019).

Six responses were received from individual producers and other interested parties. These responses included requests ranging from continuation of the present program without change to eliminating the 100 percent resale policy and changing the price differential by types of peanuts.

After consideration of all responses, it has been determined that price differentials and other operating provisions for the 1975 crop will remain the same as those for the 1974 crop, except (1) the deduction from the price support value to cover cost for storage, handling, and inspection will be increased from $17 to $18 per net ton, (2) the minimum support value for any lot of eligible peanuts was increased from 4 to 8 cents per pound of kernels, and (3) no premium for extra large kernels in Virginia type peanuts shall be applicable to any lot containing more than 4 percent damaged kernels.

This annual crop supplement, together with the General Regulations Governing 1974 and Subsequent Crop Peanut Warehouse Storage Loans and any amendments hereto (hereinafter called the General Regulations), contain the terms and conditions under which CCC will make warehouse storage loans on 1975 crop peanuts.

The material previously appearing in these § 1446.8 through 1446.13 shall remain in full force and effect as to the crops to which it is applicable.

For the 1975 crop of farmers stock peanuts, §§ 1446.8 through 1446.13 are hereby amended to read as follows:

§ 1446.8 Associations through which producer may obtain price support.

Eligible producers may obtain price support by means of warehouse storage loans on eligible 1975 crop farmers stock peanuts through, in the Southeastern area, GFA Peanut Association, Camilla, Georgia; Southwestern area, Southwestern Peanut Growers' Association, Gorman, Texas; and Virginia-Carolina area, Peanut Growers Cooperative Marketing Association, Franklin, Virginia.

§ 1446.9 Applicability.

The support prices specified in this subpart apply to 1975 crop farmers stock peanuts in bulk or in bags, net weight basis, eligible for price support advances under the General Regulations.

§ 1446.10 National average support value.

The national average support value for 1975 crop peanuts is $388.50 per ton.

§ 1446.11 Average support values by type.

The support values by type per average grade ton of 1975 crop peanuts are:

Type:	Per ton
Virginia	$387.98
Runner	393.10
Southeast Spanish	379.06
Southwest Spanish	374.87
Valencia, in the Southwest area suitable for cleaning or roasting	387.98

The price for all Valencia type peanuts in the Southeast and Virginia-Carolina areas and those in the Southwest area which are not suitable for cleaning and roasting will be the same as for Spanish type peanuts in the same area.

§ 1446.12 Calculation of support values.

The support value per ton for 1975 crop peanuts of a particular type and quality shall be calculated on the basis of the following rates, premiums, and discounts (with no value being assigned to damaged kernels), except that the minimum support value for any lot of eligible peanuts of any type shall be 8 cents per pound of kernels in the lot:

(a) *Kernel value per net ton excluding loose shelled kernels.*

(1) Price for each percent of sound mature and sound split kernels shall be:

Type:	Per ton
Virginia	$5.499
Runner	5.460
Southeast Spanish	5.460
Southwest Spanish	5.460
Valencia:	
Southwest area—suitable for cleaning and roasting	5.922
Southwest area—not suitable for cleaning and roasting	5.460
Areas other than Southwest	5.460

(2) Price for each percent of other kernels:

All types	$1.40

(3) Premium for each 1 percent extra large kernels in Virginia type peanuts shall be 45 cents, except that no premium shall be applicable to any lot of such peanuts containing more than 4 percent damaged kernels.

(b) *Value of loose shelled kernels per pound.*

All types	$0.07

(c) *Damaged kernel discount.* For all types of peanuts, the discount per ton for damaged kernels shall be as follows:

Peanuts containing damaged kernels of:	Discount
1 percent	None
2 percent	$3.40
3 percent	7.00
4 percent	11.00
5 percent	25.00
6 percent	40.00
7 percent	60.00
8–9 percent	80.00
10 percent and over	100.00

(d) *Sound split kernel discount.* For all types of peanuts, the discount per ton for sound split kernels shall be as follows:

Peanuts containing sound split kernels of:	Discount
1 through 4 percent	None
5 percent	$1.00
6 percent	1.60

Plus 80 cents for each percent of sound split kernels in excess of 6 percent.

(e) *Foreign material discount.* The discount for each full 1 percent foreign material in excess of 4 percent and not over 10 percent shall be $1.00 per ton.

(f) *Price adjustment for peanuts sampled with other than a pneumatic sampler.* The support price for Virginia type peanuts sampled with other than a pneumatic sampler shall be reduced by $0.10 per percent sound mature and sound split kernels.

(g) *Mixed type discount.* Individual lots of farmer stock peanuts containing mixtures of two or more types in which there is less than 90 percent of any one type will be supported at a rate which is $10 per ton less than the support price applicable to the type in the mixture having the lowest support price.

(h) *Location adjustments to support prices.* Farmers stock peanuts delivered to the association for price support advances in the States specified, where peanuts are not customarily shelled or crushed, shall be discounted as follows:

(1) Arizona, $25 per ton.
(2) Arkansas, $10 per ton.
(3) California, $33 per ton.
(4) Louisiana, $7 per ton.
(5) Mississippi, $10 per ton.
(6) Missouri, $10 per ton.
(7) Tennessee, $25 per ton.

(i) *Virginia type peanuts.* Virginia type peanuts, to receive peanut price support as Virginia type, must contain 40 percent or more "fancy" size peanuts, as determined by a presizer with the rollers set at 34/64 inch space. Virginia type peanuts so determined to contain less than 40 percent "fancy" size peanuts will be supported (but not classed) as though they were Runner type.

(j) *Deduction for storage, handling and inspection.* For all types of peanuts, a deduction of $18 per net ton will be made from the price support value to cover cost of storage, handling and inspection.

§ 1446.13 Peanuts containing mold.

(a) *Background.* Peanuts, as they are marketed, are inspected by the Federal-State Inspection Service for visible Aspergillus flavus mold, a mold known to produce toxins. As provided in § 1446.7 (7), peanuts containing such mold are not eligible for price support. It is essential that stocks of peanuts which are sold for commercial purposes remain free from contamination by peanuts containing Aspergillus flavus mold. The adverse effect on the market for peanuts which would result from seizure or other Governmental action with respect to contaminated peanuts is readily apparent. The associations designated in § 1446.8 and parties to the Peanut Marketing Agreement are subject to strict limitations upon their marketing of peanuts which contain such mold. Therefore, as a condition to his eligibility for price support, the producer shall dispose of any lot of peanuts found by the Federal-State Inspection Service to have visible Aspergillus flavus mold (herein referred to as "any affected lot") in the manner prescribed in paragraph (b) of this section.

(b) *Disposition of affected peanuts.* The producer shall either (1) at the point of first inspection, sell any affected lot to a signer of the Peanut Marketing Agreement or turn it over to the Association for marketing on his behalf, or (2) reclean any affected lot, or have it recleaned, for the purpose of removing loose shelled kernels and foreign material. If the producer elects to reclean the affected lot, or to have it recleaned, he will be given a copy of the Inspection Certificate and Sales Memorandum, Form MQ–94, which will show that visible mold was found. The producer shall return such copy, along with the affected lot it represents, to an inspector for a second inspection by the close of business on the next workday following the initial inspection. If visible mold is, upon second inspection, again found in the lot, the producer shall, at the point of second inspection, either sell the affected lot to a signer of the Peanut Marketing Agreement or turn it over to the Association for marketing on his behalf.

(c) *Liquidated Damages.* In view of the circumstances set forth in paragraph (a) of this section, CCC may incur substantial damages to its program to support the price of peanuts if peanuts containing Aspergillus flavus mold are disposed of other than in accordance with the provisions of paragraph (b) of this section. The amount of such damages is difficult, if not impossible, to ascertain exactly. Therefore, the producer shall, with respect to any lot of peanuts ineligible for price support pursuant to § 1446.(7) which is placed under price support, or any lot of peanuts which is placed under price support by a producer after he has disposed of any affected lot other than in the manner prescribed in paragraph (b) of this section, pay to CCC as liquidated damages and not as a penalty, seven cents ($.07) per net weight pound of such peanuts. The provisions of § 1446.4(b) relating to the producer's liability (aside from liability under criminal and civil frauds statutes) shall not be applicable to such peanuts.

Effective date: July 9, 1975.

Signed at Washington, D.C., on July 2, 1975.

KENNETH E. FRICK,
Executive Vice President,
Commodity Credit Corporation.

[FR Doc. 75–17705 Filed 7–8–75;8:45 am]

[Amdt. 3]

PART 1464—TOBACCO

Use of Pesticides and Certification of Acreage

On March 20, 1975, there was published in the FEDERAL REGISTER (40 FR 12669) a notice of proposed rule making concerning proposed amendments to the

tobacco loan program regulations to provide that (1) tobacco on which pesticides containing toxaphene and endrin have been used shall not be eligible for price support, and (2) in the case of flue-cured tobacco, producers' certifications of acreage shall not be required as a condition of price support. Interested persons were afforded an opportunity to file data, views and recommendations.

Only two responses were received and only one contained comments in opposition to either proposal. The latter recommended continuing acreage certification for flue-cured tobacco, because such certifications establish positive determination of producers' eligibility to receive marketing cards. Flue-cured marketing cards are issued under marketing quota regulations, and the proposed amendment would not preclude procedures under the marketing quota regulations to establish positive determination of producers being eligible to receive marketing cards prior to the issuance of marketing cards or other determinations for marketing quota purposes. The purpose of the amendment is only to remove, as a condition of price support, the requirement that flue-cured tobacco producers certify the number of acres on which tobacco is produced. The amendment has been modified to clarify this.

The tobacco loan program regulations are amended as follows:

1. Section 1464.2(c) is revised to read:

§ 1464.2 Availability of price support.

* * * * *

(c) No price support will be available for tobacco on which pesticides containing DDT, TDE, toxaphene and endrin, as defined in Parts 724, 725 and 726 of Chapter VII of this title, have been used in the field or after harvest.

* * * * *

2. Section 1464.7(a) (1) and (3) are revised to read:

§ 1464.7 Eligible producers.

(a) * * *

(1) Pesticides containing DDT, TDE, toxaphene and endrin have not been used in the field or after being harvested.

(2) * * *

(3) Tobacco produced on the farm is not produced on acreage which exceeds the acreage allotment established under applicable marketing quota regulations and the producer has furnished a certification of his acreage as required under applicable marketing quota regulations, except that this provision shall not apply to flue-cured tobacco.

* * * * *

3. Section 1464.8(c) is revised to read:

§ 1464.8 Eligible tobacco.

* * * * *

(c) If Puerto Rican tobacco or tobacco of a kind for which marketing quotas have been terminated, is tobacco for which the association has received a certification by the producers that pesticides DDT, TDE, toxaphene and endrin, as defined in Parts 724, 725 and 726 of this title, were not used on the tobacco in the field or after harvest.

* * * * *

(Secs. 4 and 5, 62 Stat. 1070 as amended (15 U.S.C. 714b, 714c); secs. 101, 106, 401, 63 Stat. 1051, as amended, 1054 (7 U.S.C. 1441, 1445, 1421, 1423); 74 Stat. 6, as amended (7 U.S.C. 1445))

Effective Date: July 9, 1975.

Signed at Washington, D.C. on July 2, 1975.

KENNETH E. FRICK,
Executive Vice President,
Commodity Credit Corporation.

[FR Doc.75-17704 Filed 7-8-75;8:45 am]

Title 10—Energy

CHAPTER III—ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

PART 860—TRESPASSING ON ADMINISTRATION PROPERTY

On August 16, 1963 the Atomic Energy Commission published 10 CFR Part 160 to implement section 229 of the Atomic Energy Act of 1954 as amended, 42 U.S.C. 2278a, which reads as follows:

Sec. 229. Trespass Upon Commission Installations—a. The Commission is authorized to issue regulations relating to the entry upon or carrying, transporting, or otherwise introducing or causing to be introduced any dangerous weapon, explosive, or other dangerous instrument or material likely to produce substantial injury or damage to persons or property, into or upon any facility, installation, or real property subject to the jurisdiction, administration, or in the custody of the Commission. Every such regulation of the Commission shall be posted conspicuously at the location involved.

b. Whoever shall willfully violate any regulation of the Commission issued pursuant to subsection a. shall, upon conviction thereof, be punishable by a fine of not more than $1,000.

c. Whoever shall willfully violate any regulation of the Commission issued pursuant to subsection a. with respect to any installation or other property which is enclosed by a fence, wall, floor, roof, or other structural barrier shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not to exceed $5,000, or to imprisonment for not more than one year, or both.

The Atomic Energy Commission was abolished by the Energy Reorganization Act of 1974, Pub. L. 93-438, and the authority of the Commission under the Atomic Energy Act of 1954, as amended, was transferred to two new agencies, the Energy Research and Development Administration (ERDA) and the Nuclear Regulatory Commission (NRC). As a result of the reorganization, Part 160 of Chapter I of Title 10 of the Code of Federal Regulations, redesignated Part 860 of Chapter III of Title 10 by notice in the FEDERAL REGISTER March 3, 1975 at 40 FR 8794, is republished and recodified by the Energy Research and Development Administration as set forth below. The recodification contains one substantive change, § 860.2 is revised.

EDWARD B. GILLER,
Deputy Assistant Administrator
for National Security.

Sec.
860.1 Purpose.
860.2 Scope.
860.3 Trespass.
860.4 Unauthorized introduction of weapons or dangerous materials.
860.5 Violations and penalties.
860.6 Posting.
860.7 Effective date of prohibition on designated locations.
860.8 Applicability of other laws.

AUTHORITY: Sec. 161, 68 Stat. 948, sec. 229, 70 Stat. 1070; (42 U.S.C. 2201; 2278a); sec. 104, 88 Stat. 1237, sec. 105, 88 Stat. 1238 (42 U.S.C. 5814, 5815.)

§ 860.1 Purpose.

The regulations in this part are issued for the protection and security of facilities, installations and real property subject to the jurisdiction or administration, or in the custody of, the Energy Research and Development Administration.

§ 860.2 Scope.

The regulations in this part apply to all facilities, installations and real property subject to the jurisdiction or administration of the Energy Research and Development Administration or in its custody which have been posted with a notice of the prohibitions and penalties set forth in this part.

§ 860.3 Trespass.

Unauthorized entry upon any facility, installation or real property subject to this part is prohibited.

§ 860.4 Unauthorized introduction of weapons or dangerous materials.

Unauthorized carrying, transporting, or otherwise introducing or causing to be introduced any dangerous weapon, explosive, or other dangerous instrument or material likely to produce substantial injury or damage to persons or property, into or upon any facility, installation or real property subject to this part, is prohibited.

§ 860.5 Violations and penalties.

(a) Whoever willfully violates either § 860.3 or § 860.4 shall, upon conviction, be punishable by a fine of not more than $1,000.

(b) Whoever willfully violates either § 860.3 or § 860.4 with respect to any facility, installation or real property enclosed by a fence, wall, floor, roof, or other structural barrier shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not to exceed $5,000 or imprisonment for not more than one year, or both.

§ 860.6 Posting.

Notices stating the pertinent prohibitions of § 860.3 and § 860.4 and penalties of § 860.5 will be conspicuously posted at all entrances of each designated facility, installation or parcel of real property and at such intervals along the perimeter as will provide reasonable assurance of notice to persons about to enter.

§ 860.7 Effective date of prohibition on designated locations.

The prohibitions in §§ 860.3 and 860.4 shall take effect as to any facility, instal-

lation or real property on publication in the FEDERAL REGISTER of the notice designating the facility, installation or real property and posting in accordance with § 860.6.

§ 860.8 Applicability of other laws.

Nothing in this part shall be construed to affect the applicability of the provisions of State or other Federal laws.

Effective date: July 9, 1975.

Dated at Washington, D.C. this 20th day of May 1975.

For the Energy Research and Development Administration.

EDWARD B. GILLER,
Deputy Assistant Administrator for National Security.

[FR Doc.75-17771 Filed 7-8-75;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airspace Docket No. 75-GL-41]

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

Revocation of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to revoke the Ashtabula, Ohio, control zone.

The weather reporting capability for the Ashtabula, Ohio, control zone no longer exists. As this is a requirement for a control zone, action is taken herein to revoke it.

Since this amendment relieves a burden on the public, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended effective immediately as hereinafter set forth:

In § 71.171 (40 FR 354), the following control zone is revoked:

ASHTABULA, OHIO

This amendment is made under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Des Plaines, Illinois, on June 19, 1975.

RONALD O. ZIGLER,
Acting Director, Great Lakes Region.

[FR Doc.75-17692 Filed 7-8-75;8:45 am]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE

[T.D. 75-161]

PART 127—GENERAL ORDER, UNCLAIMED AND ABANDONED MERCHANDISE

Disposition of Merchandise After Expiration of the Bond

Section 127.14 of the Customs Regulations (19 CFR 127.14) provides for the disposition of merchandise in Customs custody after the expiration of the bond period in the case of merchandise entered for warehouse, or after the expiration of the general order period in any other case. In order to avoid any confusion regarding the meaning of the term "general order period," it has been decided to amend Part 127 of the Customs Regulations by adding a new § 127.4 to set forth a definition of the terms and by amending § 127.14(a) to provide a cross-reference to new § 127.4.

Accordingly, Part 127 of the Customs regulations (19 CFR Part 127) is amended in the manner set forth below:

1. Part 127 of the Customs Regulations is amended by adding a new § 127.4 to read as follows:

§ 127.4 General order period defined.

The general order period is that period of time during which general order merchandise, as defined in section 127.1, is not subject to sale. The general order period expires 1 year from the date of importation unless one or more extensions have been granted in accordance with § 127.3, in which case the general order period expires 1 year from the date of the last extension.

2. Section 127.14(a) of the Customs Regulations is amended to read as follows:

§ 127.14 Disposition of merchandise in Customs custody beyond time fixed by law.

(a) *Merchandise subject to sale.* If storage or other charges due the United States have not been paid on merchandise remaining in Customs custody after the expiration of the bond period in the case of merchandise entered for warehouse, or after the expiration of the general order period, as defined in § 127.4; in any other case, even though any duties due have been paid, such merchandise shall be sold as provided for in subpart C of this part unless entered or withdrawn for consumption in accordance with paragraph (b) of this section.

* * * * *

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66 1624))

Because this amendment merely clarifies the regulations and places no affirmative duty on the public, notice and public procedure thereon is found to be unnecessary and good cause exists for dispensing with the delayed effective date under the provisions of 5 U.S.C. 553.

Effective date. This amendment shall be effective July 9, 1975.

[SEAL] G. R. DICKERSON,
Acting Commissioner of Customs.

Approved: June 27, 1975.

DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

[FR Doc.75-17742 Filed 7-8-75;8:45 a.m.]

[T.D. 75-160]

PART 133—TRADEMARKS, TRADE NAMES, AND COPYRIGHTS

Increase in Customs Fees

On September 20, 1974, a notice of proposed rulemaking was published in the FEDERAL REGISTER (39 FR 33803), which proposed to amend Part 133 of the Customs Regulations (19 CFR Part 133), to provide for an increase in Customs fees to be submitted for trademark, trade name, and copyright recordations, ownership changes, names changes, and renewals of a recorded trademark or copyright recordation, and to provide for the consistent treatment of trademark and copyright fees.

Interested persons were given 30 days from the date of publication of the notice to submit relevant written data, views, or arguments regarding the proposal. After consideration of all comments received, the following change is made in the proposed amendments:

The reference "(see 37 CFR Part 6)" is deleted from § 133.3(b) and is replaced with the parenthetical comment "(based on the class, or classes, first stated on the certificate of registration, without consideration of any class, or classes, also stated in parentheses)". This change relates to the assessment of the trademark recordation fee in the case of a trademark which is registered for more than one class of goods. In the case of a trademark registration certificate which shows the classes of goods for which the trademark is registered under both the United States and international classification schedules (one or the other appearing in parentheses), the determination of whether or not a trademark is registered for more than one class of goods shall be determined by the number of classes which appears first on the certificate.

Accordingly, the proposed amendments, modified to include this change, are adopted as set forth below.

Effective date: These amendments shall become effective August 8, 1975.

[SEAL] G. R. DICKERSON,
Acting Commissioner of Customs.

Approved: June 27, 1975.

DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

1. Paragraph (b) of § 133.3 is amended to read as follows:

§ 133.3 Documents and fee to accompany application.

* * * * *

(b) *Fee.* The application shall be accompanied by a fee of $190 for each trademark to be recorded. However, if the trademark is registered for more than one class of goods (based on the class, or classes, first stated on the certificate of registration, without consideration of any class, or classes, also stated in parentheses) the fee for recordation shall be $190 for each class for which the applicant desires to record the trademark with the United States Customs Service. For example, to secure

recordation of a trademark registered for three classes of goods, a fee of $570 is payable. A check or money order shall be made payable to the United States Customs Service.

2. Paragraph (d) of § 133.5 is amended to read as follows:

§ 133.5 Change of ownership of recorded trademark.

* * * * *

(d) Paying a fee of $80, which covers all trademarks included in the application which have been previously recorded with the United States Customs Service. A check or money order shall be made payable to the United States Customs Service.

3. Paragraph (b) of § 133.6 is amended to read as follows:

§ 133.6 Change in name of owner of recorded trademark.

* * * * *

(b) A fee of $80, which covers all trademarks included in the application which have been previously recorded with the United States Customs Service. A check or money order shall be made payable to the United States Customs Service.

4. Paragraph (a)(3) of § 133.7 is amended to read as follows:

§ 133.7 Renewal of trademark recordation.

(a) * * *

(3) A fee of $80 for each renewal of a trademark recordation. Where the trademark covers several classes, a fee of $80 is required for each class. A check or money order shall be made payable to the United States Customs Service.

* * * * *

5. Paragraph (b) of section 133.13 is amended to read as follows:

§ 133.13 Documents and fee to accompany application.

* * * * *

(b) *Fee.* The application shall be accompanied by a fee of $190 for each trade name to be recorded. A check or money order shall be made payable to the United States Customs Service.

6. Paragraph (b) of section 133.33 is amended to read as follows:

§ 133.33 Documents and fee to accompany application.

* * * * *

(b) *Fee.* Each application shall be accompanied by a fee of $190 for each copyright to be recorded. A check or money order shall be made payable to the United States Customs Service.

7. Paragraph (b)(2) of section 133.35 is amended to read as follows:

§ 133.35 Change of ownership of recorded copyright.

* * * * *

(b) * * *

(2) A fee of $80, which covers all copyrights included in the application which have been previously recorded with the United States Customs Service. A check or money order shall be made payable to the United States Customs Service.

8. Paragraph (b) of § 133.36 is amended to read as follows:

§ 133.36 Change in name of owner of recorded copyright.

* * * * *

(b) Payment of a fee of $80, which covers all copyrights included in the application which have been previously recorded with the United States Customs Service. A check or money order shall be made payable to the United States Customs Service.

9. Paragraph (a)(3) of § 133.37 is amended to read as follows:

§ 133.37 Renewal of copyright recordation.

(a) * * *

(3) Payment of a fee of $80. A check or money order shall be made payable to the United States Customs Service.

* * * * *

(R.S. 251, as amended, sec. 624, 46 Stat. 759, sec. 42, 60 Stat. 440, sec. 501, 65 Stat. 290 (15 U.S.C. 1124, 19 U.S.C. 66, 1624, 31 U.S.C. 483a))

[FR Doc.75-17743 Filed 7-8-75;8:45 am]

Title 21—Food and Drugs

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

[Docket No. 75P-0100]

PART 27—CANNED FRUITS AND FRUIT JUICES

Canned Fruit Standards of Identity; Confirmation of Effective Date

The Commissioner of Food and Drugs issued an order in the FEDERAL REGISTER of February 7, 1975 (40 FR 5762), based on a petition submitted by the California Canners and Growers, 3100 Ferry Bldg., San Francisco, CA 91406, amending nine canned fruit identity standards to conform more to identity aspects of the canned plum standard as adopted by the Joint Food and Agriculture Organization/World Health Organization Codex Alimentarius Commission. The nine identity standards are for canned peaches (21 CFR 27.2), canned apricots (21 CFR 27.10), canned prunes (21 CFR 27.15), canned pears (21 CFR 27.20), canned seedless grapes (21 CFR 27.25), canned cherries (21 CFR 27.30), canned berries (21 CFR 27.35), canned fruit cocktail (21 CFR 27.40) and canned figs (21 CFR 27.70).

Under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055–1056, as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 341, 371)) and under authority delegated to the Commissioner (21 CFR 2.120), notice is given that no objections were filed in response to the subject order. Accordingly, the amendments promulgated by that order shall become effective as follows: Compliance with the order, which shall include any labeling changes required, may have begun March 11, 1975, and all products shipped in interstate commerce after December 31, 1975, shall comply with these regulations.

Dated: July 1, 1975.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.75-17754 Filed 7-8-75;8:45 am]

[Docket No. 75N-0101]

PART 27—CANNED FRUITS AND FRUIT JUICES

Definitions for Canned Fruits and Fruit Juices and Identity Standard for Canned Plums and Establishing Quality and Fill of Container Standards for Canned Plums; Confirmation of Effective Date

The Commissioner of Food and Drugs issued an order in the FEDERAL REGISTER of February 7, 1975 (40 FR 5772), amending the definitions for canned fruits and fruit juices (21 CFR 27.1) and the standard of identity for canned plums (21 CFR 27.45), and establishing standards of quality (21 CFR 27.46) and fill of container (21 CFR 27.47) for canned plums based on the canned plums standard adopted by the Joint Food and Agriculture Organization/World Health Organization Codex Alimentarius Commission.

Under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055–1056, as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 341, 371)) and under authority delegated to the Commissioner (21 CFR 2.120), notice is given that no objections were filed in response to the subject order. Accordingly, the amendments promulgated by that order shall become effective as follows: Compliance with the order, which shall include any labeling changes required, may have begun March 11, 1975, and all products shipped in interstate commerce after December 31, 1975, shall comply with these regulations.

Dated: July 1, 1975.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.75-17755 Filed 7-8-75;8:45 am]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 510—NEW ANIMAL DRUGS

Sponsors of Approved Applications; Address

Correction

In FR Doc. 75-15522 appearing on page 25448, in the issue for Monday, June 16, 1975 § 510.600 in the column headed "Firm name and address" the third line should read "West, Lyndhurst,".

[Docket No. 75N–0023]

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Oxytocin Injection

Section 135b.64, published in the FEDERAL REGISTER of April 3, 1974 (39 FR 12099) and revised in the FEDERAL REGISTER of June 10, 1974 (39 FR 20370) (recodified as § 522.1680 in the FEDERAL REGISTER of March 27, 1975 (40 FR 13802)), included two sponsor numbers which were inadvertently omitted from subsequent amendments published in the FEDERAL REGISTER of July 11, 1974 (39 FR 25485) and November 20, 1974 (39 FR 40762). This document corrects the omission by adding to § 522.1680(b), the sponsor numbers 000856 and 032420 (formerly 017 and 103). As revised, § 552.1680(b) reads as follows:

§ 522.1680 Oxytocin injection.

* * * * *

(b) *Sponsors.* See Nos. 000845, 000856, 010469, 011811, 012481, and 032420 in § 510.600(c) of this chapter.

* * * * *

Effective date. This order shall be effective July 9, 1975.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 3609(i)).)

Dated: July 1, 1975.

FRED J. KINGMA,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc.75–17756 Filed 7–8–75;8:45 am]

[Docket No. 75N–0024]

PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

Cloxacillin

The Commissioner of Food and Drugs is amending Part 556 (formerly Part 135g prior to recodification published in the FEDERAL REGISTER of March 27, 1975 (40 FR 13802)) by establishing a tolerance for residues of cloxacillin used in treatment of mastitis in dairy cows. This amendment shall become effective July 9, 1975.

In a rule published in the FEDERAL REGISTER of March 11, 1975 (40 FR 11348), the Commissioner provided for the approval of the new animal drugs sterile benzathine cloxacillin for intramammary infusion (21 CFR 540.814a(c), formerly 135d.15), and benzathine cloxacillin for intramammary infusion (21 CFR 540.814(c), formerly 135d.16) for use in the treatment of mastitis in dairy cows during the dry period, pursuant to sections 512 (i) and (n) of the Federal Food, Drug, and Cosmetic Act.

The Commissioner concludes that a negligible tolerance for residues of cloxacillin is required to assure that edible tissues of dairy cattle and milk from dairy cattle treated with the drug are safe for human consumption.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))), and under authority delegated to the Commissioner (21 CFR 2.120), Part 556 is amended by adding the following new section:

§ 556.165 Cloxacillin.

A tolerance of 0.01 part per million is established for negligible residues of cloxacillin in the uncooked edible tissues of cattle and in milk.

Effective date. This order shall be effective July 9, 1975.

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

Dated: July 1, 1975.

FRED J. KINGMA,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc.75–17757 Filed 7–8–75;8:45 am]

Title 29—Labor

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

Hawaii Plan: Approval of Developmental Schedule Change

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health of 1970 (29 U.S.C. 667) (hereinafter referred to as the Act) for review of changes and progress in the development and implementation of State plans which have been approved in accordance with section 18(c) of the Act and Part 1902 of this chapter. On January 4, 1974, a notice was published in the FEDERAL REGISTER of the approval of the Hawaii plan and of the adoption of Subpart Y of Part 1952 containing the decision of approval (39 FR 1010). On December 23 and 24, the State of Hawaii submitted supplements to the plan involving developmental changes (see Subpart B of 29 CFR Part 1953). On April 15, 1975, a notice was published in the FEDERAL REGISTER (40 FR 16853) concerning the submission of these supplements to the Assistant Secretary of Labor for Occupational Safety and Health and the fact that the question of their approval was before him.

2. *Description of the supplements.* The Hawaii occupational health program was approved by the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary), subject to certain assurances, on December 27, 1974 (39 FR 44752). As part of the decision approving the occupational health program, the developmental schedule for Hawaii was revised to provide for complete implementation of the program by January 1975. By letter dated December 23, 1974, the State requested that the implementation date for its occupational health plan be changed to July 1975. This delay is due to difficulties the State has had in personnel hiring and a recent move to new offices. The supplement includes a series of intermediate steps leading to full implementation of the occupational health program by July 1975, including recruitment and hiring in March 1975, and orientation and on-the-job training from April to June 1975.

By letter dated December 27, 1974, the State requested that the developmental schedule for implementation of the Management Information System be changed from December 1974, to December 1975. The State has experienced some technical difficulties with the computer program and some staffing problems which made implementation before the end of 1974 impossible. The implementation schedule for the Management Information System includes a proposed time schedule leading to full implementation by December 1975.

3. *Issues.* No comments or requests for a hearing were received during the period provided for public comments.

4. *Decision.* After careful consideration of the Hawaii plan supplement, it is hereby approved under Subpart B of 29 CFR Part 1953. The decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally.

In accordance with this decision, Subpart Y of 29 CFR 1952 is amended as set forth below, effective July 9, 1975.

In § 1952.313 paragraphs (c) and (d) are amended to read as follows:

§ 1952.313 Developmental schedule.

* * * * *

(c) Implementation of the Management Information System by December 1975.

(d) Complete implementation of the occupational health program by July 1975.

(Secs. 8(g), 18, Pub. L. 91–596, 84 Stat. 1600, 1608, (29 U.S.C. 657(g), 667))

Signed at Washington, D.C. this 1st day of July 1975.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.75–17762 Filed 7–8–75;8:45 am]

Title 39—Postal Service

CHAPTER III—POSTAL RATE COMMISSION

[Docket No. RM76–1; Order No. 78]

PART 3002—ORGANIZATION

Election of the Vice Chairman of the Commission

JULY 2, 1975.

The Postal Rate Commission has determined that in the interests of orderly and efficient dispatch of business, there should be a regular provision for the election of a Vice-Chairman. The amendment to our rules of organization made by this Order will provide such a procedure.

The rule we are adopting will provide for the annual election of a Vice-Chairman from among the members of the Commission. The present regulation (39

CFR 3002.2(b)) provides for the ad hoc election of an Acting Chairman when required by circumstances.

Since the amendment herein made involves matters of agency organization and procedure, the notice requirements of the Administrative Procedure Act, 5 U.S.C. 553, do not apply. We find further that good cause exists for making this amendment effective as of July 2, 1975.

Accordingly, pursuant to 3603 of the Postal Reorganization Act (39 U.S.C.), it is ordered that Part 3002 of the Commission's regulations (39 CFR Part 3002) is hereby amended as follows:

§ 3002.2 [Amended]

1. Section 3002.2(b) is amended by changing the title thereof to read *"The Chairman and Vice-Chairman"*, and by deleting the last sentence thereof, and substituting for the deleted sentence the following:

The Commission shall elect annually a member of the Commission to serve as Vice-Chairman of the Commission for a term of one year or until his successor is elected. In case of a vacancy in the office of the Chairman of the Commission, or in the absence or inability of the Chairman to serve, the Vice-Chairman, unless otherwise directed by the Chairman, shall have the administrative responsibilities and duties of the Chairman during the period of vacancy, absence, or inability.

[Sec. 3603 Postal Reorganization Act, 84 Stat. 759 (39 U.S.C. 3603; 5 U.S.C. 552, 553), 80 Stat. 383, 384.]

By the Commission.

JAMES R. LINDSAY,
Secretary.

[FR Doc.75-17745 Filed 7-8-75;8:45 am]

Title 45—Public Welfare

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

PART 249—SERVICES AND PAYMENT IN MEDICAL ASSISTANCE PROGRAMS

Limits on Payment to Certified Facilities for Treatment of End-Stage Renal Disease

Notice of proposed rule making was published in the FEDERAL REGISTER on November 22, 1974 (39 FR 40959), relating to State Medicaid payments to facilities for the treatment of end-stage renal disease. Section 299I of Pub. L. 92-603 expanded Medicare coverage for such treatment to individuals otherwise ineligible for Medicare services. In order to assure comparability and compatability of Medicare and Medicaid policies, the Notice provided that Federal matching under Medicaid would be limited to expenditures for care in a facility qualified to participate in the treatment program under Medicare.

Three comments were received. A local hospital suggested that provision be made for emergency care in a non-participating hospital; this has been accepted. A State agency requested amendment to permit non-participating VA hospitals which meet certain conditions to be included for purposes of title XIX matching. This has not been accepted because the purpose of this regulation is to adhere to the title XVIII standards including utilization rates established to protect quality of care, and to guard against unnecessary proliferation of facilities while maintaining accessibility for all patients. Another State agency supported the proposal as published.

Accordingly, the regulations are adopted with modifications to provide for emergency situations and to clarify the language of the proposal.

Another change included in the final regulation is revocation of 45 CFR 249.10(c)(3) and 249.33(a)(7), concerning maintenance of State effort with respect to public intermediate care facility services for the mentally retarded. The statutory requirement for such effort expired as of December 31, 1974.

1. Section 249.10 is amended by revoking paragraph (c)(3) and adding new paragraph (c)(4) as follows:

§ 249.10 Amount, duration and scope of medical assistance.

* * * * *

(c) *Limitations.* * * *

(3) [Revoked]

(4) Federal financial participation in expenditures for medical and remedial care and services listed in paragraph (b) of this section with respect to facility treatment of end-stage renal disease is available only for those services provided in a facility in the end-stage renal disease program which has been approved by the Secretary to furnish services under title XVIII of the Social Security Act, except under emergency conditions as permitted under title XVIII.

* * * * *

§ 249.33 [Amended]

2. Section 249.33(a)(7) is revoked.

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302)).

Effective Date: These regulations shall be effective October 7, 1975.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Dated: June 24, 1975.

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

Approved: July 2, 1975.

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

[FR Doc.75-17788 Filed 7-8-75;8:45 am]

CHAPTER X—OFFICE OF ECONOMIC OPPORTUNITY

PART 1060—GENERAL CHARACTERISTICS OF COMMUNITY ACTION PROGRAMS

CSA Income Poverty Guidelines

The interdepartmental Poverty Definition Policy Committee is currently developing uniform statistical and administrative revisions of poverty guidelines for all Federal agencies. In the interim the Community Services Administration is replacing the text of the current poverty guidelines (§§ 1060.2-1, 1060.2-2, and 1060.2-3 appearing at 40 FR 14317, March 21, 1975) with the language and definitions originally found in §§ 1060.2-1, 1060.2-2, 1060.2-3 appearing at 39 FR 17969, May 22, 1974. The income guidelines for all the states and Hawaii and Alaska remain unchanged.

Effective date: This revision is effective August 8, 1975.

BERT A. GALLEGOS,
Director.

45 CFR CHAPTER X, §§ 1060.2-1, 1060.2-2, and 1060.2-3 is revised as follows:

Subpart—CSA Income Poverty Guidelines

Sec.
1060.2-1 Applicability.
1060.2-2 Purpose.
1060.2-3 Background—Income Guidelines.
1060.2-4 Policy.

AUTHORITY: Sec. 602, 78 Stat. 530 (42 U.S.C. 2942).

§ 1060.2-1 Applicability.

This subpart applies to all grants financially assisted under Titles II and III-B of the Community Services Act of 1974 if such assistance is administered by the Community Services Administration.

§ 1060.2-2 Purpose.

The purpose of this subpart is to inform grantees of the revision of the text of the CSA Income Poverty Guidelines and to publish the revised text along with the unchanged income guidelines for all the states and Hawaii and Alaska.

§ 1060.2-3 Background—Income Guidelines.

In August 1967, CSA's predecessor agency, OEO, issued uniform income guidelines for all programs it funds which use income to determine program eligibility. These guidelines were based on poverty thresholds derived from a definition of poverty developed for statistical purposes by the Social Security Administration in 1964. In September 1968, January 1970, December 1970, November 1971, October 1972, January 1974, June 1974 and March 1975 OEO issued new guidelines which reflected increases in consumer prices.

§ 1060.2-4 Policy.

(a) In order that the level of poverty which is used to determine program eligibility does not change as a result of substantial increases in the cost of living as measured by the Consumer Price Index, CSA revises, from time to time, its income guidelines in order to reflect such increases. Attached are the latest revised guidelines.

(b) These income guidelines are to be used for all those CSA-funded programs, whether administered by a grantee or delegate agency, which use CSA poverty income guidelines as admission standards. These guidelines do not supersede

alternative standards of eligibility approved by CSA, such as Emergency Food and Medical Services Standards used in programs offered by the Department of Agriculture.

(c) The guidelines are also to be used in certain other instances where required by CSA as a definition of poverty, e.g., for purposes of data collection and for defining eligibility for allowances and reimbursements to board members. Agencies may wish to use these guidelines for other administrative and statistical purposes as appropriate.

(d) The attached guidelines are based upon Table A–3 of Current Population Reports, P–60, No. 98, Bureau of the Census, January 1975, and the percentage change in the Consumer Price Index from 1973 to 1974 as set forth in Table C–44 of the Economic Report of the President, February 1975.

(e) The following definitions, from Current Population Reports, P–60, No. 91, Bureau of the Census, December 1973, have been adopted by CSA for use with the attached poverty guidelines:

(1) *Income.* Refers to total cash receipts before taxes from all sources. These include money wages and salaries before any deductions, but not including food or rent in lieu of wages. They include receipts from self-employment or from own farm or business after deductions, for business or farm expenses. They include regular payments for public assistance, social security, unemployment and workmen's compensation, strike benefits from union funds, veterans benefits, training stipends, alimony, child support and military family allotments or other regular support from an absent family member or someone not living in the household; government employee pensions, private pensions and regular insurance or annuity payments; and income from dividends, interest, rents, royalties, or income from estates and trusts. For eligibility purposes, income does not refer to the following money receipts: any assets drawn down as withdrawals from a bank, sale of property, house or car, tax refunds, gifts, one-time insurance payments or compensation for injury; also to be disregarded is non-cash income, such as the bonus value of food and fuel produced and consumed on farms and the imputed value of rent from owner-occupied farm or non-farm housing.

(2) *A Farm Residence.* Is defined as any dwelling on a place of 10 acres or more with $50 or more annual sales of farm products raised there; or any place less than 10 acres having product sales of $250 or more.

CSA poverty guidelines for all States except Alaska and Hawaii

Family size	Nonfarm family	Farm family
1	$2,590	$2,200
2	3,410	2,900
3	4,230	3,600
4	5,050	4,300
5	5,870	5,000
6	6,690	5,700

NOTE.—For family units with more than 6 members add $820 for each additional member in a nonfarm family and $700 for each additional member in a farm family.

CSA income poverty guidelines for Alaska

Family size	Nonfarm family	Farm family
1	$3,250	$2,750
2	4,270	3,620
3	5,290	4,490
4	6,310	5,360
5	7,330	6,230
6	8,350	7,100

NOTE.—For family units with more than 6 members add $1,020 for each additional member in a nonfarm family and $870 for each additional member in a farm family.

CSA income poverty guidelines for Hawaii

Family size	Nonfarm family	Farm family
1	$2,990	$2,540
2	3,930	3,340
3	4,870	4,140
4	5,810	4,940
5	6,750	5,740
6	7,690	6,540

NOTE.—For family units with more than 6 members add $940 for each additional member in a nonfarm family and $800 for each additional member in a farm family.

[FR Doc.75–17588 Filed 7–8–75;8:45 am]

PART 1067—FUNDING OF COMMUNITY ACTION PROGRAMS

Standards for Evaluating the Effectiveness of CSA-Administered Programs and Projects

The Community Services Act of 1974 which amended the Economic Opportunity Act of 1964 included the following new provision in Title IX, Section 901:

(b) Prior to obligating funds for the programs and projects covered by this Act with respect to fiscal year 1976, the Director shall develop and publish general standards for evaluation of program and project effectiveness in achieving the objectives of this Act. The extent to which such standards have been met shall be considered in deciding whether to renew or supplement financial assistance authorized under any section of this Act. Reports submitted pursuant to section 608 of this Act shall describe the actions taken as a result of these evaluations.

Although the publication, and subsequent consideration in funding determinations, of the standards and how well they are met are being required legislatively for the first time, OEO/CSA has been requiring administratively since 1969 that certain grantees establish their goals consistent with standards of program and project effectiveness. These requirements have been applicable to programs funded under sections 221, 222, 230, and 231 of Title II, and to Migrant Programs funded under Title III–B.

As a result of the new legislation CSA has undertaken a review and revision of its long-standing policy currently found in OEO Instruction 7850–1. A draft Instruction was circulated to all CSA grantees requesting comments. Approximately 100 responses were received and many of the suggested changes were incorporated into the final regulation. The original draft was revised to (a) emphasize the major objective of the Economic Opportunity Act, which is the elimination of poverty; (b) treat grantee's work program goals and objectives as the measures of program and project effectiveness; and (c) avoid (as one respondent put it) "atomistic quantification."

The standards will require a minimum of new record keeping procedures locally as reporting on progress will be integrated into the existing reporting systems.

These regulations are filed as interim regulations effective July 9, 1975 in order to effectuate the provisions of the Community Services Act of 1974. CSA welcomes comments and suggested changes and will revise its regulations in light of the comments received if warranted. CSA will consider all comments received prior to August 8, 1975. Address all comments to: Mr. Angel Rivera, Acting Deputy Assistant Director for Operations, Community Services Administration, 1200–19th Street, NW., Washington, D.C. 20506.

Effective date: July 9, 1975.

BERT A. GALLEGOS,
Director.

Subpart—Standards for Evaluating the Effectiveness of CSA-Administered Programs and Projects

Sec.

AUTHORITY: The provisions of this subpart issued under sec. 602, 78 Stat. 530; 42 U.S.C. 2942

§ 1067.4–1 Applicability.

This subpart applies to all grants made under Titles I, II, III–B, and VII of the Community Services Act as amended if the assistance is administered by the Community Services Administration.

§ 1067.4–2 Definitions of terms as used in this subpart.

(a) Program—The provision of federal funds and administrative direction to accomplish a prescribed set of objectives through the conduct of specified activities.[1] Example: Senior Opportunities and Services Program.

(b) Project — The implementation level of a program where resources are used to produce an end product that directly contributes to the objectives of the program.* Example: Meals on Wheels (in the local community)

(c) Standard—A general statement describing one or more elements of program and project effectiveness. Example: Stimulation and creation of additional services and programs to remedy gaps and deficiencies in presently existing services and programs (for the elderly). (See Appendix E)

(d) Program and Project Effectiveness—The extent to which identifiable

[1] Adapted from Wholey, Joseph, et. al., *Federal Evaluation Policy*, Washington, D.C.: The Urban Institute, 1971. P. 24

progress is being made toward (1) the overall purposes of the Community Services Act and (2) the specific purposes of the program authorities under various Titles of the Act.

§ 1067.4–3 Purpose.

The purpose of this subpart is to outline standards against which the effectiveness of programs and projects funded by the Community Services Administration will be assessed. It is not the purpose of this subpart to establish standards for conducting evaluations. The focus is on the accomplishments which constitute program and project effectiveness.

§ 1067.4–4 Policy.

(a) *Standards of Program and Project Effectiveness.* (1) The Economic Opportunity Act of 1964 as amended states that "It is * * * the policy of the United States to eliminate the paradox of poverty in the midst of plenty in this Nation * * *."

(2) In furtherance of the goal of working toward the elimination of poverty Congress mandated numerous program authorities, each with its specific purposes, through which various national programs and local projects are funded. The purposes of each of these authorities are in fact the standards of effectiveness against which programs and projects will be assessed. Through the use of these standards CSA aims to provide a consistent framework within which grantees will proceed to establish priorities, goals and project designs to meet local needs.

(3) The Appendices of this subpart outline the standards of effectiveness derived from the authorizing legislation for the program authorities under Titles I, II, III–B, and VII of the Community Services Act. *Exception:* There are several cases where additional standards are included which are derived from project management experience.

(b) *Applicability of Standards of Effectiveness.* Beginning with FY 1976 fundings, projects operated by grantees must be developed consistent with the requirements stated under each of the following Titles:

(1) *Titles I and III–B:* Projects funded under the above Titles must be consistent with one or more of the standards for the particular program or project. (See Appendices B and N.)

(2) *Title II:* This Title includes both general and specific standards. General standards are standards that are applicable to all program authorities under Title II, e.g. maximum feasible participation. Specific standards are those that are stated for the various program authorities under Title II, e.g. Senior Opportunities and Services.

(i) As a result, Title II programs and projects must address general standards of effectiveness PLUS specific standards.

(ii) Therefore, each project developed by grantees and funded under Title II must be developed consistent with the following:

(*a*) One or more of the general standards applicable to all Title II programs (See Appendix A), and

(*b*) One or more of the specific standards developed for the particular program (Appendices B through M)

(iii) It should be noted that although each project must address at least one of the general standards, grantees must assure that their work program as a whole addresses all of the general standards.

EXAMPLES: *Emergency Food and Medical Services, section 222(a)(5)*: General standards: One or more standards in appendix A; Specific standards: One or more standards in appendix D.

State Agency Assistance, (SEOOs), section 231: General standards: One or more standards in appendix A; Specific standards: One or more standards in appendix M.

(3) *Title VII:* Projects funded under Title VII must be consistent with the four legislative standards stated in Appendix O. Title VII grantees will note that there is considerable overlap among the four standards. Accordingly, any project goal which addresses one of these standards will simultaneously address portions of the others as well.

§ 1067.4–5 Setting goals consistent with standards.

(a) Measures are needed in order to determine whether programs and projects are effective. These measures will be the project goals developed locally by the grantee. Each grantee is already required to establish planning goals as part of its regular grant application process. The additional requirement established by this subpart is that such goals must be consistent with and directly related to the legislative standards of program and project effectiveness.

(b) As Title II also contains general standards in addition to the specific standards of effectiveness, project goals for Title II programs must be developed in such a manner as to insure that the activities undertaken in pursuing these goals will address the general Title II standards as well as the specific standards for that program.

(c) Project goals must be specific as to both the character and the extent of progress which should be accomplished during the funding period. Goals should be stated in terms which are clearly measurable and should define the quantity as well as the quality and character of the improvements to be achieved. In addition, they must be logically related to the legislative standards which they are designed to meet.

(d) The various appendices of this Instruction provide examples of project goals which address the legislative standards for each program. These examples are provided only as a guide to grantees who must develop their own goals based on local needs and conditions.

§ 1067.4–6 Procedures.

(a) Grantees should establish their local goals consistent with the standards of project effectiveness as part of their regular grant application process. For all projects funded under Titles II (except section 232) and III–B, the general (for Title II) and specific standards to be addressed and the project goals established consistent with those standards should be listed in the first column of the OEO Form 419. For projects funded under section 232 this should be included in the Narrative Project Description of the grant application. The activities described for each project goal should clearly indicate how the general as well as the specific standards of effectiveness will be addressed.

(b) For all projects funded under Titles I and VII the specific standards to be addressed and the project goals established consistent with these standards should be stated in the Narrative Project Description of the grant application.

(c) In reviewing and approving grantee applications for funding, CSA will be concerned not only with whether the grantee's goals are realistic and consistent with the grantee's overall strategy, but also with whether such goals are consistent with the specific legislative purposes embodied in the standards of effectiveness.

(d) CSA will indicate its approval of the standards to be addressed and of the project goals developed by the grantee (as modified in the grant review process) by listing them as a special condition attached to the grant prior to funding. Once the grantee has acknowledged acceptance of these goals as stated in the special condition by signing and returning the grant, the grantee's performance over the course of the funding period will be assessed against the approved work program.

§ 1067.4–7 Reporting requirements.

It is not the intent of CSA to impose additional reporting burdens on grantees. Therefore, separate reports on progress in achieving standards of project effectiveness will not be required. Rather, grantees shall assess their progress in meeting project standards in their regular periodic reports, as required by CSA regulations: (1) For grantees under Titles II (except section 232) and III–B, in their Program Progress Review report, OEO Form 440 (see OEO Instruction 7031–1); and (2) for grantees under Title I, Section 232 of Title II, and Title VII, in their quarterly monitoring reports.

APPENDIX A.—*Standards of Program and Project Effectiveness for all Programs and Projects Funded Under Title II: Local Initiative and General Standards*

Reference	Standards of effectiveness	Examples
Title II, sec. 201(a).	I. Strengthened community capabilities for planning and coordinating so as to insure that available assistance related to the elimination of poverty can be more responsive to local needs and conditions.	A staff person will he detailed to county planning department to assist in planning and evaluation of general revenue sharing.
	II. Better organization of services related to tbe needs of tbe poor.	10 man-days of technical assistance will be provided to local governments in applying for CDC and CETA grants.
	III. Maximum feasible participation of the poor in the development and implementation of all programs and projects designed to serve tbe poor.	2 representatives from target area will be placed on governing board of United Fund.
	IV. Broadened resource base of programs directed to the elimination of poverty so as include all elements of the community able to influence the quality and quantity of services to the poor.	Obtain State grant for lead-paint testing program.
Title II, sec. 201(a)(3).	V. Greater use of new types of services and innovative approaches in attacking causes of poverty, so as to develop increasingly effective methods of employing available resources.	30 prefabricated houses will be produced annually through purchase and operation of housing factory.
Title II, sec. 223.	VI. Maximum employment opportunity, including opportunity for further occupational training and career development, for residents of the area and members of the groups served.	20 job slots will be developed for paraprofession in local health agencies and institutions.

APPENDIX B.—*Standards of Program and Project Effectiveness for all Programs and Projects Funded Under Title I and Title II, sec. 232: Research and Demonstration*

Reference	Standards of effectiveness	Examples of project goals
Title I, sec. 102.	I. Development of new approaches and/or methods that will aid in overcoming special problems of poverty or otherwise further the purposes of titles I and II tbrough:	(NOTE.—R. & D. at a minimum, should contain testable hypotbeses in conjunction with a fully developed research design associated with project activities.)
Title II, sec. 232.	A. Support of projects designed to provide conclusive information concerning the usefulness of a program or technique thought to have tbe potential of major impact on an identified special problem. The generation of persuasive knowledge is tbe central goal of such efforts; the major criterion of success is the utility of the knowledge produced in designing projects which meet carefully defined needs of the poor.	
	B. Support of individual or series of projects whicb test specific program strategies or techniques to deal with special problems of poverty. Such demonstrations are designed to: (1) Provide an experience base sufficient to determine the applicability of the strategy or tecbnique; and (2) provide exposure for strategies and techniques to increase their acceptance and application by funding sources and policymakers.	
	C. Support of projects wbich: (1) Directly intervene to change established institutions or, (2) establish alternative institutions or mechanisms to serve poor people.	
Project management experience.	II. Collection and maintenance of appropriate data which is adequate to produce dissemination and utilization of project results.	

APPENDIX C.—*Standards of Program and Project Effectiveness for all Programs and Projects Funded Under Title II, secs. 222(a)(II) and 214: Housing Development and Rehabilitation*

Reference	Standards of effectiveness	Examples of project goals
Title II, sec. 222(a)(11) and 214.	I. Provision of assistance and appropriate housing services and social services in low-income families in order to help them acquire adequate, safe, and sanitary bousing.	Assist 50 families in obtaining FmHA mortgages.

APPENDIX D.—*Standards of Program and Project Effectiveness for all Programs and Projects Funded Under Title II, sec. 222(a)(5): Emergency Food and Medical Services*

Reference	Standards of effectiveness	Examples of project goals
Title II, sec. 222(a)(5).	I. Improvement in the nutritional status of tbe target population.	Develop reduced priced meals for the elderly in 2 local bospital cafeterias.
	II. Reduction in hunger among tbe target population.	Certify 100 additional families for food stamps.

APPENDIX E.—*Standards of Program and Project Effectiveness for all Programs and Projects Funded Under Title II, sec. 222(a)(7): SOS*

Reference	Standards of effectiveness	Examples of project goals
Title II, sec. 222(a)(7).	Identification and meeting of needs of older, poor persons above the age of 60 to assure them greater self-sufficiency.	
	I. Development and provision of employment services to older poor persons.	Locate 20 part-time jobs for elderly poor persons.
	II. Development and provision of volunteer services to older poor persons.	Recruit and train 25 teenagers to do odd jobs for disabled elderly.
	III. Effective referral of older poor persons to existing health, transportation, education, housing, legal, consumer, transportation, education, and recreational and other services.	Provide effective referral and followup to 200 elderly persons annually.
	IV. Stimulation and creation of additional services and programs to remedy gaps and deficiencies in presently existing services and programs.	Mobilize business and industry to provide $5,000 for elderly drop in centers.
	V. Modification of existing procedures, eligibility requirement and program structures to facilitate the greater use of, and participation in, public services by older persons.	Age limits will be raised for training programs offered by local community colleges to enable participation by the elderly.
	VI. Development of all-season recreation and service centers controlled by older persons.	Organize and train council of elders to operate 5 existing drop in centers.

APPENDIX F.—*Standards of Program and Project Effectiveness for all Programs and Projects Funded Under Title II, sec. 222(a)(10): Environmental Action*

Reference	Standards of effectiveness	Examples of project goals
Title II, sec. 22(a)(10).	I. Development of opportunities for low-income persons for work (which would not otherwise be performed) on projects designed to combat pollution.	Obtain 25 job slots for low-income persons in the development of abandoned canal system as a recreation facility.
	II. Development of opportunities for low-income persons for work (which would not otherwise be performed) on projects designed to improve the environment.	(See above).

APPENDIX G.—*Standards of Program and Project Effectiveness for all Programs and Projects Funded Under Title II, sec. 222(a)(12): Energy*

Reference	Standards of effectiveness	Examples of project goals
Title II, sec. 222(a)(12).	I. Participation of low-income individuals and families, including the elderly and the near poor, in energy conservation programs designed to reduce individual and family energy consumption.	Effectively winterize homes owned by poor people to reduce the use of fuel by 15–25 percent, and bring heating/cooling cost within family budget.
Project management experience.	II. Development of community based programs to deal with energy-related programs.	Organize and operate a crisis center directed and managed by community-based board.
Do	III. Consistency with State, local, and national use goals so as to meet local needs of cost, supply, and demand, e.g., conversion, use of alternate sources of energy.	On the basis of prevalent type of energy sources, cost, and supply convert 5 percent of dwellings occupied by the poor to cheaper/more efficient/more abundant energy source.
Title II, sec. 222(a)(12).	IV. Participation of low-income individuals and families in programs designed to lessen the impact on them of the high cost of energy.	Establish revolving emergency loan fund to give direct financial assistance to 100 neediest families for fuel payments and to prevent utility shutoffs.

APPENDIX H.—*Standards of Program and Project Effectiveness for all Programs and Projects Funded Under Title II, sec. 222(a)(13): Summer Youth Recreation*

Reference	Standards of effectiveness	Examples of project goals
Title II, sec. 222(a)(13).	I. Recreational opportunities for low-income children during the summer months.	Provide 150 campership for low-income children.

APPENDIX I.—*Standards of Program and Project Effectiveness for all Programs and Projects Funded Under Title II, sec. 226: Design and Planning Assistance*

Reference	Standards of effectiveness	Examples of project goals
Title II, sec. 226.	I. Delivery of technical assistance relating to housing, neighborhood facilities, transportation, and other aspects of community planning and development to persons and community organizations or groups not otherwise able to afford such assistance.	(To be developed if and when funds are made available for projects under this program authority.)
	II. Delivery of professional architectural and related services relating to housing, neighborhood facilities, transportation, and other aspects of community planning and development to persons and community organizations or groups not otherwise able to afford such assistance.	
	III. Maximum use of the voluntary services of professional and community personnel.	

APPENDIX J.—*Standards of Program and Project Effectiveness for all Programs and Projects Funded Under Title II, sec. 227: Youth Recreation and Sports Program*

Reference	Standards of effectiveness	Examples of project goals
Title II, sec. 227.	I. Recreation, physical fitness instruction, athletic competition (with high-quality facilities and supervision) and related educational and counseling services for disadvantaged youth.	Obtain permission to use 3 previously-closed public school gymnasiums during the summer months.

APPENDIX K.—*Standards of Program and Project Effectiveness for all Programs and Projects Funded Under Title II, sec. 228: Consumer Action and Cooperative Programs*

Reference	Standards of effectiveness	Examples of project goals
Title II, sec. 228(a).	I. Improvement in the quality, delivery, and pricing of goods and services used by low-income persons.	Establish 5 consumer education councils.
	II. Availability to assist low-income persons without undue delay or burden of financial credit at reasonable cost.	Organize 5 local banks to provide a credit pool for low-income persons with credit problems.
	III. Development of means and mechanisms of enforcing consumer rights in a way that meets the needs of low-income persons.	Obtain $15,000 in State funds for consumer advocate attorney.
	IV. Education of low-income persons with respect to (consumer) rights, procedures, grievances, views, and concerns.	Ombudsman's role will be played by local newspaper.

APPENDIX L.—*Standards of Program and Project Effectiveness for all Programs and Projects Funded Under Title II, sec. 230, Technical Assistance and Training*

Reference	Standards of effectiveness	Examples of project goals
Title II, sec. 230.	I. Technical assistance to communities in developing, conducting, and administering programs under title II.	Design and conduct 3 orientation sessions for new employees.
	II. Training for specialized or other personnel	Design and conduct a series of workshops for board members to improve the quality of submission of the program progress review report.

APPENDIX M.—*Standards of Program and Project Effectiveness for all Programs and Projects Funded Under Title II, sec. 231: SEOO's*

Reference	Standards of effectiveness	Examples of project goals
Title II, sec. 231(a)(1).	I. Technical assistance to communities and State and local agencies in developing and carrying out programs under title II.	During the State legislative session, provide title II grantees with weekly status report through a newsletter of pending State social welfare legislation.
Title II, sec. 231(a)(2).	II. Assistance in coordinating State activities related to title II.	Develop training systems and conduct seminars for State agency personnel regarding antipoverty programs authorized under the Economic Opportunity Act of 1964 as amended.
Title II, sec. 231(a)(3).	III. Provision of advice and assistance to the director in developing procedures and programs to promote the participation of States and State agencies in programs under title II.	Prepare project performance data for Governor's office for all programs operating under the EOA as amended.
Title II, sec. 231(a)(4).	IV. Provision of advice and assistance to the director, the economic opportunity council and the heads of other Federal agencies, in identifying problems posed by Federal statutory or administrative requirements that operate to impede State level coordination or programs related to title II and in developing methods or recommendations for overcoming those problems.	Develop and recommend a reporting system for use by CAA's in collecting necessary information regarding statutory and administrativ imped iments vis a vis all grantmaking agencies.
Project management experience.	V. Advocacy for the poor in State government	Establish membership for poor persons on 5 advisory committees to State antipoverty agencies.
Do	VI. Mobilization of antipoverty resources, particularly at the State level.	Assist two CAA's in obtaining grants from State manpower agency.

APPENDIX N.—*Standards of Program and Project Effectiveness for all Programs and Projects Funded Under Title III–B, sec. 311, 312: Migrant, and Seasonally Employed, Farmworkers and their Families*

Reference	Standards of effectiveness	Examples of project goals
Title III–B, sec. 311.	I. Assistance to migrant and seasonal farmworkers and their families to improve their living conditions and develop skills necessary for a productive and self-sufficient life.	(To be developed if and when funds are made available for projects under this program authority.)
Sec. 312(b)	II. Alleviation of the immediate needs of migrant aud seasonal farmworkers and their families.	
Do	III. Increased community acceptance of migrant and seasonal farmworkers and their families.	
	IV. Assistance to unskilled migrant and seasonal farmworkers and members of their families in meeting the changing demands in agricultural employment brought about by technological advancement.	
	V. Assistance to unskilled migrant and seasonal farmworkers and members of their families to take advantage of opportunities available to improve their well-being and self-sufficiency by gaining regular permanent employment or by participating in available Government employment or training programs.	

APPENDIX O.—*Standards of Program and Project Effectiveness for all Programs and Projects Funded Under Title VII, sec. 712*

Reference	Standards of effectiveness	Examples of project goals
Title VII, sec. 701.	I. Improvement in the quality of participation by low-income residents in community life so as to contribute to the elimination of poverty and the establishment of permanent economic and social benefits.	1. Startup or acquisition of 2 manufacturing ventures, providing 50 jobs to low-income residents who are currently unemployed, receiving public assistance, or working at marginal wage levels.
Title VII, sec. 711.	II. Solution to critical problems in urban and rural communities and neighborhoods with high concentrations and numbers of low-income persons.	2. Construction of 20 units of subsidized housing for low-income elderly residents.
	III. Producing an appreciable and continuing impact in arresting tendencies toward dependency, chronic unemployment, and community deterioration in such areas.	3. Acquisition, development, and construction of industrial park which will provide facilities for manufacturing and commercial enterprises which will employ 100–150 residents and increase the area's tax base by $1.5 million.
	IV. Starting, expanding, and locating enterprises in such areas to provide employment and ownership opportunities for residents of such areas.	4. Through joint venturing, loan guaranties, and bank deposits, attract $750,000 in private investment/loan capital to enterprises in the target area.
		5. Train 5 target area residents for middle-management positions in CDC ventures.
		6. Train 20 community residents serving on CDC and subsidiary boards in corporate legal responsibilities and analysis of financial reports.
		7. Provide technical assistance in the packaging of 10 small business loans for enterprises owned by or employing low-income residents.

[FR Doc.75–17761 Filed 7–8–75;8:45 am]

CHAPTER XII—ACTION

PART 1220—PAYMENT OF VOLUNTEER LEGAL EXPENSES

Adoption of Proposed Regulations

On October 24, 1974, there was published in the FEDERAL REGISTER (39 FR 37779) a notice of a proposed amendment (Part 1220) to Chapter XII, Title 45. The proposed regulations provide for the payment of expenses incidental to the defense of ACTION domestic volunteers in certain judicial and administrative proceedings.

Interested persons were given 30 days in which to submit comments.

Several written comments were received and given due consideration. In addition, ACTION staff made suggestions to make the regulations clearer and to correct several clerical errors. As a result of such comments and suggestions the following significant changes will be made:

(1) The first sentence of § 1220.1–1 is amended to add the words "serving under the Act" after the word "volunteers." This change will make clearer that section 419 permits legal expenses to be paid only for full-time and part-time volunteers under the Act. The first sentence of § 1220.1–1 will now appear as follows:

"Section 419 of the Domestic Volunteer Service Act of 1973 (the Act), Pub. L. 93–113, 87 Stat. 413, authorizes the Director of ACTION to pay expenses incurred in judicial and administrative proceedings for the defense of full-time or part-time volunteers serving under the Act."

(2) Section 1220.2–1(a) is amended to add a new paragraph (2) defining when conduct is clearly not related to a volunteer's service. Section 1220.2–1(a) provides for the payment of a full-time volunteer's reasonable legal expenses prior to arraignment, except when it is clear that a charged offense results from conduct which is not related to his service as a volunteer.

Section 1220.2–1(a) is amended to add:

"(2) Situations where conduct is clearly unrelated to a volunteer's service are those that arise either (i) in a period prior to volunteer service, (ii) under circumstances where the volunteer is not at his assigned volunteer project location, such as during periods of administrative, vacation, or emergency leave, or (iii) when he is at his volunteer station, but the activity or action giving rise to the charged offense is clearly not part of, or required by, such assignment."

(3) Section 1220.2–1(b)(1) is amended to define when a charge relates to a volunteer's assignment or status as a volunteer. Section 1220.2–1(b)(1) is one of three conditions that must be satisfied to enable reasonable expenses to be paid beyond arraignment in criminal proceedings involving a full-time volunteer. The new paragraph provides:

A charge relating to a volunteer's assignment arises out of any activity or action which is a part of, or required by, such assignment. A charge relating to a volunteer's status is motivated exclusively by the fact that a defendant is a volunteer.

(4) Section 1220.2–2(a) concerning part-time volunteers is amended in several respects:

(a) Subsection (a) and paragraphs (1) and (2) are amended so that only part-time volunteers who receive or are eligible to receive compensation in grant programs may have their legal expenses paid for. It is expected that by the effective date of these regulations, ACTION will not itself conduct any such part-time volunteer programs. It will cease to participate in the operation of the Service Corps of Retired Executives (SCORE) and the Active Corps of Executives (ACE) in July as these programs will be transferred to the Small Business Administration.

Taking into account the nature of the grant relationship between ACTION, the sponsor, and the volunteer, subsection (a) will not now provide that ACTION will reimburse a sponsor for the reasonable expenses it incurs for the defense of volunteers. The grant relationship should be distinguished from the relationship between these three parties when ACTION operates a program directly such as VISTA. In the latter relationship, ACTION is ultimately responsible for all aspects of volunteer service. It will perform several of a variety of functions, including the recruitment, selection and training of volunteers, payment of allowances, and support, health benefits and insurance protection. In the grant relationship, ACTION provides funds to a sponsor which performs these tasks.

Section 1220.2–2(a) (1) and (2) will now read as follows:

(a) With respect to a part-time volunteer, ACTION will reimburse a sponsor for the reasonable expenses it incurs for the defense of the volunteer in Federal, state and local criminal proceedings, including arraignment, only under the following circumstances:

(1) The proceeding arises directly out of the volunteer's performance of activities pursuant to the Act;

(2) The volunteer receives, or is eligible to receive, compensation, including allowances, stipend, or reimbursement for out-of-pocket expenses, under an ACTION grand project; and

(b) Section 1220.2–2(a)(3), concerning legal expenses in criminal proceedings against part-time volunteers, is amended to include by reference only paragraphs (b)(2) and (3) and § 1220.2–1. Paragraph (a) provides that a condition for the payment of legal expenses in criminal proceedings involving full-time volunteers is that "the charge against the volunteer relates to his assignment or status as a volunteer and not his personal status or personal matters." Section 419 limits ACTION's authority to pay legal expenses for part-time volunteers to proceedings that arise directly out of the performance of activities pursuant to the Act. This restriction of section 419 is contained in paragraph (a)(1) of § 1220.2–2.

(5) Section 1220.2–3 concerning procedure is amended in several respects:

(a) Subsection (a) is amended to provide that in the event a volunteer is arrested, a sponsor shall immediately notify the appropriate ACTION state office, or if the state office cannot be reached, the appropriate regional office.

(b) Section 1220.2–3(b) is amended to clarify that ACTION may recover directly from a volunteer when it is subsequently determined that ACTION or a sponsor is not responsible for the volunteer's defense in a criminal proceeding. The second sentence of paragraph (b) will now read:

In the event it is subsequently determined that ACTION or a sponsor is not responsible under this policy for the volunteer's defense, any such advance may be recovered directly from the volunteer or from allowances, stipends, or out-of-pocket expenses which are payable or become payable to the volunteer.

(6) Section 1220.3–1(c) is amended to make the amount of the judgment sought "$100" instead of "$250." Paragraph (c) is one of the conditions which must be met before ACTION will pay reasonable legal expenses in the defense of full-time volunteers in civil proceedings. As a result of this change, if the proceeding involves a claim for a monetary award, the amount of the claim is only required to be $100 instead of $250 to permit ACTION to pay reasonable legal expenses.

(7) Section 1220.3–2 is amended in several respects.

(a) The first paragraph and subsections (a) and (b) are amended to indicate that only part-time volunteers who receive or are eligible to receive compensation in grant programs may have their legal expenses paid for. ACTION will now reimburse a sponsor for legal expenses it incurs for the defense of a volunteer (see discussion in 4(a) above).

(b) Section 1220.3–2(c) is amended by eliminating the reference to incorporating § 1220.3–1(a) as a condition. Paragraph (a) is broader than the language of section 419. (See discussion in (4)(b) above.) The language of section 419 is provided in paragraph (a) of § 1220.3–2.

Accordingly, with the changes and additions, the proposed amendment is adopted as set forth below and becomes effective July 3, 1975.

Subpart A—General

Sec.
1220.1–1 Introduction.

Subpart B—Criminal Proceedings

1220.2–1 Full-time volunteers.
1220.2–2 Part-time volunteers.
1220.2–3 Procedure.

Subpart C—Civil and Administrative Proceedings

1220.3–1 Full-time volunteers.
1220.3–2 Part-time volunteers.
1220.3–3 Procedure.

AUTHORITY: (Secs. 419 and 420 of Pub. L. 93–113, 87 Stat. 413 and 414).

Subpart A—General

§ 1220.1–1 Introduction.

Section 419 of the Domestic Volunteer Service Act of 1973 (the Act), Pub. L. 93–113, 87 Stat. 413, authorizes the Director of ACTION to pay expenses incurred in judicial and administrative proceedings for the defense of full-time or part-time volunteers serving under the Act. These include counsel fees, court costs, bail or other expenses incidental to the volunteer's defense. For part-time volunteers, section 419 provides that the proceeding must arise directly out of the performance of activities pursuant to the Act.

Subpart B—Criminal Proceedings

§ 1220.2–1 Full-time volunteers.

(a)(1) ACTION will pay all reasonable expenses for defense of full-time volunteers up to and including arraignment in Federal, state, and local criminal proceedings, except in cases where it is clear that the charged offense results from conduct which is not related to his service as a volunteer.

(2) Situations where conduct is clearly unrelated to a volunteer's service are those that arise either (i) in a period prior to volunteer service, (ii) under circumstances where the volunteer is not at his assigned volunteer project location, such as during periods of administrative, vacation, or emergency leave, or (iii) when he is at his volunteer station, but the activity or action giving rise to the charged offense is clearly not part of, or required by, such assignment.

(b) Reasonable expenses in criminal proceedings beyond arraignment may be paid in cases where:

(1) The charge against the volunteer relates to his assignment or status as a volunteer, and not his personal status or personal matters. A charge relating to a volunteer's assignment arises out of any activity or action which is a part of, or required by, such assignment. A charge relating to a volunteer's status is motivated exclusively by the fact that a defendant is a volunteer.

(2) The volunteer has not admitted a willful or knowing violation of law, and

(3) The charge(s) is not a minor misdemeanor, such as a minor vehicle violation for which a fine or bail forfeiture will not exceed $100.

(c) Notwithstanding the foregoing, there may be situations in which the criminal proceeding results from a situation which could give rise to a civil claim under the Federal Tort Claims Act. In such situations, the Justice Department may agree to defend the volunteer. In those cases, unless there is a conflict between the volunteer's interest and that of the government, ACTION will not pay for additional private representation for the volunteer.

§ 1220.2–2 Part-time volunteers.

(a) With respect to a part-time volunteer, ACTION will reimburse a sponsor for the reasonable expenses it incurs for the defense of the volunteer in Federal, state and local criminal proceedings, including arraignment, only under the following circumstances:

(1) The proceeding arises directly out of the volunteer's performance of activities pursuant to the Act;

(2) The volunteer receives, or is eligible to receive, compensation, including allowances, stipend, or reimbursement for out-of-pocket expenses, under an ACTION grant project; and

(3) The conditions specified in paragraphs (b) (2) and (3) in § 1220.2–1 above are met.

(b) In certain circumstances volunteers who are ineligible for reimbursement of legal expenses by ACTION may be eligible for representation under the Criminal Justice Act (18 U.S.C. 3006A).

§ 1220.2–3 Procedure.

(a) Immediately upon the arrest of any volunteer under circumstances in which the payment of bail to prevent incarceration or other serious consequences to the volunteer or the retention of an attorney prior to arraignment is necessary and is covered under § 1220.2–1 or § 1220.2–2, sponsors shall immediately notify the appropriate ACTION state office or if the state office cannot be reached, the appropriate regional office. The regional office shall provide each sponsor with a 24-hour telephone number.

(b) Immediately after notification of the appropriate office, and with the approval thereof, the sponsor shall advance up to $500 for the payment of bail or such other legal expenses as are necessary prior to arraignment to prevent the volunteer from being incarcerated. In the event it is subsequently determined that ACTION or a sponsor is not responsible under this policy for the volunteer's defense, any such advance may be recovered directly from the volunteer or from allowances, stipends, or out-of-pocket expenses which are payable or become payable to the volunteer. In the case of a grassroots sponsor of full-time volunteers which is not able to provide the $500 the ACTION state or regional office shall immediately make such sum available to the sponsor.

(c) Immediately upon receipt of notification from the sponsor, the state or regional office shall notify the General Counsel, giving all facts and circumstances at that time known to such office.

Thereafter the office shall cooperate with the General Counsel in making an investigation of all surrounding facts and circumstances and shall provide such information immediately to the General Counsel.

(d) The General Counsel shall, upon notification by the state or regional office, determine the extent to which ACTION will provide funds for the volunteer's defense or reimburse a sponsor for funds it spends on the volunteer's behalf. Included in this responsibility shall be the negotiation of fees and approval of other costs and expenses. State and regional offices are not authorized to commit ACTION to the payment of volunteers' legal expenses or to reimburse a sponsor except as provided above, without the express consent of the General Counsel. Additionally, the General Counsel shall, in cases arising directly out of the performance of authorized project activities, ascertain whether the services of the United States Attorney can be made available to the volunteer.

(e) The sponsor and the state and regional office shall have a continuing responsibility for cooperation and coordination with the Office of General Counsel during the pendency of any such litigation, and of notifying the General Counsel of any facts and circumstances which come to the attention of such office or the sponsor which affects such litigation.

Subpart C—Civil and Administrative Proceedings

§ 1220.3–1 Full-time volunteers.

ACTION will pay reasonable expenses incurred in the defense of full-time volunteers in Federal, state, and local civil judicial and administrative proceedings where:

(a) The complaint or charge against the volunteer is directly related to his volunteer service and not to his personal activities or obligations.

(b) The volunteer has not admitted willfully or knowingly pursuing a course of conduct which would result in the plaintiff or complainant initiating such a proceeding, and

(c) If the judgment sought involves a monetary award, the amount sought exceeds $100.

§ 1220.3–2 Part-time volunteers.

ACTION will reimburse sponsors for the reasonable expenses incidental to the defense of part-time volunteers in Federal, state and local civil judicial and administrative proceedings where:

(a) The proceeding arises directly out of the volunteer's performance of activities pursuant to the Act;

(b) The volunteer receives or is eligible to receive compensation, including allowances, stipend, or reimbursement for out-of-pocket expenses under an ACTION grant; and

(c) The conditions specified in paragraphs (b) and (c) in § 1220.3–1 above are met.

§ 1220.3–3 Procedure.

Immediately upon the receipt by a volunteer of any court papers or administrative orders making him a part to any proceeding covered under § 1220.3–1 or § 1220.3–2, the volunteer shall immediately notify his sponsor who in turn shall notify the appropriate ACTION state office. The procedures referred to in § 1220.2–3, paragraphs (c) through (e), shall thereafter be followed as appropriate.

Issued in Washington, D.C. on July 3, 1975.

JOHN L. GANLEY,
Deputy Director,
ACTION.

[FR Doc.75–17775 Filed 7–8–75;8:45 am]

Title 46—Shipping

CHAPTER IV—FEDERAL MARITIME COMMISSION

SUBCHAPTER A—GENERAL PROVISIONS

[General Order No. 33; Docket No. 72–62]

PART 506—REGULATIONS TO ADJUST OR MEET CONDITIONS UNFAVORABLE TO SHIPPING IN THE FOREIGN TRADE OF THE UNITED STATES

General Order No. 33 was published by the Commission November 1, 1974 and was to become effective on November 31, 1974. However, since General Order No. 33 prompted numerous requests to delay the effective date and extend the time for filing petitions for reconsideration, the Commission on November 21, 1974 stayed the effective date of the rule and invited interested parties to file their views and arguments regarding the reconsideration thereof.

Comments on reconsideration have been submitted by or on behalf of a number and variety of interested parties including Hearing Counsel. The Commission has carefully considered the position of all the parties and the final rules promulgated herein have been drafted with the parties' comments and arguments in mind. The bulk of the comments submitted concern themselves with matters which have been argued before the Commission in this proceeding before and which have already been fully considered and properly disposed of by the Commission. We will not address ourselves to those matters further. We are limiting our discussion here to those comments and arguments which have prompted changes in the final rules promulgated herein. A section by section discussion of these changes is therefore appropriate.

Section 506.1 Purpose. The word "may" has been substituted for "will" in the last sentence of this section to make it clear that Commission action under these section 19 regulations is discretionary.

506.2 Scope. This section was likewise revised to indicate the discretion of the Commission in invoking these regulations. A change was also made in the wording to make this section consistent with the wording of the Merchant Marine Act, 1920.

506.3 Findings—Conditions unfavorable in the foreign trade of the United States. Paragraph (c) of this section was amended to indicate that the Commission was not concerned with mere differences in treatment to the vessels in the foreign trade of the United States but is concerned with the effect those differences and treatments have upon the foreign trade of the United States. One party wished the Commission to add to this section and other sections explicit provisions relating to the use of rebates in the foreign trade. Since rebating is covered in section 18(b)(3) of the Shipping Act, 1916 and may be covered under the general terms of these regulations, the Commission does not think it necessary to make any such amendment. The wording of the first sentence of this section has been changed to make it clear that these regulations are to apply to the acts of foreign governments or of foreign owners, operators, agents, or masters.

506.4 Petitions for section 19 relief—General—Who may file. The wording of this section has been changed to indicate that the Commission is not, in any way, limiting the application of this section by specifically naming some of the persons who may file petitions.

506.8 Initial action to meet apparent conditions unfavorable—Resolution through diplomatic channels. This section was changed to give foreign countries notice that the Commission will notify the Secretary of State when conditions unfavorable to shipping in the foreign trade of the United States apparently exist and that it may request that he seek resolution of the matter through diplomatic channels.

506.9 Actions to meet conditions unfavorable to shipping in the foreign trade of the United States. Commentators to this section asserted that tariff suspension would not be a lawful exercise of section 19 powers. While it is true that sections 18(b)(4) and (5) set out the circumstances when the Commission may suspend tariffs under the Shipping Act, 1916, the powers of the Commission under section 19 of the Merchant Marine Act of 1920 are much broader. Therefore, this section remains unchanged.

506.11 Production of information. Paragraphs (b) and (c) of this section were changed to make it clear that the Commission was not restricting the scope of information to be produced by listing some of the types of information which could be ordered to be produced.

506.12 Production of information—Failure to produce. Objection was directed to § 506.12 because it required the Commission to find conditions unfavorable to shipping in the foreign trade of the United States when there was a failure to produce any information ordered by the Commission to be produced under § 506.11. There was an apparent conflict with the wording of this section and the explanation which was given to it in the preamble to the regulations published on November 1, 1974. In the preamble, the Commission stated that this section would not necessarily apply to situations where there was a bona fide

effort to comply. This explanation was in conflict with the clear wording of the section. Many parties asserted that the word "will" should be changed to "may". Such a change has been made in order to make this section consistent with the intent of the Commission. This section has also been amended so that appropriate findings of fact may be made when there is a failure to produce as well as the option of a deemed admission.

Other nonsubstantive changes were made to these final rules to conform with the amendments discussed herein. This discussion has not dealt with those comments which we viewed as being either irrelevant or immaterial to the matters at issue.

As a final matter, we would point out for the edification of all concerned, and lest there be any misunderstanding, that the rule promulgated herein is not to be construed in any way whatsoever as a substitute vehicle by which agreements approved by the Commission under section 15 of the Shipping Act, 1916, might be contested. Likewise, the new rule is not intended in any way to replace, modify, or limit the traditional criteria considered in connection with applications under section 15.

Therefore, pursuant to the authority of section 19(1)(b) of the Merchant Marine Act, 1920 (46 U.S.C. 876(1)(b)), section 4 of the Administrative Procedure Act (5 U.S.C. 553), sections 21 and 43 of the Shipping Act, 1916 (46 U.S.C. 820, 841(a)), and Title V of the Independent Offices Appropriation Act of 1952 (31 U.S.C. 483(a)) and Reorganization Plan No. 7 of 1961 (75 Stat. 840), Part 506 of Title 46 CFR is hereby revised to read as follows:

Sec.

AUTHORITY: Sec. 19(I)(b) of the Merchant Marine Act, 1920 (46 U.S.C. 876(1)(b)), section 4 of the Administrative Procedure Act (5 U.S.C. 553), secs. 21 and 43 of the Shipping Act, 1916 (46 U.S.C. 820, 841(a)), and Title V of the Independent Offices Appropriation Act of 1952 (31 U.S.C. 483(a)), and Reorganization Plan No. 7 of 1961 (75 Stat. 840).

§ 506.1 Purpose.

It is the purpose of the regulations of this part to declare certain conditions resulting from governmental actions by foreign nations or from the competitive methods or practices of owners, operators, agents, or masters of vessels of a foreign country unfavorable to shipping in the foreign trade of the United States and to establish procedures by which persons who are or can reasonably expect to be adversely affected by such conditions may petition the Federal Maritime Commission for the issuance of regulations under the authority of section 19 of the Merchant Marine Act of 1920. It is the further purpose of the regulations of this part to afford notice of the general circumstances under which the authority granted to the Commission under section 19 may be invoked and the nature of the regulatory actions contemplated.

§ 506.2 Scope.

Regulatory actions may be taken when the Commission finds, on its own motion or upon petition, that a foreign government has promulgated and enforced or intends to enforce laws, decrees, regulations or the like, or has engaged in or intends to engage in practices which presently have or prospectively could create conditions unfavorable to shipping in the foreign trade of the United States, or when owners, operators, agents or masters of foreign vessels engage in or intend to engage in, competitive methods or practices which have created or could create such conditions.

§ 506.3 Findings—Conditions unfavorable to shipping in the foreign trade of the United States.

For the purposes of this part, conditions created by foreign governmental action or competitive methods of owners, operators, agents or masters of foreign vessels which:

(a) Impose upon vessels in the foreign trade of the United States fees, charges, requirements, or restrictions different from those imposed on other vessels competing in the trade, or which preclude or tend to preclude vessels in the foreign trade of the United States from competing in the trade on the same basis as any other vessel;

(b) Reserve substantial cargoes to the national flag or other vessels and fail to provide, on reasonable terms, for effective and equal access to such cargo by vessels in the foreign trade of the United States;

(c) Are otherwise unfavorable to shipping in the foreign trade of the United States;

(d) Are discriminatory or unfair as between carriers, shippers exporters, importers, or ports or between exporters from the United States and their foreign competitors and which cannot be justified under generally-accepted international agreements or practices and which operate to the detriment of the foreign commerce or the public interest of the United States;

are found unfavorable to shipping in the foreign trade of the United States.

§ 506.4 Petitions for section 19 relief—General—Who may file.

Any person, including, but not limited to, any importer, exporter, shipper, consignee, or owner, operator or charterer of a liner, bulk, or tramp vessel, who has been harmed by, or who can reasonably expect harm from existing or impending conditions unfavorable to shipping in the foreign trade of the United States, may file a petition for the relief under the provisions of this part.

§ 506.5 Petitions—How filed.

All requests for relief from conditions unfavorable to shipping in the foreign trade shall be by written petition. An original and fifteen copies of a petition for relief under the provisions of this part shall be filed with the Secretary, Federal Maritime Commission, Washington, D.C. 20573.

§ 506.6 Petitions—Contents.

Petitions for relief from conditions unfavorable to shipping in the foreign trade of the United States shall set forth the following:

(a) A concise description and citation of the foreign law, rule, regulation, practice or competitive method complained of;

(b) A certified copy of any law, rule, regulation or other document involved and, if not English, a certified English translation thereof;

(c) Any other evidence of the existence of such practice or competitive method;

(d) A clear description, in detail, of the harm already caused or which may reasonably be expected to be caused petitioner, including:

(1) Statistics for the representative period showing a present or prospective cargo loss if harm is alleged on that basis, such statistics shall include figures for the total cargo carried or projected in the trade for the period;

(2) Statistics or other evidence for the representative period showing increased costs, inferior services or other harm to cargo interest if injury is claimed on that basis; and

(3) A statement as to why the period is representative.

(e) A recommended regulation, the promulgation of which will in view of the petitioner, adjust or meet the alleged conditions unfavorable to shipping in the foreign trade of the United States.

§ 506.7 Petitions—Amendment or dismissal of.

Upon the failure of a petitioner to comply with the provisions of this part, the petitioner will be notified by the Secretary and afforded reasonable opportunity to amend his petition. Failure to timely amend the petition will result in its dismissal. For good cause shown additional time for amendment may be granted.

§ 506.8 Initial action to meet apparent conditions unfavorable—Resolution through diplomatic channels.

Upon the filing of a petition, or on its own motion when there are indications that conditions unfavorable to shipping in the foreign trade of the United States may exist, the Commission will notify the Secretary of State that such conditions apparently exist, and may request he seek resolution of the matter through diplomatic channels. If request is made the Commission will give every assist-

ance in such efforts, and the Commission may request the Secretary to report the results of his efforts at a specified time.

§ 506.9 Actions to meet conditions unfavorable to shipping in the foreign trade of the United States.

Upon a submission of a petition filed under the rules of this part, or upon its own motion, the Commission may find that conditions unfavorable to shipping in the foreign trade of the United States do exist, and may, without further proceeding, issue regulations. Such regulations may effect the following:

(a) Imposition of equalizing fees or charges;

(b) Limitation of sailings to and from United States ports or of amount or type of cargo during a specified period;

(c) Suspension, in whole or in part, of any or all tariffs filed with the Commission for carriage to or from United States ports; and

(d) Any other action the Commission finds necessary and appropriate in the public interest to adjust or meet any condition unfavorable to shipping in the foreign trade of the United States.

§ 506.10 Participation of interested persons.

In the event that participation of interested persons is deemed necessary by the Commission, notice will be published in the FEDERAL REGISTER and interested persons will then be allowed to participate in this procedure by the submission of written data, views or arguments, with or without opportunity to present same orally.

§ 506.11 Production of information.

In order to aid in the determination of whether conditions unfavorable to shipping in the foreign trade of the United States exist, or in order to aid in the formulation of appropriate regulations subsequent to a finding that conditions unfavorable to shipping in the foreign trade of the United States exist, the Commission may, when it deems necessary or appropriate, and without further proceedings, order any owner, operator, or charterer in the affected trade to furnish any or all of the following information:

(a) Statistics for a representative period showing cargo carried to and from the United States in the affected trade on vessels owned, operated or chartered by him by type, source, value and directions;

(b) Information for a representative period on the activities of vessels he owns, operates, or charters, which shall include sailings to and from United States ports, costs incurred, taxes or other charges paid to authorities, and subsidies or other payments received from foreign authorities; and such other information that the Commission considers relevant to discovering or determining the existence of general or special conditions unfavorable to shipping in the foreign trade of the United States.

(c) Information for a specified future period on the prospective activities of vessels which he owns, operates or charters or plans to own, operate or charter, to and from United States ports, which shall include projected sailings, anticipated costs, taxes or other charges to be paid to authorities, and expected subsidies or other payments to be received from foreign authorities; and such other information that the Commission considers relevant to discovering or determining the existence of general or special conditions unfavorable to shipping in the foreign trade of the United States.

§ 506.12 Production of information—Failure to produce.

The Commission may, when there is a failure to produce any information ordered produced under § 506.11, make appropriate findings of fact or deem such a failure to produce as an admission that conditions unfavorable to shipping in the foreign trade of the United States do exist.

§ 506.13 Postponement, discontinuance, or suspension of action.

The Commission may, on its own motion or upon petition, postpone, discontinue, or suspend any and all actions taken by it under the provisions of this part. The Commission shall postpone or discontinue any or all such actions if the President informs the Commission that postponement, discontinuance, or suspension is required for reasons of foreign policy or national security.

§ 506.14 Content and effective date of regulation.

The Commission shall incorporate in any regulations adopted under the rules of this part a concise statement of their basis and purpose. Regulations shall be published in the FEDERAL REGISTER. Except where conditions warrant and for good cause, regulations promulgated under the rules of this part shall not become effective until 30 days after the date of publication.

Effective date. The provisions of this Part 506 will become effective on August 8, 1975.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-17807 Filed 7-8-75;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 16004, 18052]

PART 1—PRACTICE AND PROCEDURE

PART 73—RADIO BROADCAST SERVICES

FM TV Field Strength Curves and Measurements; Correction

In the matter of Amendment of § 73.333 and § 73.699, field strength curves for FM and TV broadcast stations, and amendment of Part 73 of the rules regarding field strength measurements for FM and TV Broadcast Stations.

1. The Report and Order in the instant proceeding, adopted May 29, 1975, 40 FR 27671, inter alia, amended the rules to incorporate, for the first time, an F(50,10) signal strength chart (FCC § 73.333, Figure 1a) in the rules governing FM broadcast stations.

2. Subparagraph (2) of paragraph (a) of Note 1, appended to § 1.573 (Processing of FM and noncommercial educational FM broadcast station applications) requires, as a condition for the acceptance of an application for a proposed station, a showing that the station will neither cause objectionable interference to nor receive objectionable interference from cochannel or adjacent channel stations. For the determination of the location of interference contours, (a) (2) (ii) of Note 1 specifies that:

> The distance to the applicable interference contour shall be determined by the F(50,10) curve, dated June 20, 1960, and published with the Commission's Order, FCC 61-1447, adopted December 6, 1961, setting forth the interim procedure for processing FM applications.

3. We have included the F(50,10) chart in the amended FM rules with the intention that it be used in all instances involving FM broadcast stations where predictions of the strength of interfering signals, or the locations of interference contours are appropriate. Through inadvertence, we neglected to amend the above quoted portion of Note 1 to provide for the use of the newly adopted chart.

4. Accordingly, we are amending Part 1 of 47 CFR by the addition of the following:

In § 1.573 of the rules subparagraph (a) (2) (ii) of Note 1 is amended to read as follows:

§ 1.573 Processing of FM and noncommercial educational FM broadcast applications.

* * * * *

NOTE 1: * * *

(a) * * *

(2) * * *

(ii) The distance to the applicable interference contour shall be determined by the use of Figure 1a of § 73.333 (F (50,10) chart) of this chapter.

* * * * *

Additionally, § 73.414 is correctly designated as § 73.314.

FEDERAL COMMUNICATIONS COMMISSION,[1]

VINCENT J. MULLINS,
Secretary.

[FR Doc.75-17764 Filed 7-8-75;8:45 am]

---

[1] Rules changes herein will be covered by T.S. III(72)-7.

[Docket No. 19988; FCC 75-755]

PART 76—CABLE TELEVISION SERVICES

Program Origination by Cable Television Systems and Development of Cablecasting Services

Amendment of Part 76, Subpart G, of the Commission's rules and regulations relative to program origination by cable television systems; and inquiry into the development of cablecasting services to formulate regulatory policy and rule making.

1. On December 9, 1974, the Commission released its Report and Order in Docket 19988, FCC 74-1279, 49 FCC 2d 1090 (1974), which, inter alia, deleted our mandatory origination rule (see former § 76.201 of the Commission's rules) and adopted new § 76.253 which imposes a cablecasting equipment availability obligation on cable television systems and system conglomerates serving 3,500 or more subscribers. Mr. Henry Geller [1] has sought reconsideration of certain "peripheral matters" which were part of that decision. He has expressed agreement with the main thrust of the Report and Order. No oppositions to his petition have been received.[2]

Fairness and Equal Opportunities

2. The Geller petition suggests that our action in Docket 19988 be modified to delete the "equal time" and "fairness" obligations placed on operator-originated cablecasting. His arguments in support of this proposal are essentially a reiteration of those previously submitted in this proceeding and summarized in paragraph 27 of the Report and Order. We have concluded, upon further consideration of this question, that it should be dealt with in a separate proceeding where both interested parties and the Commission can focus upon it. It is an important issue requiring careful consideration after the widest possible comment. We believe that the context in which it has been presented in this proceeding has not afforded us the benefit of the wide range of views we might otherwise expect. The Notice of Proposed Rule Making and Notice of Inquiry in Docket 19988, *supra*, was directed solely to the question of whether we should continue the requirement of mandatory origination, and the applicability of the fairness doctrine was mentioned in passing, along with lotteries, advertising, etc., when we noted that these parts of the Rules would remain in effect during the pendency of the proceeding. As a probable consequence, there was not extensive comment and we dealt with the question summarily in our first opinion. We think it unwise to decide such a significant issue upon so sparse a record, particularly since other interested parties may have quite reasonably assumed it was not germane and may have failed to address it for that reason. It is peripheral to the questions raised in the Notice and we have decided, for the reasons given above, not to attempt to resolve it at this time.

Publicity of Local Cablecast Opportunities

3. Petitioner also seeks reconsideration of the Commission's decision in the subject Report and Order not to adopt a specific requirement that operators publicize the availability of cablecasting equipment and channel space. He maintains that it is not sufficient for the Commission to merely "* * * encourage operators to make their communities aware of existing opportunities," and indicate that it will adopt appropriate regulations if operators seek to evade their responsibilities by "suppressing information of these opportunities." (See paragraph 44 of the Report and Order in Docket 19988, supra.) It is asserted by petitioner that an operator has a "duty" reasonably to inform his community of access opportunities and that the language of the Commission's Report should clearly stress the existence of such a duty and not be couched in terms of "encouragement" or "suppression." Petitioner suggests that the exercise of that duty be left to the operator's discretion at this time (the operator could use on-screen placards, cablecast announcements, calls to officials or community leaders, etc.) but that the Commission issue specific regulations if this obligation is not discharged effectively.

4. We find no great difference between petitioner's suggestions on this matter and our own position as enunciated in the Report and Order. Each seeks active public employment of the equipment required by our Rules and believes that a Commission mandate that operators specifically publicize the availability of such equipment in a particular manner would be premature and, hopefully, unnecessary. We fully expect that a cable operator will put to active and appropriate use that equipment which he has been required to obtain and required to offer to the public. He has duty to make this equipment and a reasonable amount of time available. We presume that fulfillment of this responsibility and the operator's obligation to serve the local community by themselves imply an affirmative duty to make known the existence of video opportunities. However, at this time we shall leave to the operator's discretion the procedures under which his equipment and available non-broadcast bandwidth will be put to their most beneficial use.

Channel Space Availability and Minimal Equipment

5. Petitioner recognizes our Report's statements that, under the new rule changes, system operators "* * * must make a reasonable effort to provide channel time wherever it is available," and that the equipment required by January 1, 1976 can be "minimal" in nature but suggests that the terms of these requirements be more specifically included in the rules. We agree and have amended the rules accordingly as indicated in the attached Appendix.

Cablecast Program Identification

6. We are also asked to include in our Rules an identification requirement for non-broadcast programming. As we stated in our Report, we do believe that local cablecast programming should be identified as such (see paragraph 43, Report and Order in Docket 19988, supra) and have advised system operators to identify the type of cablecasting service being presented (see footnote 13, Report and Order in Docket 19988, supra), However, the adoption of any formal identification rule should more appropriately be confined to our action on Docket 19334. (See Further Notice of Proposed Rule Making in Docket 19334, FCC 74-667, 47 FCC 2d 670 (1974). That docket precisely addresses the identification issue and the Report and Order in that rule making proceeding will be the proper vehicle for any formal identification requirement.

Equipment Charges

7. Petitioner questions why our newly adopted § 76.253, applicable to larger cable systems, differs in the area of "assessment of costs" from our major market access regulations codified in § 76.251 of the Commission's rules. Specifically, petitioner asks why the major market stipulation that production costs may not be assessed for live studio presentations not exceeding five minutes (see § 76.251(a)(10)(ii)) is not incorporated in § 76.253 applying to systems having 3,500 or more subscribers and regardless of the system's geographical location. The answer is that our major market access rules require an operator to provide, inter alia, a studio. Because the operator was required to furnish such a studio facility it was our determination that these systems could easily, and at very little cost, accommodate those short, live, "walk-on" presentations requested by individual members of the public. Therefore, we prescribed that no charges could be made for such brief live uses of an operator's access facilities. Systems required to provide cablecasting equipment pursuant to § 76.253 are not additionally

[1] His filing is on behalf of himself as an individual and not for any sponsoring organization.

[2] A further pleading relating to this Docket was filed, out of time, by Citizens for Cable Awareness in Pennsylvania and the Philadelphia Community Cable Coalition. In view of the statutory requirement of Section 405 of the Communications Act that rehearing petitions "must be filed within thirty days from the date upon which public notice is given of the order, decision, report, or action complained of," and the requirements of § 1.106 of the rules, the views of PCCC are not formally considered herein, although that pleading has been reviewed informally. We find nothing in PCCC's disagreement with our deletion of the mandatory origination requirement that was not considered in our Report and Order in this proceeding or that would cause us to reevaluate that decision now. Nor do we agree with PCCC that the Administrative Procedure Act has been violated because the precise terms of the rules finally adopted were not specifically set forth in the Notice of Proposed Rule Making and Notice of Inquiry in Docket 19988, FCC 74-315, 46 FCC 2d 139 (1974). We believe adequate notice of the nature of the proposals under consideration was given.

required to provide a studio. Therefore, we have not set forth a five minute "live free studio use" provision for systems subject only to § 76.253. Should these systems voluntarily provide a studio we presume that the appropriate charge (which, as required, need be "* * * consistent with the goal of affording the public a low cost means of television access," [3]) for a brief live presentation will be quite minimal if, indeed, a charge is made at all.[4]

OTHER MATTERS

8. We also wish to take this opportunity to address certain housekeeping matters which we believe should be treated in this proceeding. The attached Appendix specifies four additional rule modifications which will cure certain apparent defects or clarify our Report and Order in Docket 19988, supra. First, we shall delete the reference in § 76.251(a)(4) to former § 76.201. Second, we restore the subheading "[L]eased access channels" to § 76.251(a)(7) which was amended by our action in Docket 19988. Third, we wish to denote that systems providing public access service pursuant to § 76.251(c) need not comply with the cablecasting equipment requirements of § 76.253. Therefore, we shall amend § 76.253(d) which already exempts those systems providing public access service pursuant to either § 76.251(a) or § 76.251(b). Finally, we have amended § 76.253(a) to make it clear that the facility requirement applies to systems with 3,500 or more subscribers and to technically-integrated conglomerates having a total of 3,500 or more subscribers but does not apply independently to 3,500 or more subscriber systems that are part of larger conglomerates. That is, such larger conglomerates need have only one set of equipment available even though individual communities that are part of the conglomerate themselves have more than 3,500 subscribers.

Authority for the rules adopted in the Appendix attached here to is contained in sections 2, 3, 4 (i) and (j), 301, 303, 307, 308, 309, 315, and 317 of the Communications Act of 1934, as amended.

Accordingly, it is ordered, That the petition for reconsideration filed by Mr. Henry Geller is granted to the extent indicated herein and otherwise is denied.

It is further ordered, That Part 76 of the Commission's rules and regulations, is amended, effective August 8, 1975, as set forth in the Appendix attached. *It is further ordered,* That this proceeding is terminated.

(Secs. 2, 3, 4, 301, 303, 307, 308, 309, 315, 317, 48 Stat., as amended, 1064, 1065, 1066, 1081, 1082, 1083, 1084, 1085, 1088, 1089; 47 U.S.C. 152, 153, 154, 301, 303, 307, 308, 309, 315, 317.)

Adopted: June 24, 1975.

Released: July 2, 1975.

FEDERAL COMMUNICATIONS COMMISSION,[5]
VINCENT J. MULLINS,
Secretary.

Part 76 of Chapter I of Title 47 of the Code of Federal Regulations is amended, as follows:

§ 76.251 [Amended]

1. In § 76.251, paragraph (a)(4) is amended to delete reference to former § 76.201, and paragraph (a)(7) is amended to incorporate the subheading *"Leased access channels."*

2. In § 76.253, paragraphs (a), (b), and (d) are amended, as follows:

§ 76.253 Cablecasting equipment requirements for larger cable systems.

(a) Any conglomerate of commonly-owned and technically-integrated cable television systems having a total of 3500 or more subscribers, or any system having 3500 or more subscribers which is not part of such a system conglomerate, shall have available at least the minimum equipment necessary for local production and presentation of cablecast programs other than automated services and permit local non-operator production and presentation of such programs. Operators of such systems or system conglomerates shall make a reasonable effort to provide channel time for presentation of such programs.

(b) Any cable system having made available the equipment described in paragraph (a), either voluntarily or pursuant to paragraph (a), shall comply with the following requirements:

* * * * *

(d) This section shall become effective on January 1, 1976: *Provided, however,* That if a cable system makes available the equipment described in paragraph (a) at an earlier date, such system shall comply with paragraphs (b) and (c) of this section at that time: *And provided, further,* That if a cable system is providing any public access services pursuant to § 76.251 (a), (b), or (c), this section shall not be applicable to such system.

[FR Doc.75-17893 Filed 7-8-75;8:45 am]

[3] See § 76.253(c) and the similar language found in § 76.251(a)(10(ii) applying to live cablecasts longer than five minutes, etc. on a major market cable system's designated public access channel(s).

[4] We note that a great many system operators make no charge for live studio presentations often greatly in excess of five minutes in length, or for other use of cablecast equipment and facilities.

[5] Filed as part of the original; separate statement of Commissioner Robinson. Commissioners Hooks and Quello absent.

Title 49—Transportation

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

[Docket No. 75-14; Notice 02]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Seat Belt Assemblies for Light Trucks, MPV's

This notice amends Standard No. 208, *Occupant crash protection,* 49 CFR 571.208, to permit until January 1, 1976, the installation of current seat belt assemblies in trucks and multipurpose passenger vehicles (MPV) with a gross vehicle weight rating of 10,000 pounds or less. This amendment was proposed (40 FR 23897, June 3, 1975) in response to petitions from Chrysler Corporation and Jeep Corporation.

In both the Jeep and Chrysler petitions and in comments on the proposal, vehicle manufacturers stated that the current economic situation may cause the continued production of 1975-model vehicles beyond August 15, 1975, after their production would normally have been terminated. Significant cost in obsolete material and in running changes would be involved in the introduction of the new 3-point belt systems in vehicles which are designed to accept lab belts only.

Ford Motor Company concurred in the proposal in view of obsolescence costs which might be avoided by the 4-month option. General Motors Corporation only indicated that it did not object to the proposal. The American Safety Belt Council emphasized the readiness of seat belt manufacturers to supply the new systems and the importance of a swift decision. They expressed support for the introduction of 3-point systems as soon as possible. The Recreational Vehicle Industry Association sought confirmation of its understanding that the proposal did not modify requirements for motor homes and forward control vehicles under S4.2. (RVIA's understanding is correct.) Chrysler and Jeep supported the proposal, and Jeep supplied production and retail cost information for which it requested confidentiality.

It is apparent from the nature of data submitted by manufacturers that the 20-day comment period did not allow adequate time for collection and development of the items enumerated in the preamble to the proposal. While it would be preferable to provide manufacturers more time to develop additional data, the NHTSA recognizes that virtually no time remains in which to make decisions for August 1975 production. The cost data already submitted by Jeep and the engineering changes submitted by Chrysler do permit an NHTSA judgment on cost objections of manufacturers under

§ 113 and on the advisability of the proposed modification.

Using the Chrysler submission as representative of the production changes to be undertaken by any manufacturer in effecting a running change to the seat belt systems of the 1975-model vehicles built after August 14, 1975, it is concluded that the total cost implications of these changes would be substantial if undertaken. The Jeep itemized cost information on production changes bore out this conclusion. In terms of obsolescence, it is confirmed by Ford that the decreased sales will result in obsolescence due to inability to balance out stocks of seat belts and other components in 1975-model vehicles.

Pursuant to § 113(b)(1) of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. § 1402(b)(1)), the information on which this evaluation is based is available in the NHTSA public docket (Docket No. 75–14, Notice 1; PRM #208–000022; PRM #105–000019) except for the Jeep submission. The NHTSA is presently determining whether the submission is entitled to confidential treatment. If it is not, the submission will be placed in Docket No. 75–14, Notice 1.

In all, the information submitted by manufacturers, particularly Chrysler, indicates that a substantial number of changes would be required to effect a running change to the vehicles in question after August 15, 1975. The cost data submitted by Jeep indicate that these changes will result in significant cost increases. The NHTSA has decided that the significant costs of the running changes in 1975-model vehicles whose production may be continued after August 15, 1975, are not justified for the numbers of vehicles that might be affected.

§ 571.208 [Amended]

In consideration of the foregoing, Standard No. 208 (49 CFR 571.208) is amended as follows:

1. S4.2.1 is amended to read:

S4.2.1 *Trucks and multipurpose passenger vehicles, with GVWR of 10,000 pounds or less, manufactured from January 1, 1972, to December 31, 1975.* Each truck and multipurpose passenger vehicle with a gross vehicle weight rating of 10,000 pounds or less, manufactured from January 1, 1972, to December 31, 1975, inclusive, shall meet the requirements of S4.2.1 or S4.2.1.2, or at the option of the manufacturer, the requirements of S4.2.2. A protection system that meets the requirement of S4.2.1.1. may be installed at one or more designated seating positions of a vehicle that otherwise meets the requirements of S4.2.1.2.

2. The date "August 15, 1975" appearing twice in S4.2.2 is replaced by "January 1, 1976".

Effective date: July 9, 1975. Because this amendment concerns production decisions that must be made immediately for the model changes in September 1975, it is found for good cause shown that an immediate effective date is in the public interest.

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

Issued on July 3, 1975.

JAMES B. GREGORY,
Administrator.

[FR Doc.75–17804 Filed 7–3–75;4:39 am]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

General Services Administration

Section 213.3137 is amended to show that one position of Program Assistant in General Services Administration Region 9 is excepted under Schedule A.

Effective on July 9, 1975, § 213.3137(c) is added as set out below:

§ 213.3137 General Services Administration.

* * * * *

(c) *Office of the Regional Administrator—Region 9.*

(1) One Program Assistant.

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

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

[FR Doc.75–17937 Filed 7–8–75;8:45 am]

PART 213—EXCEPTED SERVICE

General Services Administration

Section 213.3337 is amended to show that one position of Confidential Assistant (Executive Secretary) to the Commissioner is excepted under Schedule C.

Effective on July 9, 1975, § 213.3337 (h)(3) is amended as set out below:

§ 213.3337 General Services Administration.

* * * * *

(h) *Automated Data and Telecommunications Service.* * * *

(3) One Confidential Assistant (Executive Secretary) to the Commissioner.

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

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

[FR Doc.75–17938 Filed 7–8–75;8:45 am]

proposed rules

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

DEPARTMENT OF THE TREASURY

Customs Service

[19 CFR Part 24]

CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

Payment of Customs Bills

Notice is hereby given that pursuant to the authority contained in 5 U.S.C. 301, R.S. 251, as amended (19 U.S.C. 66) and section 624, 46 Stat. 759 (19 U.S.C. 1624), it is proposed to amend § 24.3 of the Customs Regulations (19 CFR 24.3) to specify the location where Customs bills, other than those issued for deferred taxes, are to be paid. Since the implementation of the automated accounting system, Customs bills could be paid at any Customs office. However, with the increasing emphasis on securing prompt payment of bills and timely accounting for such payments, it has been determined that Customs bills, other than those issued for deferred taxes, should be paid at the financial management office of the region in which the charges were made. This would permit each regional office to exercise complete control over its accounts receivable activity from the time a bill is issued until its final settlement. Bills would be accounted for more timely and validation errors reduced. In addition to facilitating the correction of errors, it would provide regions with current accounts receivable information thereby increasing the effectiveness of its accounts receivable program and the imposition of restrictions for failure to pay Customs bills.

Accordingly, it is proposed to amend § 24.3 of the Customs Regulations (19 CFR 24.3) by adding a new paragraph (f) to read as follows:

§ 24.3 Bills and accounts; receipts.

* * * * *

(f) Bills, other than those issued for deferred taxes, shall be paid at the financial management office of the region in which the charges were made. Customs bills will show the address of the office at which payment is to be made and payments will be accepted and validated only at the office specified on the bill.

Data, views or arguments with respect to the foregoing proposal may be addressed to the Commissioner of Customs, Attention: Regulations Division, Washington, D.C. 20229. To insure consideration of such communications, they must be received not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER.

Written material or suggestions submitted will be available for public inspection in accordance with § 103.8(b) of the Customs Regulations (19 CFR 103.8(b)) at the Regulations Division, Headquarters, United States Customs Service, Washington, D.C., during regular business hours.

G. R. DICKERSON,
Acting Commissioner of Customs.

Approved: June 27, 1975.

DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

[SEAL]

[FR Doc.75-17744 Filed 7-8-75;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 1099]

[Docket No. AO-183-A32]

MILK IN THE PADUCAH, KENTUCKY, MARKETING AREA

Extension of Time for Filing Exceptions to the Recommended Decision on Proposed Amendments

Notice is hereby given that the time for filing exceptions to the recommended decision with respect to the proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Paducah, Kentucky, marketing area which was issued June 13, 1975, (40 FR 25680) is hereby extended to July 10, 1975.

This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Signed at Washington, D.C., on July 3, 1975.

JOHN C. BLUM,
Acting Administrator.

[FR Doc.75-17820 Filed 7-8-75;8:45 am]

Animal and Plant Health Inspection Service

[9 CFR Part 92]

FOREIGN POULTRY

Proposed Restrictions on Importation and Standards for Quarantine of Hatching and Brooding Facilities

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that pursuant to section 2 of the Act of February 2, 1903, as amended; and sections 2, 3, 4, and 11 of the Act of July 2, 1962 (21 U.S.C. 111, 134a, 134b, 134c, and 134f), the Animal and Plant Health Inspection Service is considering amending Part 92, Title 9, Code of Federal Regulations to change restrictions on the importation of poultry and their hatching eggs and to add standards for quarantine hatching and brooding facilities.

Statement of considerations. The Department of Agriculture has expended considerable sums of monies to eradicate viscerotropic velogenic (exotic) Newcastle disease and other comunicable diseases of poultry from the United States. Communicable diseases of poultry, including exotic Newcastle disease, can be introduced through the importation of poultry and their hatching eggs. The purpose of this proposal is to set forth additional safeguards for the importation of poultry and their hatching eggs from all countries in a manner which it appears would prevent the introduction or dissemination of exotic Newcastle disease and other communicable diseases of poultry. Under these proposed amendments all poultry and hatching eggs would have to be shipped directly to the United States from the country of origin. The amendments would also require additional certifications for all chickens and turkeys and their hatching eggs, showing that they originated from flocks free of pullorum disease and fowl typhoid because of the particular susceptibility of chickens and turkeys to these diseases. Additional restrictions would also be placed on all hatching eggs that originate in countries infected with exotic Newcastle disease, in that these hatching eggs would have to originate from flocks that have been determined to be free of the disease through a surveillance program which shall consist of either using sentinel birds or a weekly dead bird pick-up with laboratory examination and monthly collection and culturing of tracheal and cloacal swabs. Further, all hatching eggs that originate in countries infected with exotic Newcastle disease which would meet all the requirements, except such surveillance requirements, would be required to be hatched and brooded in the United States in USDA-approved quarantine hatching and brooding facilities under the supervision of Veterinary Services personnel. Also proposed are standards for such quarantine hatching and brooding facilities. All hatching eggs would be required to be fumigated with formaldehyde in the country of origin and be shipped in new containers.

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Accordingly, Part 92, Title 9, Code of Federal Regulations would be amended in the following respects:

1. In § 92.5, paragraph (b) would be amended to read:

§ 92.5 Certificate for ruminants, swine, and poultry.

* * * * *

(b) *Poultry.*

(1) All poultry, except eggs for hatching, for importation from any country of the world shall be shipped directly to the United States from the country of origin and shall be accompanied by a certificate of a salaried veterinary officer of the national government of the country of origin stating:

(i) That such poultry and their flock or flocks of origin were inspected on the premises of origin immediately before the date of movement from such country,

(ii) That they were then found to be free of evidence of communicable diseases of poultry,

(iii) That as far as it has been possible to determine, they were not exposed to any such disease common to poultry during the 90 days immediately preceding the date of such movement,

(iv) That the premises of origin are not located in any area under quarantine because of a poultry disease during the preceding 90 days,

(v) That the poultry have been kept in the country of origin from which they were shipped directly to the United States for at least 90 days immediately preceding the date of movement therefrom or since hatched,

(vi) That as far as it has been possible to determine, no case of European fowl pest (fowl plague) or exotic Newcastle disease occurred on the premises where such poultry were kept, or on adjoining premises, during that 90-day period, and

(vii) In the case of chickens and turkeys, that

(A) They either originate from flocks which have had;

(*1*) One negative test for pullorum disease and fowl typhoid completed not less than 30 days immediately preceding the date of movement from the country of origin; or

(*2*) Two consecutive negative tests for pollorum disease and fowl typhoid at least 21 days apart with the last test having been completed within one year immediately preceding the date of such movement; or

(B) They originate from flocks participating in a testing program for pullorum disease and fowl typhoid recognized by the responsible agency of the national government of the country of origin; and

(C) Since qualifying for movement to the United States under one of these procedures, the chickens and turkeys have not been exposed to poultry of lesser health status.

(2) *Hatching eggs.* (i) All eggs for hatching for importation from any viscerotropic velogenic Newcastle disease free country listed in § 94.6(a)(2) of this chapter shall be shipped directly to the United States from the country of origin and be accompanied by a certificate signed by a salaried veterinary officer of the national government of the country of origin stating:

(A) That the flock or flocks of origin were found upon inspection to be free from evidence of communicable diseases of poultry,

(B) That no Newcastle disease has occurred on the premises of origin or on adjoining premises during the 90 days immediately preceding the date of movement of the eggs from such country,

(C) That as far as it has been possible to determine, such flock or flocks were not exposed to such disease during these preceding 90 days,

(D) That such eggs have been disinfected as provided in § 447.25 of this title[11] and have been placed into new containers,

(E) In the case of chicken and turkey hatching eggs, that

(*1*) They originate from flocks which have had either: one negative test for pullorum disease and fowl typhoid completed not less than 30 days immediately preceding the date of movement from the country of origin; or two consecutive negative tests for pullorum disease and fowl typhoid at least 21 days apart, with the last test having been completed within one year immediately preceding the date of such movement; or

(*2*) They originate from flocks participating in a testing program for pullorum disease and fowl typhoid recognized by the responsible agency of the national government of the country of origin; and

(*3*) Since qualifying for movement to the United States under one of these procedures, the chicken and turkey hatching eggs have not been exposed to poultry or eggs of lesser health status.

(ii) All eggs for hatching for importation from any viscerotropic velogenic Newcastle disease infected country defined in § 94.6(a)(1) of this chapter, except those eggs covered by Paragraph (b)(2)(iii) of this section, shall be shipped directly to the United States from the country of origin and shall be accompanied by a certificate which shall comply with all of the requirements specified in Paragraph (b)(2)(i) of this section and shall in addition include certification by the veterinary officer who issues the certificates under this paragraph that freedom of the eggs from viscerotropic velogenic Newcastle disease has been demonstrated through a surveillance program in effect for not less than 60 days before such eggs were certified for export to the United States, with such surveillance being maintained during the period in which the eggs covered by the certificate were laid. The surveillance program shall be one of the following:

(A) Placement of Newcastle disease susceptible sentinel birds[12] in the flock or flocks of origin at a rate of not less than one sentinel bird per thousand, with a minimum of 30 sentinel birds per house, with the sentinels remaining free of clinical evidence of Newcastle disease and immunological evidence of that disease as demonstrated by negative hemagglutination inhibition tests conducted on blood samples drawn at 10-day intervals throughout the surveillance period; or

(B) A weekly collection of carcasses of all birds in the flock or flocks of origin, dying during the surveillance period, with laboratory examination of such carcasses including use of the embryonated egg inoculation technique,[13] to detect Newcastle disease virus; and a monthly collection of tracheal and cloacal swabs from not less than 10 percent of the birds in the flock or flocks of origin, for laboratory testing.[13]

All examinations and tests shall be negative for evidence of Newcastle disease. The laboratory conducting the examinations and testing required under the surveillance program shall be a facility located in the country of origin of the eggs to be certified, and shall be approved by the national government of said country for this purpose in accordance with criteria specified in a document which can be obtained from the Deputy Administrator, Veterinary Services.[14]

(iii) Eggs for hatching for importation from any viscerotropic velogenic Newcastle disease infected country defined in § 94.6(a)(1) of this chapter which meet the requirements of paragraph (b)(2)(i) of this section, but which have not met the surveillance requirements of paragraph (b)(2)(ii) of this section may be imported into the United States to be hatched and brooded for a minimum of 30 days in an approved quarantine facility. The quarantine

---

[11] Reprints of 9 CFR 447.25 may be obtained from the Deputy Administrator, Veterinary Services, U.S. Department of Agriculture, Hyattsville, Maryland 20782.

[12] A sentinel bird is a specific pathogen-free chicken which has not been infected with, exposed to, or immunized with any strain of Newcastle disease virus and is therefore susceptible to Newcastle disease. Information regarding sources of sentinel birds may be obtained from the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250.

[13] Technical information on laboratory methods and procedures may be obtained from the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250.

[14] Information regarding the identity of such approved laboratory facilities and criteria for such approval may be obtained from the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250.

hatching and brooding facility shall be approved, and the quarantine shall be conducted, in accordance with the requirements and conditions in § 92.11(g). If, 30 days after the last egg in the quarantined lot has hatched, the entire lot is found free of evidence of any communicable disease of poultry, then the supervising Veterinary Services veterinarian shall issue an agriculture release for entry through U.S. Customs. If evidence of a communicable disease of poultry is found to exist in the quarantined lot, the quarantine shall be immediately terminated and the entire lot shall be refused entry or disposed of in accordance with § 92.11(g)(3)(ii)(J).

* * * * *

2. A new § 92.11(g) would be added to read:

§ 92.11 Quarantine requirements.

* * * * *

(g) *Standards for Approval of Quarantine Hatching and Brooding Facilities; Handling Procedures During Quarantine.* To qualify for designation as an approved quarantine facility for hatching of eggs under the provisions of § 92.5(b)(2)(iii) and the brooding of the hatch therefrom, and to retain such approval, the facility and its maintenance and operation must meet the minimum conditions of paragraphs (g)(1) through (7) of this section. The cost of the facility and all costs associated with the maintenance and operation of such facility shall be borne by the importer.

(1) *Supervision of the facility.* The facility shall be maintained under the supervision of a Veterinary Services veterinarian (poultry diagnostician) who shall ensure compliance with all applicable provisions of the quarantine procedures of this paragraph.

(2) *Physical plant requirements.* The facility shall comply with the following requirements:

(i) *Location.* The quarantine facility shall be located at least one-half mile from any concentration of avian species, such as, but not limited to, poultry processing plants, poultry or bird farms, pigeon lofts, or other approved quarantine facilities. Factors such as prevailing winds, possible exposure to poultry or birds moving in local traffic, etc., shall be taken into consideration.

(ii) *Construction.* The unit making up the quarantine facility shall:

(A) Be contained in a single building which shall house all the incubation and brooding equipment;

(B) Be constructed only with materials that can withstand continued cleaning and disinfection. (All solid walls, floors, and ceilings shall be constructed of impervious material; all screening shall be metal; all openings to the outside shall be screened.);

(C) Have a ventilation capacity sufficient to control moisture and odor at levels that are not injurious to the eggs or the health of the hatch in quarantine;

(D) Have a vermin-proof feed storage area;

(E) Have refrigerated storage space for carcasses retained for laboratory examination;

(F) Have equipment necessary to maintain the facility in clean and sanitary condition, including insect and pest control equipment.

(iii) *Sanitation and security.* Arrangements shall exist for:

(A) A supply of water adequate to meet all watering and cleaning needs;

(B) Disposal of wastes by incineration or a public sewer system which meets all applicable environmental quality control standards;

(C) Cleaning and disinfecting equipment with adequate capacity to disinfect the facility and equipment;

(D) Sufficient stocks of a disinfectant authorized in § 71.10(a)(5) of this chapter;

(E) A security system which prevents entry of persons not authorized to enter the facility. Such a system shall include a daily log to record the entry and exit of all persons entering the facility.

(3) *Operational procedures.* To qualify for designation as an approved quarantine facility, the following procedures shall be observed at the facility at all times.

(i) *Personnel.* Access to the facility shall be granted only to persons working at the facility or to persons specifically granted such access by the supervising Veterinary Services veterinarian. Personnel associated with the incubation and hatching of the eggs, and brooding of the hatch therefrom, shall not be in contact with any other avian species.

(ii) *Handling of eggs and the hatch therefrom in quarantine.* Eggs and the hatch therefrom shall be handled in compliance with the following requirements:

(A) Eggs shall be transported from port of arrival to the quarantine hatching and brooding facility in a vehicle that has been sealed in the presence of Veterinary Services personnel at the port of arrival. The seals shall be broken and the vehicle shall be cleaned and disinfected under the supervision of Veterinary Services personnel on arrival at the quarantine facility.

(B) At the facility no eggs other than those undergoing quarantine shall be stored, incubated, or hatched;

(C) The shipping cases and flats in which the eggs were shipped to the United States shall be incinerated under the supervision of the supervising Veterinary Services veterinarian;

(D) Each lot of eggs to be hatched and brooded shall be placed in the facility on an "all-in, all-out" basis. No eggs or any portion of the hatch therefrom shall be taken out of the lot while it is in quarantine, except for diagnostic purposes;

(E) The importer shall be responsible for collecting and storing all dead embryos from the first two candlings which shall be conducted at the end of the first 10 days and at the time of transfer of the eggs from the incubator to the hatcher respectively. Specimens taken from such dead embryos shall be forwarded by Veterinary Services personnel to the Veterinary Services Laboratories, Ames, Iowa, for virus isolation attempts. If an isolation of Newcastle disease virus is made the quarantine shall be terminated immediately and the entire lot shall be refused entry or disposed of as provided in Paragraph (g)(3)(ii)(J) of this section;

(F) During brooding, specimens from each of the first week's die-off shall be forwarded by Veterinary Services personnel to the Veterinary Services Laboratories, Ames, Iowa, for virus isolation attempt. If an isolation of Newcastle disease virus is made the quarantine shall be terminated immediately and the entire lot shall be refused entry or disposed of as provided in Paragraph (g)(3)(ii)(J) of this section;

(G) No Newcastle disease vaccine shall be used during the quarantine period.

(H) During the quarantine period each lot of eggs, and the hatch therefrom, shall be subjected to such further tests and procedures as may be required by the supervising Veterinary Services veterinarian to determine whether they are free from communicable diseases of poultry. If evidence of any such disease is determined to exist, the quarantine shall be immediately terminated, and the lot shall be refused entry or disposed of as provided in Paragraph (g)(3)(ii)(J) of this section.

(I) The entire quarantine facility from which eggs or a hatch has been removed because a communicable disease of poultry has been determined to exist, shall be immediately and thoroughly cleaned and disinfected with a disinfectant authorized in § 71.10(a)(5) of this chapter, under supervision of the supervising Veterinary Services veterinarian. If a lot has been released for entry, such cleaning and disinfection shall take place before a new lot of eggs is placed in the facility.

(J) Disposal of any eggs in the quarantined lot, or any part of the hatch therefrom, including all egg shells, dead in shell or any other hatching debris shall be through incineration or public sewer system under the supervision of the supervising Veterinary Services veterinarian.

(iii) *Records.* It shall be the responsibility of the operator of the facility to maintain a current daily log for each lot lot of eggs and the hatch therefrom reof eggs and the hatch therefrom recording the source and origin of the eggs in the lot, the date the lot was placed into the facility, the fertility at each candling during the incubation period, the number of deaths each day during the quarantine period, the laboratory findings on any portion of the hatch that died during quarantine, the date of prescribed tests and results, the import permit numbers of each lot of eggs received, the date the lot was removed from the facility, and any other observations pertinent to the general health of the hatch therefrom.

(4) Additional requirements as to location, security, physical plant and facilities, sanitation, and other items may be imposed by the Deputy Administrator, Veterinary Services, in each specific case in order to assure that the incubation and brooding of each lot of eggs and the hatch therefrom in such facility will be conducted in a manner that will allow accurate determination of their health status and prevent spread of disease agents from the facility.

(5) Requests for approval and plans for proposed facilities shall be submitted to the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Federal Building, Hyattsville, Maryland 20782.

(6) Before a decision is made with respect to the eligibility of any facility for approval, a personal inspection of the facility shall be made by a Veterinary Services poultry diagnostician to determine whether it complies with the standards outlined in this section. Approval of any facility may be refused and approval of any approved quarantine facility may be withdrawn at any time by the Deputy Administrator, Veterinary Services, upon his determination that any requirement of this section is not being met. Before such action is taken, the operator of the facility will be informed of the reasons for the proposed action and afforded opportunity to present his views thereon.

Requirements of other Federal laws and regulations shall also apply as applicable to the quarantine facilities.

Any person who wishes to submit written data, views, or arguments concerning the proposed amendments may do so by filing them with the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Hyattsville, Maryland 20782, before August 11, 1975.

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, Room 870, Hyattsville, Maryland, during regular business hours in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue of the FEDERAL REGISTER.

Done at Washington, D.C., this 2nd day of July 1975.

PIERRE A. CHALOUX,
Acting Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc.75-17821 Filed 7-8-75;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

[20 CFR Parts 401, 405]

[Regs. Nos. 1, 5]

FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Disclosure of Information Where Physician Frequently Submits Erroneous Certifications or Inappropriate Plans of Treatment; Presumed Coverage of Post-Hospital Services

Notice is hereby given, pursuant to the Administration Procedure Act (5 U.S.C. 553) that the amendments to the regulations set forth in tentative form, are proposed by the Commissioner of Social Security with approval of the Secretary of Health, Education, and Welfare. The purpose of these amendments is to implement Section 228 of Pub. L. 92-603, the Social Security Amendments of 1972. The proposed amendments provide for presumed coverage of post-hospital extended care and post-hospital home health services for those individuals who have medical conditions designated in the regulations and whose physicians submit the required certifications and plans of treatment. Where the Secretary determines that a physician is submitting, with some frequency, erroneous certifications and/or inappropriate plans of treatment in connection with the presumed coverage provision, the amendments provide that certifications and plans of treatment submitted by a physician on and after the effective date of the notice to him of this determination will not be acceptable for purposes of the presumed coverage provision until such time as it is found that the physician's certifications and plans of treatment have become reliable. The amendments also provide authority for disclosure limited to any provider, claimant or prospective claimant for benefits or payments, his duly authorized representative, and to other parties in interest the name of a physician whose certifications and/or plans of treatment have been found not to be acceptable for purposes of the presumed coverage provision. However, the proposed amendments provide that such a physician must be afforded a reasonable opportunity for an administrative hearing before such a finding is implemented.

The medical conditions designated in the regulations represent a listing of those conditions which have been identified to date as generally requiring a covered level of extended care services or home health services following hospitalization, taking into account such factors as the medical severity of such conditions, the degree of incapacity, the type of services required and the minimum length of stay in a skilled nursing facility or the minimum period of home confinement generally needed for such conditions. These regulations will be revised periodically to include additional medical conditions which subsequent program experience indicates are the type which require covered care. The periods of presumed coverage which have been established for the medical conditions designated in the regulations are not intended in many cases to encompass the entire period of care which an individual may require. Patients who require covered care beyond the presumed coverage period (or within the presumed coverage period, in the case of patients who require additional or other home health services besides those included in the visits specified in the regulations for their medical conditions) would be eligible to have payment made for such care where the facts show in the individual case that there is a need or continuing need for such care. Although persons who have medical conditions which are not described in the regulations would not be eligible for a presumed period of coverage, payment under the program would, of course, nevertheless be made where the facts in the individual case establish a need for covered post-hospital extended care services or post-hospital home health services.

Prior to the final adoption of the proposed amendments, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in triplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Maryland 21203, on or before August 8, 1975.

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

(Secs. 205, 1102, 1106, 1814(h), 1814(i) and 1871, 49 Stat. 624, as amended, 49 Stat. 647, as amended, 53 Stat. 1398, as amended, 86 Stat. 1407, and 79 Stat. 331 (42 U.S.C. 405, 1302, 1306, 1395f, and 1395hh))

(Catalog of Federal Domestic Assistance Program No. 13.800, Health Insurance for the Aged—Hospital Insurance.)

Dated: May 30, 1975.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: June 30, 1975.

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

PART 401—STATE VOCATIONAL REHABILITATION PROGRAM

1. Section 401.3 is amended by adding thereto new paragraph (w) to read as follows:

§ 401.3 Information which may be disclosed and to whom.

Disclosure of any such file, record, report, or other paper, or information, is

hereby authorized in the following cases and for the following purposes:

* * * * *

(w) To any provider, claimant or prospective claimant for benefits or payments, his duly authorized representative, and to other parties in interest, the name of any physician who has been found by the Secretary to have been submitting, with some frequency, in connection with title XVIII claims falling within the scope of § 405.133 of this chapter:

(1) Certifications that erroneously indicate that the patient's medical condition is among those listed in § 405.133(c) or § 405.133(d); or

(2) Plans for providing services which are inappropriate and do not reflect a level of care which would qualify an individual for post-hospital extended care services or post-hospital home health services, i.e., a covered level of care (see § 405.133(a)); except that the name of any such physician shall not be disclosed pursuant to such a finding unless such physician has first been afforded a reasonable opportunity for an administrative hearing before the Secretary's finding becomes effective (see § 405.133 (b)).

PART 405—RESEARCH AND DEMONSTRATION

2. § 405.133 is added to read as follows:

§ 405.133 Post-hospital extended care and post-hospital home health services; presumed coverage procedure.

(a) *Eligibility for presumed coverage.* To qualify for extended care benefits upon admission to a skilled nursing facility a beneficiary must need on a daily basis skilled nursing care (provided directly by or requiring the supervision of skilled nursing personnel) or other skilled rehabilitation services, which as a practical matter can only be provided in a skilled nursing facility on an inpatient basis, for any of the conditions with respect to which he was receiving inpatient hospital services prior to transfer to the skilled nursing facility. To qualify for part A home health benefits upon admission to care by a home health agency following a qualifying inpatient stay a beneficiary must be confined to his home, under the care of a physician and must be in need of skilled nursing care on an intermittent basis, physical therapy or speech therapy for a condition for which he received medically necessary inpatient hospital services or post-hospital extended care services. An individual who has a medical condition listed in paragraph (c) of this section (in the case of post-hospital extended care services) or paragraph (d) of this section (in the case of post-hospital home health services) is presumed to require this level of care for the period of time or number of visits specified for such condition provided:

(1) A physician submits in writing the required certification (see §§ 405.165, 405.170, 405.1632, and 405.1633) to the provider prior to or at the time of such individual's admission to a skilled nursing facility or in a timely fashion prior to the first chargeable post-hospital home health visit made to the individual;

(2) The certification indicates that the individual's medical condition is a condition set out in paragraph (c) or paragraph (d) of this section;

(3) The physician's certification is accompanied by a written plan of treatment for providing the required post-hospital extended care services or the post-hospital home health services;

(4) The Secretary has not determined for purposes of the presumed coverage provision that the physician is submitting, with some frequency, erroneous certifications and/or plans for providing services which are inappropriate (see paragraph (b) of this section); and

(5) There is no adverse finding by the skilled nursing facility's utilization review committee that the stay or any further stay is medically unnecessary (see §§ 405.166 and 405.1137(e)).

Where any of these requirements are not met, the individual is not eligible for a presumed period of coverage. In such situations a decision as to whether an individual requires covered post-hospital extended care services or post-hospital home health services will be decided on the basis of all the facts in the case. In either case all other pertinent requirements for entitlement to post-hospital extended care or post-hospital home health benefits must be met. (See §§ 405.120 and 405.131). An individual is not eligible for more than one period of presumed coverage for each skilled nursing facility admission or admission to care by a home health agency following a qualifying inpatient stay. Where additional care is required at the expiration of the presumed coverage period, payment may be made if the facts in the individual case establish that the care needed is the type which would qualify an individual for post-hospital extended care benefits or post-hospital home health benefits.

(b) *Unacceptable physician certifications and plans of treatment.* Where the Secretary determines that a physician is submitting with some frequency:

(1) Certifications that erroneously indicate that the patient's medical condition is among those listed in paragraph (c) or paragraph (d) of this section, or

(2) Plans for providing services which are inappropriate and do not reflect a level of care which would qualify an individual for post-hospital extended care services or post-hospital home health services, i.e., a covered level of care (see paragraph (a) of this section), certifications and plans of treatment executed by such a physician on or after the effective date of the notice to the physician of the Secretary's determination will not be acceptable for purposes of the presumed coverage provision until such time as the Secretary may find that the physician's certifications and/or plans of treatment have become reliable. However, such determination will not be effective until the physician has first been afforded a reasonable opportunity for an administrative hearing. The physician will have 10 working days from the mailing date of the notice of the Secretary's finding in which to request such a hearing. The physician shall be given the opportunity to present oral and written evidence, to be represented by counsel and to confront and cross-examine witnesses. The physician will be notified in writing of the hearing decision and the legal and factual basis on which it is predicated.

(c) *Medical conditions eligible for presumed coverage of post-hospital extended care services.* An individual whose eligibility for post-hospital extended care services is based on one of the following medical conditions and who meets all of the requirements of paragraph (a) of this section is presumed to require on a daily basis skilled nursing care (provided directly by or requiring the supervision of skilled nursing personnel) or other skilled rehabilitation services, which as a practical matter can only be provided in a skilled nursing facility on an inpatient basis, for the period of time specified below for each condition. Where an individual has more than one of the conditions specified below, the individual is eligible for the presumed period of coverage for the condition which presumes the longest period of coverage for extended care services.

Medical condition:	*Presumed period of covered skilled nursing facility care (days)*
1. Acute cerebrovascular accident (CVA) resulting from hemorrhage, thrombosis, embolism, brain injury, or tumor (CVA reason for qualifying hospital stay or occurred during hospital stay). *Qualifying criteria:* Hemiplegia and/or aphasia which requires on a daily basis skilled nursing care, physical therapy, occupational therapy, speech therapy, or a combination thereof—admitted directly from the hospital to skilled nursing facility	15
2. Fracture of femur—neck or shaft, and/or fracture of pelvis or acetabulum. *Qualifying criteria:* Nonweight bearing stage following surgery or reduction, complicated by presence of infection, delayed union or aseptic necrosis; and/or a complicating secondary medical condition(s), necessitated daily skilled nursing observation and/or skilled management—admitted directly from hospital to skilled nursing facility.	

Medical condition—Continued	*Presumed period of covered skilled nursing facility care (days)*
2. Fracture of femur—Continued	
A. Open reduction	15
B. Closed reduction	21
3. Post-arthroplasty of hip with prosthetic device (surgery performed during the hospitalization immediately prior to admission to skilled nursing facility)—admitted directly from hospital to skilled nursing facility	15
4. Malignancies.	
Qualifying criteria: Admitted directly from hosptial to skilled nursing facility for:	
A. Administration of anticarcinogenic chemotherapeutic agents	14
B. Postoperative care	10
C. Terminal care—Patient in terminal stage of illness and is unable to function outside of skilled nursing facility because of need for skilled management of care required on a daily basis	14
5. Diabetes Mellitus	
Qualifying Criteria: Admitted directly from hospital to skilled nursing facility with:	
A. Presence of gangrene, ulceration, or unstable peripheral neuropathy	14
B. Below knee amputation requiring prosthesis (amputation performed during the hospitalization immediately prior to admission to skilled nursing facility)	14
C. Above knee amputation requiring prosthesis (amputation performed during the hospitalization immediately prior to admission to skilled nursing facility)	21
6. Disease of digestive system which required colostomy, ileostomy, or gastrostomy.	
Qualifying criteria: Admitted directly from hospital to skilled nursing facility for: Diet control and training required (surgery performed during hospitalization immediately prior to admission to skilled nursing facility)	10
7. Congestive heart failure complicated by disorders of rhythm and/or requring additional drug or anticoagulant stabilization—admitted directly from hospital to skilled nursing facility	10
8. Myocardial infarction with recurring bouts of angina and/or complicated by disorders of rhythm and/or congestive heart failure—admitted directly from hospital to skilled nursing facility	14
9. Chronic obstructive pulmonary disease complicated by acute respiratory infection and/or congestive heart failure—admitted directly from hospital to skilled nursing facility	14

(d) *Medical conditions eligible for presumed coverage of post-hospital home health services.* An individual whose eligibility for post-hospital home health services is based on the need for one of the skilled services described below for the treatment of his medical condition and who meets all of the requirements of paragraph (a) of this section is presumed to require skilled nursing care on an intermittent basis or physical therapy or speech therapy for the number of home health visits designated below. The number of home health visits designated is predicated on the assumption that the length of such visits will be the usual and customary time for a skilled visit, i.e., that the required skilled service can be furnished in 1 hour or less. Where an individual's medical condition necessitates more than one of the types of skilled services specified below, and each type requires the same kind of visit, e.g., both require nursing visits, the individual is eligible for the presumed number of visits for the skilled service which presumes the largest number of home health visits. However, where each type of skilled service needed requires different kinds of visits, e.g., skilled nursing and speech therapy visits, the individual is eligible for the presumed number of visits for each type of skilled services.

Skilled services	*Presumed number of covered home health visits*
1. Skilled observation for any unstabilized condition characterized by significant fluctuations in vital signs or marked edema or elevated blood sugar levels.	Six skilled nursing visits in a 2-week period.
2. Application of dressings involving prescription medications and aseptic techniques because of the presence of open wounds, extensive decubitus ulcers, or other widespread skin disorders.	Seven skilled nursing visits in a 2-week period.
3. A. Instructions in colostomy, ileostomy, or gastrostomy care.	Three skilled nursing visits in a 1-week period.
B. Instructions in the routine care of an indwelling catheter.	Two skilled nursing visits in a 1-week period.
C. Instruction in tube feeding technique.	Six skilled nursing visits in a 1-week period.
D. Instruction of a newly diagnosed diabetic in a diabetic regimen, i.e., training in diet, the administration of insulin injections, urine tests, skin care, etc.	Six skilled nursing visits in a 3-week period.

Skilled services	*Presumed number of covered home health visits*
E. Instruction of a recent[1] hip fracture patient, or family members, in an exercise program and/or in the use of crutches, a walker, or a cane.	Four skilled nursing or four physical therapy visits in a 2-week period.
F. Instruction of a recent[1] post-arthroplasty of hip patient or a recent[1] above or below knee amputation patient in the use of a prosthetic device.	Four skilled nursing or four physical therapy visits in a 2-week period.
G. Instruction of a patient who requires respiratory therapy in the use of special equipment such as an IPPB machine or oxygen units.	Two skilled nursing visits in a 1-week period.
H. Instruction in postural drainage procedures and pulmonary exercises.	Two skilled nursing or two physical therapy visits in a 1-week period.
I. Administration of anticarcinogenic chemotherapeutic agents.	Four skilled nursing visits in a 2-week period.
4. Skilled physical therapy services and/or speech therapy services to restore functions impaired by a recent[1] cerebrovascular accident resulting in hemiplegia and/or aphasia.	Five physical therapy and/or five speech therapy visits in a 2-week period.

[1] Recent means the medical condition was either the reason for the qualifying hospital stay or occurred during the hospital stay.

3. § 405.165 is revised to read as follows:

§ 405.165 Payment for post-hospital extended care services; conditions.

Payment may be made under this Subpart A for post-hospital extended care services only if:

(a) Written request for such payment is filed by or on behalf of the individual to whom such services were furnished; and

(b) When required, a physican (other than a doctor of podiatry or surgical chiropody) certifies and recertifies (see Subpart P of this part) that such services are or were required to be given because the individual needs or needed on a daily basis skilled nursing care (provided directly by or requiring the supervision of skilled nursing personnel) or other skilled rehabilitation services, which as a practical matter can only be provided in a skilled nursing facility on an inpatient basis:

(1) For any of the conditions with respect to which he was receiving inpatient hospital services (or services which would constitute inpatient hospital services if the institution had met the necessary requirements relating respectively to a utilization review plan (see § 405.1035) and such other requirements as the Secretary finds necessary in the interest of health and safety (see § 405.1001 et seq. for qualification as a "hospital")) prior to transfer to the skilled nursing facility; or

(2) For a condition requiring such extended care services which arose after such transfer and while he was still in the facility for treatment of any of the conditions for which he was receiving such inpatient hospital services; and

(c) In the case of a presumed period of coverage of post-hospital extended care services the requirements of § 405.133 are met; and

(d) The prohibitions against payment, described in §§ 405.166 and 405.167, are not applicable.

4. § 405.170 is amended by revising paragraphs (b)(3) and (b)(4) and adding new paragraph (c) to read as follows:

§ 405.170 Payment for post-hospital home health services; Conditions.

Payment may be made under this Subpart A for post-hospital home health services only if:

* * * * *

(b) When required a physician (other than a doctor of podiatry or surgical chiropody) certifies and recertifies (see Subpart P of this part) that: * * *

(3) A written plan for furnishing such services to such individual has been established and is periodically reviewed by a physician (other than a doctor of podiatry or surgical chiropody);

(4) The services were furnished while the individual was under the care of a physician (other than a doctor of podiatry or surgical chiropody); and

(c) In the case of presumed coverage of post-hospital home health visits the requirements of § 405.133 are met.

5. In § 405.1632, paragraphs (a) and (c) are revised to read as follows:

§ 405.1632 Post-hospital extended care services; certification and recertification.

(a) *Certification.* (1) The required physician's statement should certify that: (i) Post-hospital extended care services are or were required to be given because the individual needs or needed on a daily basis skilled nursing care (provided directly by or requiring the supervision of skilled nursing personnel) or other skilled rehabilitation services, which as a practical matter can only be provided in a skilled nursing facility on an inpatient basis, for any of the conditions with respect to which he was receiving inpatient hospital services (see § 405.116) or services which would constitute inpatient hospital services if the institution met the conditions of participation for hospitals (see Subpart J of this Part 405) except those relating to utilization review and health and safety requirements, prior to transfer to the skilled nursing facility; and (ii) in a presumed coverage case (see § 405.133) that the medical condition of the individual is a condition designated in regulations.

(2) The certification should be signed by the physician responsible for the case or, where so authorized by the responsible physician, by a physician on the staff of the skilled nursing facility or the physician who is available in case of an emergency who has knowledge of the case. In a presumed coverage case (see § 405.133), the physician certification must be submitted to the skilled nursing facility prior to or at the time of admission to the skilled nursing facility and must be accompanied by a written plan of treatment for providing the required post-hospital extended care services. In all other cases the physician's certification should be obtained at the time of admission, or as soon thereafter as is reasonable and practicable.

* * * * *

(c) *Timing of recertification.* In cases not involving a period of presumed coverage (see § 405.133), the first recertification is required no later than as of the 14th day of extended care services. A skilled nursing facility may, at its option, provide for the first recertification to be made earlier, or it can vary the timing of the first recertification within the 14-day period by diagnostic or clinical categories. Subsequent recertifications are to be made at intervals not exceeding 30 days. Such recertifications may be made at shorter intervals as established by the utilization review committee and the skilled nursing facility. At the option of the skilled nursing facility, review of a stay of extended duration, pursuant to the facility's utilization review plan, may take the place of the second and any subsequent physician recertifications. The skilled nursing facility should have available in its files a written description of the procedure it adopts with respect to the timing of recertifications—that is, the intervals at which recertifications are required, and whether review of long-stay cases by the utilization review committee serves as an alternative to recertification by a physician in the case of the second or subsequent recertifications. In cases involving a period of presumed coverage, the timing of the first recertification will depend upon the length of the presumed period of coverage. Where the presumed period of coverage is 13 days or less the recertification requirements are the same as those for cases not involving a period of presumed coverage. However, where the presumed period of coverage is 14 days or more the first recertification is required no later than as of the last day of the presumed period of coverage with subsequent recertifications being required at intervals not exceeding 30 days.

* * * * *

6. In § 405.1633, paragraph (a)(2) is revised to read as follows:

§ 405.1633 Home health services; certification and recertification

(a) * * *

(2) In addition, for post-hospital home health services under the hospital insurance program, the required physician's

statement should certify that the services were needed to treat any of the conditions for which the beneficiary received inpatient hospital services (or services which would constitute inpatient hospital services if the institution met the conditions of participation for hospitals (see Subpart J of this Part 405), except those relating to utilization review and health and safety), or post-hospital extended care services during the related hospital or skilled nursing facility stay (see § 405.131) and, in a presumed coverage case, that the medical condition of the individual is a condition designated in regulations (see § 405.133). The certification should be signed by the same physician who establishes the plan of treatment. In a presumed coverage case the physician certification must be submitted in a timely fashion (see § 405.131) to the home health agency prior to the first chargeable post-hospital home health visit made to the patient and be accompanied by a written plan of treatment for providing such home health services (see § 405.133). In all other cases the physician's certification should be obtained at the time the plan is established or as soon thereafter as possible.

* * * * *

[FR Doc.75-17609 Filed 7-8-75;8:45 am]

DEPARTMENT OF LABOR

Wage and Hour Division

[29 CFR Part 570]

EMPLOYMENT OF MINORS BETWEEN 14 AND 16 YEARS OF AGE

Proposed Amendments Concerning Work Experience and Career Exploration Programs; Extension of Comment Period

On June 5, 1975, there were published in the FEDERAL REGISTER (40 FR 24215) proposed amendments to Part 570 of Title 29 of the Code of Federal Regulations which would continue indefinitely on a permanent basis the Work Experience and Career Exploration Programs which have been conducted on an experimental basis since 1969. Interested persons were invited to submit written comments, suggestions, data or arguments concerning the proposed rules by July 7, 1975.

A number of requests have been received by the Assistant Secretary of Labor for Employment Standards for additional time in which to analyze the above proposal and submit comments. Accordingly, it has been determined that an extension of time to submit comments is appropriate.

The time for submission of comments on the above proposal is hereby extended to and including July 22, 1975.

Signed at Washington, D.C. this 2nd day of July, 1975.

BERNARD E. DELURY,
Assistant Secretary for Employment Standards.

[FR Doc.17770 Filed 7-8-75;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 391-5]

[40 CFR Parts 2, 60, 61, 79, 125, 167, 180]

PUBLIC INFORMATION

Supplemental Proposal and Corrections

In the May 20, 1975, issue of the FEDERAL REGISTER (40 FR 21987), the Environmental Protection Agency (EPA) published a notice of proposed rulemaking which would establish a new subpart B, entitled "Confidentiality of Business Information," in part 2 of title 40, Code of Federal Regulations.

This document supplements the notice published at 40 FR 21987 by making various editorial corrections in that notice and by making several substantive changes designed to make more explicit certain of the proposed provisions. (The substantive changes and the editorial corrections are listed separately below.)

Explanation of substantive changes. The change to proposed § 2.204(c)(2)(A) is designed to allow an EPA office the discretion to inquire whether a business desires to make a confidentiality claim despite the office's belief that such a claim would not ultimately be upheld by EPA. The EPA office might believe, for instance, that a business might wish to litigate the propriety of the substantive criterion which appears to deny entitlement to confidentiality. Allowing the business to make a claim would allow EPA to make a considered determination which could be the subject of judicial review. The change to proposed § 2.204(c)(3) is a corresponding, conforming change.

The change to proposed § 2.204(d)(1)(B) would make clear that an initial denial should mention 5 U.S.C. 522(b)(4) as the basis of the denial.

The revision of proposed § 2.307(e) deals with the procedures to be used by the General Counsel in making final confidentiality determinations concerning certain information submitted under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, 7 U.S.C. 136 et seq. The revision is designed to make those procedures more nearly consistent with the procedures used in similar determinations under other sections of proposed subpart B, and to provide a schedule for release of information (similar to that which would be provided under § 2.205(f)) to guide the actions of EPA and affected persons.

The revision of proposed § 2.307(g)(5) is designed to clarify the proposed coverage of the exclusion from eligibility for confidential treatment for certain kinds of information submitted under FIFRA. The exclusion would cover any information to which § 2.307 applies which is scientific data, opinion, or argument, and which pertains to or concerns the properties, behavior, or effect on any organism of any pesticide which is (or has been) registered under FIFRA, or for which a notice of application has been published under 7 U.S.C. 136a(c)(4). The exclusion from confidential treatment eligibility would not, however, cover the pesticide's formula, nor information dealing with manufacturing or quality control processes.

The revisions to proposed § 2.308(c) and § 2.308(d) are designed to clarify the applicability of § 2.203 to information covered by § 2.308.

The revision to proposed § 2.308(f)(2) is designed to state the starting date of the 30-day waiting period which would be established under § 2.308(f)(2).

Extension of comment date. The notice of proposed rule making in 40 FR 21987 established a 45-day period for public comment, ending July 7, 1975. That period is hereby extended to July 22, 1975. The Environmental Protection Agency finds good cause for not extending the period further, in view of the relatively minor nature of the revisions proposed in this supplemental notice, the length of the original comment period, and the urgent need for final promulgation of rules.

In consideration thereof, the notice of proposed rule making published at 40 FR 21987 is supplemented and corrected as follows:

Substantive revisions:

1. On page 21993, § 2.204(c)(2)(A) is amended by inserting, after the first sentence, the following additional sentence:

"Such an inquiry may also be made in any case if the EPA office believes an inquiry would be helpful or equitable."

2. On page 21993, § 2.204(c)(3) is amended by deleting the words "required by" and inserting in their place the words "made under".

3. On page 21993, § 2.204(d)(1)(B) is amended to read as follows:

"(B) Furnish, to any person whose request for release of the information under 5 U.S.C. 552 is pending, a determination (in accordance with § 2.113) that the information may be entitled to confidential treatment under this subpart and 5 U.S.C. 552(b)(4), that further inquiry by EPA is required before a final determination on the request can be issued, that the request is therefore initially denied, and that after further inquiry a final determination will be issued by the EPA legal office; and"

4. On page 22000, § 2.307(e) is amended to read as follows:

"(e) *Final confidentiality determination by EPA legal office.* Section 2.205 applies to information to which this section applies, except that—

(1) Notwithstanding § 2.205(i), the General Counsel, rather than the Regional Counsel, shall in all cases make the determinations and take the actions required by § 2.205;

(2) For the 10-day and 30-day waiting periods prescribed in § 2.205 (f)(2), (f)(3) and (f)(4), there shall be substituted waiting periods of 30 calendar days and 40 calendar days, respectively;

(3) The notice prescribed by § 2.205 (f)(1) and described in § 2.205(f)(2)

shall inform the business that it may seek judicial review under Section 10(c) of the Act, 7 U.S.C. 136h(c), and shall otherwise be consistent with this paragraph (e); and

(4) Notwithstanding § 2.205(g), the 30-day and 40-day waiting periods provided by this paragraph (e) shall not be shortened without the consent of the business."

5. On page 22000, § 2.307(g)(5) is amended to read as follows:

"(5) The information does not consist of scientific data (including, but not limited to, test methodology and results), opinion, or argument, pertaining to or concerning the properties, behavior or effect on any organism of a pesticide which is or has been registered under the Act or for which a notice of application for registration has been published under section 3(c)(4) of the Act, 7 U.S.C. 136a (c)(4). For purposes of this paragraph (5), "scientific data" does not include information concerning the confidential formula of a pesticide or the manufacturing and quality control processes employed in producing the pesticide."

6. On page 22001, § 2.308(c) is revised to read as follows:

"(c) *Basic rules which apply without change.* Sections 2.201, 2.202, 2.209, 2.210 and 2.211 apply without change to information to which this section applies."

7. On page 22001, § 2.308(d) is revised to read as follows:

"(d) *Business confidentiality claim to to accompany information.* Section 2.203 applies to information to which this section applies, except that no such information shall be made available to the public on the basis of noncompliance with § 2.203."

8. On page 22001, § 2.308(f)(2) is amended by adding the words "after receipt by the business of such notice" after the words "passage of 30 calendar days".

Editorial corrections:

1. On page 21992, § 2.203(a) is corrected by changing "person including" to read "person (including"; by changing "agencise" to read "agencies"; and by changing "fo rreasons" to read "for reasons".

2. On pages 21992–93, § 2.203(b) is corrected by changing "th" to read "the", and by deleting the reference to "§ 2.202" and substituting in its place "paragraph (a) of this section".

3. On page 21993, the introductory paragraph of § 2.204(d) is corrected by changing "subpart (and" to read "subpart) and".

4. On page 21994, § 2.205(a) is corrected by changing "§ 2.204(b)(4)" to read "§ 2.204(b)(2)(A)".

5. On page 21994, § 2.205(b) is corrected by changing § 2.204(b)(4)(B)" to read "§ 2.204(b)(2)(B)".

6. On page 21995, § 2.205(f)(1)(A) is corrected by deleting "§ 2.204(b)(3) or".

7. On page 21995, the introductory paragraph of § 2.206(a) is corrected by changing "congdential" to read "confidential", and by changing "EUA" to read "EPA".

8. On page 21996, § 2.206(b) is corrected by changing "ont" to read "not", and by changing "disclosce" to read "disclose".

9. On page 21996, § 2.208(d) is corrected by changing "informaton" to read "information".

10. On page 21997, § 2.301(b)(1)(C) is corrected by changing "42 U.S.C. 1857–5 (a)" to read "42 U.S.C. 1857h–5(a)".

11. On page 21999, § 2.302(g) is corrected by adding the number "(1)" after the paragraph heading and before the text.

12. On page 21999, § 2.302(h) is corrected by inserting the number "(1)" after the paragraph heading and before the text.

13. On page 21999, § 2.303(g) is corrected by inserting the number "(1)" after the paragraph heading and before the text.

14. On page 22000, § 2.304(g) is corrected by inserting the number "(1)" after the paragraph heading and before the text, and by changing the reference in the text from "§ 2.304(a)(4)" to read "§ 2.304(a)(3)".

15. On page 22000, § 2.304(h) is corrected by inserting the number "(1)" after the paragraph heading and before the text.

16. On page 22001, the introductory paragraph of § 2.308(e) is corrected by changing "paragraph (e) of this section" to read "paragraph (f) of this section".

Dated: July 2, 1975.

JOHN QUARLES,
Acting Administrator.

[FR Doc.75–17852 Filed 7–8–75;8:45 am]

[FRL 395–7]

[40 CFR Part 52]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Georgia: Proposed Plan Revisions

On May 31, 1972 (37 FR 10842), the Administrator approved portions of the Georgia plan to attain and maintain the national ambient air quality standards. The State's Environmental Protection Division has since submitted compliance schedules for major sources of air pollution not yet in compliance with its air pollution control regulations, and the Administrator has approved or proposed to approve these schedules.

However, recent air quality analyses have shown that two major point sources in the State may cause contravention of the national ambient standards if allowed to emit sulfur dioxide at the maximum rate allowed by regulation 391–3–1–.02(2)(g)3. Accordingly, the State has issued to one of these sources a Permit to Operate which is conditioned in such a way as to effect emission limitations more stringent than those prescribed in the Georgia regulations and sufficiently stringent to assure attainment and maintenance of the national ambient air quality standards. The substantive conditions of this permit are as follows:

1. Georgia Power Company's Plant Atkinson (Units 1–4) is required to burn #2 fuel oil with a heating value of no less than 140,000 Btu/gallon, and with a sulfur content of no more than 0.2% by weight.

2. Miscellaneous reporting requirements regarding operating parameters must be met.

The determination of proper emission limitations for the other source has not yet been made.

On May 22, 1975, the State of Georgia submitted this permit to the Agency as a proposed plan revision following notice and public hearing in conformity with the requirements of 40 CFR Part 51.

The EPD has adopted two additional changes which were also submitted to EPA as SIP revisions on June 30, 1975, subsequent to notice and public hearing requirements. The first of these is the deletion of 391–3–1–.02(2)(m) from the State regulations. Analysis has shown that ambient standards can be attained without this requirement on those sources in cases when it was the more restrictive particulate emission limitation.

The second change submitted is the deletion of these clauses in 391–3–1–.03(2)(e) and 391–3–1–.03(3) which impose time limitations on compliance schedules. Because the Administrator disapproved these two clauses on March 27, 1975 (40 FR 13498), and in light of the recent Supreme Court ruling regarding extended compliance schedules, no action is deemed necessary on this change.

The purpose of the present notice is to offer these revisions as proposed rulemaking and to solicit public comment thereon. The information submitted by the State may be examined at the following locations during normal business hours:

Air Programs Office, Environmental Protection Agency, Region IV, 1421 Peachtree Street NE., Atlanta, Georgia 30309.

Air Protection Branch, Georgia Environmental Protection Division, 270 Washington Street S.W., Atlanta, Georgia 30334.

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

An evaluation of the revisions may be obtained by consulting personnel of the Agency's Region IV Air Programs Office at the above address (404/526–3043).

All interested parties are encouraged to submit written comments on the proposed Georgia revisions. To be considered, such comments must be received on or before August 8, 1975. After weighing relevant comments and all other pertinent information in the light of requirements set forth in the Clean Air Act and in the implementing regulations of 40 CFR Part 51, the Administrator will take approval/disapproval action on the revisions. Comments should be addressed to the attention of John Eagles at the Agency's Region IV Air Programs Office (address given above).

(Section 110(a) of the Clean Air Act (42 U.S.C. 1857c–5(a)))

Dated: July 1, 1975.

JACK E. RAVAN,
Regional Administrator, Region IV.

[FR Doc.75–17688 Filed 7–8–75;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 21 and 43]

[Docket No. 20490]

DOMESTIC PUBLIC RADIO SERVICES

Proposed Procedural Requirements

1. The Commission has before it a motion for extension of time filed June 24, 1975 by the National Association of Radiotelephone Systems (NARS) requesting that the comment and reply dates in response to the notice of proposed rule making released May 29, 1975 (FCC 75-599) be extended from July 18, 1975 and August 5, 1975, respectively, to and including August 15, 1975 (comments) and September 10, 1975 (replies). NARS, a trade association representing mobile radiotelephone common carriers, states that the additional time is necessary to analyze and confer upon these proposed rule amendments.

2. The notice of proposed rule making proposed changes which would implement new application forms, clarify application requirements, improve procedures and generally expedite the processing of Domestic Public Radio Service applications. This rulemaking is also an important step in the implementation of Automatic Data Processing (ADP) in the processing of radio applications and the collection of a data base. Consequently, because of several critical dates in the implementation of this ADP system, we are unable to grant the substantial extension of time sought by NARS. However, since a short extension is compatible with our schedule and would promote more thorough and comprehensive comments, we will provide for a one week extension.

3. Accordingly, *It is hereby ordered,* pursuant to the authority of § 0.303(c) of the Commission's rules, that the time for filing comments in this proceeding is extended to, and including, July 25, 1975, and reply comments to, and including, August 12, 1975. The NARS Motion is otherwise denied.

Adopted: July 1, 1975.

Released: July 2, 1975.

[SEAL] JOSEPH A. MARINO,
Acting Chief,
Common Carrier Bureau.

[FR Doc.75-17765 Filed 7-8-75;8:45 am]

[47 CFR Part 76]

[Docket No. 20482]

CABLE TELEVISION SYSTEMS

Exemption Regarding Syndicated Program Exclusivity Protection

Order

In the Matter of Amendment of Part 76, Subpart F of the Commission's rules and regulations to Exempt Smaller Cable Television Systems and Smaller System Conglomerates from the Obligation of Providing Syndicated Program Exclusivity Protection: § 76.99 and § 76.151 et seq.

1. On June 26, 1975, the National Cable Television Association (NCTA) submitted a "Petition for Extension of Time" in which to file comments in the above-captioned proceeding. Petitioner's timely request asks that the deadline for filing comments be extended ten days from the July 3, 1975, deadline. In support of its petition, NCTA points out that in this proceeding the Commission, for the first time since 1972, has addressed certain aspects of its syndicated program exclusivity regulations in a rule making context and maintains that additional time is necessary for the NCTA staff to obtain detailed information from the cable industry prior to its formal filing.

2. In view of the above, the Commission finds that good cause has been shown for grant of a brief extension of the time for filing comments in this proceeding.

Accordingly, *it is ordered,* That the dates for filing comments and replies in the above-captioned proceeding are extended to July 14, 1975, and August 4, 1975, respectively.

This action is taken by the Chief, Cable Television Bureau, pursuant to the authority delegated by § 0.288(a) of the Commission's rules.

Adopted: July 1, 1975.

Released: July 2, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] DAVID D. KINLEY,
Chief, Cable Television Bureau.

[FR Doc.75-17766 Filed 7-8-75;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

INSURED BANKS

Joint Call for Report of Condition

Cross reference: For a document regarding joint call for report of condition of insured banks, see FR Doc. 75–17747, Federal Deposit Insurance Corporation, infra.

Fiscal Service

COMMISSIONER OF THE PUBLIC DEBT

Succession of Officials To Act

Order of succession of officials to act as Commissioner of the Public Debt, and provisions for the continuous performance of functions of the Bureau of the Public Debt in the event of an enemy attack on the continental United States.

1. It is hereby ordered that the following officers of the Bureau of the Public Debt, in order of succession enumerated, shall act as Commissioner in the event of the absence or disability of the Commissioner or a vacancy in the office:

1. Deputy Commissioner.
2. Assistant Commissioner (Field).
3. Assistant Commissioner (Washington).
4. Director, Division of Securities Operations.
5. Director, Division of Public Debt Accounts.
6. Chief Counsel.
7. Technical Assistant to the Commissioner.
8. Deputy Assistant Commissioner (Field).
9. Director, Division of Transactions and Rulings.
10. Deputy Director, Division of Public Debt Accounts.

2. In the event of an enemy attack on the continental United States and without regard to the matter of succession, the Assistant Commissioners are hereby authorized to perform any function of the Secretary of the Treasury or Commissioner of the Public Debt (whether or not otherwise delegated), (a) if it is essential to the carrying out of responsibilities otherwise assigned to them, and (b) if, and so long as, they are unable to ascertain (in a manner consistent with the efficient performance of such responsibilities) whether the Commissioner or any official acting in his stead is available to discharge the Commissioner's duties with respect to the performance of those functions.

3. The foregoing order of succession and provisions for the continuous performance of functions are made under the authority of Department of the Treasury Order No. 129, Revision No. 2, dated April 22, 1955. This order of succession supersedes the order of this Bureau dated November 1, 1972.

H. J. HINTGEN,
Commissioner of the Public Debt.

JULY 2, 1975.

[FR Doc.75–17690 Filed 7–8–75;8:45 am]

Internal Revenue Service

[Order No. 150]

DIRECTOR, PERSONNEL DIVISION

Authority To Take Action on Applications for Retirement

JUNE 17, 1975.

The authority vested in the Commissioner of Internal Revenue by Department of the Treasury Personnel Bulletin No. 75–10, dated February 14, 1975, to administer the special retirement provisions under 5 USC 8336(c) (retirement of law enforcement officers) is hereby delegated as follows.

A. The Director, Personnel Division, is authorized to determine, with the concurrence of the Civil Service Commission, creditability of service of IRS employees for retirement under 5 USC 8336(c). This authority may not be redelegated.

B. Commissioner's Delegation Order No. 81, as revised, delegates authority to take personnel actions (including separations for retirement). The authority therein delegated may be exercised in processing applications for retirement under the provisions of 5 USC 8336(c) provided the employees meet the requirements for eligibility including the requirement of at least 20 years of service which has previously been determined to be creditable for retirement under these special provisions.

DONALD C. ALEXANDER,
Commissioner.

[FR Doc.75–17826 Filed 7–8–75;8:45 am]

[Order No. 112 (Rev. 2)]

DISTRICT DIRECTORS

Authority To Issue Determination Letters Relating to Pension Trust Matters

JUNE 9, 1975.

Pursuant to authority vested in the Commissioner of Internal Revenue by Treasury Department Order No. 150–37, dated March 17, 1955, there is hereby delegated to the District Director of Internal Revenue for each of the following Key Districts:

Key District(s)	IRS Districts Covered
CENTRAL REGION	
Cincinnati	Cincinnati, Louisville, Indianapolis
Cleveland	Cleveland, Parkersburg
Detroit	Detroit
MID-ATLANTIC REGION	
Baltimore	Baltimore (which includes the District of Columbia and Office of International Operations), Pittsburgh, Richmond
Philadelphia	Philadelphia, Wilmington
Newark	Newark
MIDWEST REGION	
Chicago	Chicago
St. Paul	St. Paul, Fargo, Aberdeen, Milwaukee
St. Louis	St. Louis, Springfield, Des Moines, Omaha
NORTH ATLANTIC REGION	
Boston	Boston, Augusta, Burlington, Providence, Hartford, Portsmouth
Manhattan	Manhattan
Brooklyn	Brooklyn, Albany, Buffalo
SOUTHEAST REGION	
Atlanta	Atlanta, Greensboro, Columbia, Nashville
Jacksonville	Jacksonville, Jackson, Birmingham
SOUTHWEST REGION	
Austin	Austin, New Orleans, Albuquerque, Denver, Cheyenne
Dallas	Dallas, Oklahoma City, Little Rock, Wichita
WESTERN REGION	
Los Angeles	Los Angeles, Phoenix, Honolulu
San Francisco	San Francisco, Salt Lake City, Reno
Seattle	Seattle, Portland, Anchorage, Boise, Helena

the authority to:

(1) Issue determination letters involving the provisions of sections 401, 405, and 501(a) of the Internal Revenue Code of 1954 with respect to:

(a) Initial qualification of stock bonus, pension, profit-sharing, annuity, and bond purchase plans;

(b) Initial exemption from Federal income tax under section 501(a) of trusts forming a part of such plans, provided that the determination does not involve application of section 502 (feeder organizations) or section 511 (unrelated business income), or the question of whether a proposed transaction will be a prohibited transaction under section 503;

(c) Compliance with the applicable requirements of foreign situs trusts as to taxability of beneficiaries (section 402 (c)) and deductions for employer contributions (section 404(a)(4));

(d) Amendments, curtailments, or terminations of such plans and trusts; and

(e) Effect on qualification of such plans and exempt status of such trusts of investments of trust funds in the stocks or securities of the employer.

(2) Issue determination letters involving the provisions of section 408(c) of the Internal Revenue Code of 1954 with respect to exemption from Federal income tax under section 408(e) of trusts creating individual retirement accounts.

(3) Issue modifications or revocations of determination letters described above.

(4) Redelegate this authority as follows:

(a) With respect to issuance and modification of determination letters, not below Internal Revenue Agent and Tax Law Specialist, GS–12, provided such individual is a person other than the initiator.

(b) With respect to revocation of determination letters, not below Chief, Employee Plans and Exempt Organization Division.

To the extent that any action taken between January 2, 1975 (the effective date of Delegation Order No. 112 (Rev. 1) and the effective date of this Order by District Directors or their delegates consistent with the delegation of authority in this Delegation Order may require ratification, such action is hereby affirmed and ratified.

Delegation Order No. 112 (Rev. 1) issued January 2, 1975, is hereby superseded.

DONALD C. ALEXANDER,
Commissioner.

[FR Doc.75–17827 Filed 7–8–75;8:45 am]

DEPARTMENT OF DEFENSE

Office of the Secretary

DDR&E HIGH ENERGY LASER REVIEW GROUP (HELRG) LASER HARDENED MATERIALS AND STRUCTURES SUBPANEL

Closed Meetings

Pursuant to the provisions of section 10 of Appendix I, Title 5, United States Code, notice is hereby given that closed meetings of the DDR&E High Energy Laser Review Group Subpanel on Laser Hardened Materials and Structures will be held on Thursday and Friday, September 11–12, 1975, at the Mitre Corporation, Bedford, Massachusetts.

The subject matter of the meetings is classified in accordance with subparagraph (1) of section 552(b) of Title 5 of the U.S. Code.

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD (Comptroller).

JULY 3, 1975.

[FR Doc.75–17746 Filed 7–8–75;8:45 am]

DEPARTMENT OF JUSTICE

Antitrust Division

UNITED STATES V. COPPER DEVELOPMENT ASSOCIATION INC., ET AL.

Proposed Consent Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16 (b) through (h), that a proposed consent judgment and a competitive impact statement as set out below have been filed with the United States District Court for the Southern District of New York in No. 74 Civ. 1712 EW, United States of America v. Copper Development Association Inc., et al. The complaint in this case alleges that defendants conspired to restrict licensing of two United States patents to the Sovent drainage plumbing system in violation of Section 1 of the Sherman Act. The proposed judgment requires the eleven defendants which manufacture copper to offer non-discriminatory licenses of the said patents, improvement patents and of technical data thereon on terms more fully described in documents which follow.

Public comment is invited on or before September 8, 1975. Comments should be directed to Bernard Wehrmann, Chief, New York Office, Antitrust Division, United States Department of Justice, 26 Federal Plaza, New York, New York 10007. Such comments and responses thereto will be published in the FEDERAL REGISTER and filed with court.

Dated: June 30, 1975.

THOMAS E. KAUPER,
Assistant Attorney General, Antitrust Division.

UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF NEW YORK

United States of America, plaintiff, v. Copper Development Association Inc.; Anaconda American Brass Company; National Distillers and Chemical Corporation; Cerro Corporation; Chase Brass and Copper Co., Incorporated; Mueller Brass Co.; Nibco Inc.; Phelps Dodge Industries, Inc.; Reading Industries, Inc.; Revere Copper and Brass, Incorporated; Scovill Manufacturing Company; and Triangle Industries, Inc., Defendants. Civil Action No. 74 Civil 1712 EW, Filed: June 30, 1975.

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. A Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of either party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act, P.L. 93–528, and without further notice to either party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this stipulation, this stipulation shall be of no effect whatever and the making of this stipulation shall be without prejudice to plaintiff and defendants in this and any other proceeding.

Dated: June 30, 1975.

For the Plaintiff.

Thomas E. Kauper, Assistant Attorney General; Baddia J. Rashid, Charles F. B. McAleer, Bernard Wehrmann, Anthony V. Nanni, Thomas A. Bernstein, Attorneys, Department of Justice, Antitrust Division, Department of Justice, 26 Federal Plaza, New York, New York 10007.

For the Defendants.

Chadbourne, Parke, Whiteside and Wolff, Counsel for Copper Development Association Inc.; Chadbourne, Parke, Whiteside and Wolff, Counsel for Anaconda American Brass Company; Breed, Abbot and Morgan by Robert A. Bicks, Counsel for National Distillers and Chemical Corporation; Alexander and Green, Counsel for Cerro Corporation; William W. Colville, Counsel for Chase Brass and Copper Co., Incorporated; Shay, Gold, Climenko and Kramer, Counsel for Mueller Brass Co.; Clarke, Klein, Winter, Parsons and Pruitt, Counsel for Nibco Inc.; Debruoise, Plimpton, Lyons and Gates, Counsel for Phelps Dodge Industries, Inc.; Stein, Rosen and Ohrenstein, Counsel for Reading Industries, Inc.; Cahill, Gordon and Reindel, Counsel for Revere Copper and Brass, Incorporated; Davis, Polk and Wordell, Counsel for Scovill Manufacturing Company; Hooley, Perselay, Butler and Kelly by Neale F. Hooley, Counsel for Triangle Industries, Inc.

UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF NEW YORK

FINAL JUDGMENT

United States of America, plaintiff, v. Copper Development Association Inc.; Anaconda American Brass Company; National Distillers and Chemical Corporation; Cerro Corporation; Chase Brass and Copper Co., Incorporated; Mueller Brass Co.; Nibco Inc.; Phelps Dodge Industries, Inc.; Reading Industries, Inc.; Revere Copper and Brass, Incorporated; Scovill Manufacturing Company; and Triangle Industries, Inc.; Defendants. Civil Action No. 74 Civil 1712 EW; Filed: June 30, 1975.

Plaintiff, United States of America, having filed its complaint herein on April 17, 1974, and the parties by their respective attorneys having consented to the entry of this Final Judgment without trial or adjudication of any issues of fact or law, and without this Final Judgment constituting any evidence against or admissions by any party with respect to any such issues;

NOW, THEREFORE, without trial or adjudication of, or the taking of any testimony with respect to, any issue of fact or law, and upon the consent of the parties hereto, it is hereby

ORDERED, ADJUDGED, AND DECREED as follows:

I. The Court has jurisdiction of the subject matter of this action and of the parties hereto. The complaint states a claim upon which relief may be granted against the defendants under Section 1 of the Act of Congress of July 2, 1890 (15 U.S.C. § 1), commonly known as the Sherman Act, as amended. Entry of this judgment is in the public interest.

II. As used in this Final Judgment:

(A) "Sovent Patents" shall mean United States Letters Patent No. 3,287,885 entitled "Air Separator for Drain Pipes" issued November 29, 1966 and United States Letters Patent No. 3,346,887 entitled "Sanitary Drain Systems, Method, and Fittings Therefor" issued October 17, 1967, and any continuations, reissues, or divisions thereof.

(B) "Sovent Improvement Patents" shall mean any United States Letters Patent covering any invention which is an improvement upon the claims contained in the Sovent Patents which is issued within five (5) years of the date of this Final Judgment.

(C) "Technical Data" shall mean all written information, including production manuals, drawings, and photographs, describing the manufacture or production of the aerator and deaerator fittings covered by the Sovent Patents which information is in the possession of a defendant as of the date of this Final Judgment.

III. The provisions of this Final Judgment applicable to a defendant shall also apply to each of its subsidiaries, successors, and assignees, and to their officers, directors, agents, and employees, and to all persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise, provided that said provisions shall not apply to transactions between any person to whom this Final Judgment applies and its parent, subsidiaries, or affiliates, or the officers, directors, or employees of any of them.

IV. Each defendant is enjoined and restrained from entering into any combination, agreement, or understanding with any other defendant or future owner of any interest in the Sovent Patents in any way limiting, prohibiting, or restraining the licensing or assignment of any of the Sovent Patents.

V. Each defendant, other than Copper Development Association, Inc., is ordered, insofar as it has the power and authority to do so, to grant to any person making written application therefor a non-exclusive, non-transferable, and non-discriminatory license to practice any, some, or all of the inventions covered by the Sovent Patents and Sovent Improvement Patents for the full unexpired term of such Patent or Patents, cancellable by the licensee upon thirty (30) days written notice to the licensor, without any other condition or limitation except:

(A) A reasonable royalty payment to be agreed upon by the licensor and the applicant for the license (or, in the absence of agreement, to be determined by this Court upon the application of such applicant with reasonable written notice of such application to the licensor) may be charged and collected, except that in the case of the Sovent Patents such royalty shall not exceed the rate of royalty which defendants are required to pay to the assignors of the rights to such Patents under an agreement, dated as of January 1, 1965 (the "1965 Agreement"), namely three (3) percent of the net selling price (as defined in the 1965 Agreement) of all aerator and deaerator fittings sold by the licensee and covered by or intended for use in a system covered by the claims of the Sovent Patents;

(B) With respect to the licensing of the Sovent Patents, provision may be made for the payment of reasonable administrative expenses actually incurred by the licensor in granting and administering the license;

(C) Reasonable provisions may be made for periodic royalty reports by the licensee, including such reports as may be necessary to allow the licensor to fulfill its obligations under the 1965 Agreement, and for inspection of the relevant books and records of the licensee by an independent auditor or other person acceptable to both licensor and licensee (or, in the absence of agreement, a person selected by this Court), who shall report to the licensor only the amount of the royalty due and payable;

(D) Reasonable provision may be made for cancellation of the license upon failure of the licensee to comply with the material terms of said license; and

(E) Reasonable provisions may be made for marking the products manufactured, used, or sold by the licensee under the license with the number of the Sovent Patent or Sovent Improvement Patent covering such products under which the licensee is licensed.

VI. Each defendant, other than Copper Development Association, Inc., is ordered to provide Technical Data under a license to any person who at the time is licensed by any defendant pursuant to Section V hereof, within thirty (30) days after receipt of a written request therefor from such person, without any limitation or condition whatsoever except that:

(A) A reasonable and non-discriminatory fee, including the actual cost of preparing, reproducing, and delivering Technical Data pursuant to this Section VI, to be agreed upon by the licensor and the applicant for the license (or, in the absence of agreement, to be determined by this Court upon the application of such applicant with reasonable written notice of such application to the licensor) may be charged and collected for the Technical Data;

(B) The licensee may be required to enter into an agreement to hold the Technical Data confidential so long as the Technical Data is not otherwise in the public domain and not to communicate such Technical Data to any person, including any other defendant, except for any person who agrees to be bound by such agreement and who manufactures or produces the Sovent aerator or deaerator fittings solely for such licensee, and reasonable provisions may be included to insure compliance with any such agreement;

(C) Reasonable provision may also be made for cancellation of the license of Technical Data upon failure of the licensee to comply with any of the material terms of such license.

VII. Nothing herein shall prevent any applicant from attacking the validity or scope of any of the Sovent Patents or the Sovent Improvement Patents, nor shall this Final Judgment be construed as imputing any validity to any of said Patents.

VIII. Each defendant, other than Copper Development Association, Inc., is enjoined and restrained from making any sale or other disposition of any Sovent Patent or Sovent Improvement Patent which deprives it of the power or authority to grant licenses in accordance with the provisions of this Final Judgment, unless the purchaser, transferee, or assignee of such Patent shall file with this Court, prior to the consummation of said transaction, an undertaking to assume the obligations of the defendant under this Final Judgment.

IX. Within ninety (90) days of the date of this Final Judgment, (a) defendant Copper Development Association, Inc. is ordered and directed to publish notice of the availability of licenses under the Sovent Patents and of the Technical Data referred to in Sections V and VI hereof in one issue of Copper Topics, published by Copper Development Association Inc., (b) defendants, other than Copper Development Association, Inc., are ordered and directed to publish notice of such availability in one issue of DE Journal, published by the Construction Industry Press, Inc., Briarcliff Manor, New York, and (c) each defendant is ordered and directed to give notice in writing of such availability to each person who since January 1, 1965 has indicated in writing to such defendant an interest in obtaining a license under the Sovent Patents.

X. (A) For the purpose of determining or securing compliance with this Final Judgment and for no other purpose, each defendant shall permit duly authorized representatives of the Department of Justice, upon reasonable notice in writing from the Attorney General or the Assistant Attorney General in charge of the Antitrust Division to such defendant at its principal office, subject to any legally recognized privilege:

(1) To have access during the office hours of such defendant to those books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of such defendant, which may have counsel present, which relate to any matters which are provided for in this Final Judgment; and

(2) Subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview its officers or employees, who may have counsel present, regarding any such matters.

(B) Upon written request of the Attorney General or Assistant Attorney General in charge of the Antitrust Division, each defendant shall submit such reports in writing, with respect to any matters contained in this Final Judgment, as may from time to time be requested;

(C) No information obtained by the means provided in this Section X shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States except in the course of legal proceedings to which the United States is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

XI. Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of violations hereof.

Dated:

United States District Judge.

UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF NEW YORK

PROPOSED FINAL JUDGEMENT; COMPETITIVE IMPACT STATEMENT

United States of America, plaintiff, v. Copper Development Association Inc.; Anaconda American Brass Company; National Distillers and Chemical Corporation; Cerro Corporation; Chase Brass and Copper Co., Incorporated; Mueller Brass Co.; Nibco Inc.; Phelps Dodge Industries, Inc.; Reading Industries, Inc.; Revere Copper and Brass, Incorporated; Scovill Manufacturing Company, Civil action No. 74 Civil 1712 EW, Filed: June 30, 1975.

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C.A. § 16(b)-(h)), the United States of America hereby files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

A. *Nature and purpose of the proceeding.* On April 17, 1974 the Department of Justice filed a civil antitrust suit charging 11 copper

fabricating companies and the Copper Development Association with conspiring to restrict the licensing of two United States patents[1] to the Sovent drainage plumbing system in violation of Section 1 of the Sherman Act. The Sovent system, which eliminates liquid wastes in multi-story buildings, uses a single vertical vent pipe. It improves on conventional plumbing systems, which utilize dual vertical interconnected vent pipelines, by eliminating one pipeline and thereby reducing the costs of constructing the drainage system. The complaint requests that the defendants be ordered to grant to all applicants licenses on the two aforesaid patents and any improvement patents on reasonable terms and at reasonable non-discriminatory rates.

B. *The practices and events giving rise to alleged violations of the Sherman Act.* Eleven copper fabricating companies originally purchased the United States patent rights to the Sovent system by an agreement dated January 1, 1965 with Aktiengesellschaft Oederlin & Cie, a Swiss corporation with its principal place of business in Baden, Switzerland. Under the agreement each subscriber, or its successor in interest, acquired an undivided one-eleventh interest in the Sovent patents[2] and concurrently became liable to Oederlin for a royalty of three percent of the net selling price of certain special fittings, called the aerator and deaerator, which are covered by the patents and sold by the subscriber or its licensee. Ten of the defendants are original subscribers. An eleventh defendant acquired its undivided one-eleventh interest in the patents in 1972 from a non-party which had merged with an original subscriber.

The complaint alleges that the defendants conspired to limit the licensing of the Sovent patents to manufacturers who will use copper and copper alloys in the production of Sovent system components. Conventional drainage systems for multi-story buildings use a variety of materials, including copper alloys, galvanized steel, cast iron and plastic. The Sovent system, whether made of copper or non-copper materials is potentially usable in all multi-story buildings. The conspiracy had the alleged purpose and effect of excluding users of non-copper materials from the manufacture and sale of the Sovent system and its components.

C. *Explanation of the proposal.* The proposed Judgment would order each defendant other than Copper Development Association (which is not a patent owner) to grant all applicants a license under the Sovent patents for a royalty not to exceed three percent of the net selling price of certain special Sovent fittings subsequently sold by the applicant and covered by the Sovent patents. This ceiling royalty rate which no defendant may exceed in granting licenses is identical to the royalty defendants owe Oederlin. In effect, a licensee's liability for royalties to his licensing defendant cannot exceed that defendant's liability for royalties to Oederlin. The defendants are thereby prevented from profiting from the alleged conspiracy to limit licensing of the Sovent patents. These compulsory licensing provisions of the Judgment will enable manufacturers using all types of materials, including cast iron, galvanized steel and plastic, to gain access to the Sovent patents.

Each defendant other than Copper Development Association is also ordered to grant to all applicants a license under any of the defendants' patents which issues within five years of the Judgment and which covers any invention that improves on the claims of the Sovent patents. In addition, each licensee of the Sovent patents or improvement patents may obtain a license from any defendant of all written technical information relating to the special aerator and deaerator fittings which are the key functional elements of the Sovent system. The licensees of the improvement patents and the technical information must be at a reasonable royalty rate. In the absence of agreement, the applicant may apply to the Court for a determination of the royalty rate to be charged on the licenses.

Two additional provisions of the proposed Judgment are that the defendants must publish notice of availability of licenses of the patents and of the technical information in two trade journals, and that the defendants are prohibited from making any sale of the Sovent patents or improvement patents unless the purchaser assumes the obligations of the Judgment.

The combined effect of all of these provisions is to give any applicant, including users of materials such as cast iron, galvanized steel or plastic, access to the patents and the written technical information necessary to manufacture and sell the Sovent system and its components. Jurisdiction is retained by the Court for the parties to enforce compliance with the Judgment or for such further orders as may be necessary for appropriate construction or modification of its provisions.

D. *Remedies available to private plaintiffs.* Any potential private plaintiffs who might have been damaged by the alleged violations will retain the right to sue for monetary damages and any other legal and equitable remedies which they would have had, were the proposed Judgment not entered. This Judgment, however, may not be used as prima facie evidence in private litigation pursuant to section 5(a) of the Clayton Act, as amended, 15 U.S.C. § 16(a).

E. *Procedures available for comments on the proposal.* The proposed Final Judgment is subject to a stipulation by and between the United States and the defendants, which provides that the United States may withdraw its consent to the proposed Final Judgment until the Court finds that entry of the proposed Judgment is in the public interest. By its terms, the proposed Judgment provides for retention of jurisdiction of this action in order, among other things, to permit any of the parties to apply to the Court for such orders as may be necessary or appropriate for the modification of the Judgment.

During the 60 days provided by the Antitrust Procedures and Penalties Act, any persons wishing to do so, may submit written comments on the Judgment to Bernard Wehrmann, Chief, New York Office, Antitrust Division, United States Department of Justice, 26 Federal Plaza, New York, New York 10007, who will file with the court and publish in the FEDERAL REGISTER such comments and the Department's response to such comments.

The United States is submitting no materials or documents "which it considered determinative in formulating the proposal" pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b).

F. *Alternatives to the proposal actually considered by the United States.* The Judgment provides for all the relief requested in the complaint.

There were two alternatives to imposing three percent as a ceiling on royalties owing by a licensee to a licensor-defendant, namely royalty-free licensing or a so-called reasonable royalty without any specified ceiling. Under the 1965 Agreement each defendant is liable to Oederlin for a royalty of three percent of the net selling price of all fittings covered by the patents and sold by any licensee of a defendant regardless of any agreement between the defendant and his licensee. Requiring a defendant to give royalty-free licenses would penalize it in direct proportion to its licensee's sales. Permitting a defendant to negotiate a so-called reasonable royalty at rates in excess of three percent would allow it to profit from patent rights which formed the subject of the alleged conspiracy. The three percent ceiling contained in the proposed Judgment prevents the defendants from profiting from the alleged conspiracy while avoiding an undue penalty with its undesirable effects on competition.

Section VI of the proposed Judgment provides for the licensing of written technical information relating only to the special Sovent fittings. As an alternative the United States also considered providing all technical information which relates to the Sovent system. The present provision provides for a more limited disclosure since the entire range of technology applicable to the various conventional items which form a part of the Sovent system is not essential to practice the patented invention or to support the relief requested in the complaint.

The United States also considered requiring the licensing of any improvements on the Sovent patents issued within ten years of the Judgment but only if the improvement patent is owned by two or more defendants or licensed by one defendant to another defendant. The proposed Judgment limits the applicable period to five years but requires licensing of all improvement patents without qualification. The Department believes that the greater scope of the present provision outweighs the limiting of the applicable period to five years and that the effects of the alleged conspiracy should be completely dissipated within that period.

Dated:

Anthony V. Nanni, Thomas A. Bernstein, *Attorneys, Department of Justice.*

[FR Doc.75-17748 Filed 7-8-75;8:45 am]

[1] United States Letters Patent No. 3,287,885 entitled "Air Separator for Drain Pipes" issued November 29, 1966 and United States Letters Patent No. 3,346,887 entitled "Sanitary Drain Systems, Method and Fittings Therefore" issued October 17, 1967. They are refered to herein as the Sovent Patent.

[2] Prior to January 1, 1965 Oederlin's ownership interest was in applications for letters patent. It was this interest that it conveyed by means of the 1965 agreement. Subsequently United States Letters Patent covering the Sovent system were issued. For simplicity this Competitive Impact Statement refers to the applications for letters patent as the Sovent patents themselves.

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA

Proposed Withdrawal and Reservation of Lands

JUNE 18, 1975.

The Department of the Army has a continuing military requirement for lands at Fort Greely, Alaska, and has filed an application, Fairbanks Serial No. F-019269, for the withdrawal of the lands described below from all forms of appropriation under the public land laws, including the mining and mineral leasing laws.

The applicant desires the land for continued use as an impact range for testing Army weapons.

The land is currently withdrawn by Public Land Order No. 5238 of July 14, 1972, which extended the withdrawal

made by the act of September 26, 1961, Pub. L. 87–327, 75 Stat. 687, until September 26, 1976, at which time the withdrawal expires. Congressional approval of the new withdrawal is required under provisions of the act of February 28, 1958, Pub. L. 85–337, 72 Stat. 27.

On or before August 8, 1975, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, 555 Cordova Street, Anchorage, Alaska 99501.

The Department's regulations (43 CFR 2351.4(c)) provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

FORT GREELY MANEUVER AREA

TRACT A

A tract of land located in the Big Delta Area, 100 miles southeast of Fairbanks, and more particularly described as:

Beginning at the U.S.C. & G.S. Monument "Big Delta Airport," Latitude 63°59'35" N., Longitude 145°43'40" W.,

Thence N. 04°55'47.3" E., 11,997.64 feet to Mile Post 270 on the Richardson Highway;

Thence due west to the mean high water line on the east bank of Delta River, which point is the true point of beginning for this description;

Thence southerly along the west boundary of the Big Delta Military Reservation to the southwest corner thereof;

Thence due east along the south boundary of the Big Delta Military Reservation to the north ¼ corner monument of section 23, T. 11 S., R. 10 E., Fairbanks Meridian;

Thence south along the north-south centerlines of sections 28 and 33, T. 11 S., R. 10 E., Fairbanks Meridian, and sections 4, 9, and 16, T. 12 S., R. 10 E., Fairbanks Meridian, to the center section monument of section 16, thence east to the west ¼ corner monument of section 15, T. 12 S., R. 10 E.;

Thence S. 0°05' E. to the west section corner monument common to sections 15 and 22; thence east to the ¼ corner monument common to Sections 15 and 22;

Thence south along the north-south centerline of sections 22, 27, and 34, T. 12 S., R. 10 E., Fairbanks Meridian, to the south ¼ corner of section 34;

Thence east 74 feet more or less, along the south boundary of section 34 to a point of ½ mile west of the centerline of the existing Richardson Highway;

Thence southerly, parallel to and ½ mile west of said centerline to a point ½ mile due west of Donnelly, Alaska;

Thence N. 75°30' W., 190,740 feet, more or less, to the east bank of the Buchanan Creek;

Thence northerly along the east bank of Buchanan Creek and the east bank of the Little Delta River to a point 11,560 feet, southerly from the point of confluence of the Little Delta River and the Tanana River, which point is also located at Latitude 64°15' N., Longitude 146°43' W., approximately;

Thence S. 52°40' E., 160,843 feet, more or less, to a point identical with a point located at Latitude 63°59' N., Longitude 145°55' W., approximately;

Thence N. 60°43' E., 31,705 feet, more or less, to the point of beginning, excepting therefrom a 5-acre tract of land embraced in trade and manufacturing site claim, Fairbanks 157, located at the confluence of the Little Delta River East and West Forks, and more particularly described as;

Beginning at corner No. 1, a stone monument located at the base of the bluff at Latitude 63°57'35" N., Longitude 146°55'23" W., thence south 660 feet to corner No. 2, a blazed tree;

Thence west 330 feet to corner No. 3, a blazed tree;

Thence north 660 feet to corner No. 4, a 4 x 4 foot spruce post 4 feet high;

Thence east 330 feet to corner No. 1, the point of beginning.

The area of lands described aggregates approximately 571,995.00 acres.

JULES V. TILESTON,
Acting State Director.

[FR Doc.75–17778 Filed 7–8–75;8:45 am]

ALASKA

Proposed Withdrawal and Reservation of Lands

JUNE 18, 1975.

The Department of the Army has a continuing military requirement for land at Fort Greely, Alaska, and has filed an application, Fairbanks Serial No. F–012203, for the withdrawal of the lands described below from all forms of appropriation under the public land laws, including the mining and mineral leasing laws.

The applicant desires the land for continued use as an air drop test site and training area.

The land is currently withdrawn by Public Land Order No. 5237 of July 14, 1972, which extended the withdrawal made by the act of October 3, 1961, Pub. L. 87–334, 75 Stat. 749, until October 3, 1976, at which time the withdrawal expires. Congressional approval of the new withdrawal is required under the provisions of the act of February 28, 1958, 72 Stat. 27, Pub. L. 85–337.

On or before August 8, 1975, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, Alaska State Office, 555 Cordova Street, Anchorage, Alaska 99501.

The Department's regulations (43 CFR 2351.4(c)) provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

FORT GREELY AIR DROP AREA

TRACT F

A parcel of land situated approximately 2.5 miles southeast of Delta Junction, being located between the Richardson and Alaska Highways and more particularly described as follows:

Beginning at the northeast corner of section 27, T. 11 S., R. 10 E., Fairbanks Meridian;

Thence south 2 miles, more or less, along the east boundary of sections 27 and 34 of said township and range;

Thence continuing south 2 miles, more or less, along the east boundary of sections 3 and 10 of T. 12 S., R. 10 E., Fairbanks Meridian;

Thence east 1 mile, more or less, along the north boundary of section 14, T. 12 S., R. 10 E., Fairbanks Meridian to the northeast corner thereof;

Thence south 2 miles, more or less, along the east boundary of sections 14 and 23 to the southeast corner of said section 23, said corner being common with the northeast corner of section 26 of said T. 12 S., R. 10 E., Fairbanks Meridian;

Thence west 2,640 feet, more or less, to the north-south centerline of said section 26;

Thence south 1 mile, more or less, along said north-south centerline to a point of intersection with the north line of section 35, T. 12 S., R. 10 E., Fairbanks Meridian;

Thence west 900 feet, more or less, along said north line to a point being 150 feet easterly, when measured at right angles from the centerline of the Richardson Highway;

Thence southerly parallel to and 150 feet easterly from said centerline to a point of

intersection with the 12–13 south township line of said Fairbanks Meridian;

Thence east along said township line to a point of intersection with the westerly bank of Granite Creek;

Thence in a generally northeasterly direction along said westerly bank of Granite Creek to a point of intersection with the 11–12 east range line of said Fairbanks Meridian;

Thence north along said range line to the southeast corner of section 13 of T. 11 S., R. 11 E., of said Fairbanks Meridian;

Thence west 1 mile, north 1 mile, west 2 miles, north 1 mile, west 1 mile, and north 1 mile following the south and west boundaries of sections 13, 11, 10 and 4 of T. 11 S., R. 11 E., Fairbanks Meridian;

Thence west 1 mile along the south boundary of section 32, T. 10 S., R. 11 E., Fairbanks Meridian;

Thence west 1,172.8 feet, more or less, along the south boundary of section 31, T. 10 S., R. 11 E., Fairbanks Meridian to a point on the east boundary of a parcel of land reserved by PLO 255, said point being situated approximately 7,062 feet south of the centerline of the Alaska Highway;

Thence south 8,623 feet, more or less, to a point of intersection with the north line bounding a 160-acre parcel of land reserved by PLO 1153 for the use of the Department of the Army;

Thence east along the north line of said parcel 1,000 feet;

Thence south along the east line of said parcel 7,000 feet;

Thence west along the south line of said parcel 1,000 feet to a point of intersection of said boundary with the east boundary of said parcel of land reserved by PLO 255;

Thence south along said east boundary 6,000 feet;

Thence west along south boundary of said reserve 14,479 feet, more or less, to the northeast corner of section 27 and the point of beginning.

Contains 36,898 acres, more or less.

JULES V. TILESTON,
Acting State Director.

[FR Doc.75–17779 Filed 7–8–75;8:45 am]

ALASKA

Proposed Withdrawal and Reservation of Lands

JUNE 18, 1975.

The Department of the Army has a continuing military requirement for natural resource lands at Fort Wainwright, Alaska and has filed an application, Fairbanks serial number F–020174, for the withdrawal of the lands described below from all forms of appropriation under the public land laws, including the mining and mineral leasing laws.

The applicant desires the land for continued use as an impact range for testing weapons and for field training in an arctic environment.

The greatest part of the area is currently withdrawn by Public Land Order No. 5240 of July 14, 1972, which extended the withdrawal made by the act of September 26, 1961, Pub. L. 87–326, 75 Stat. 686, until September 26, 1976, at which time the withdrawal expires. Congressional approval of the new withdrawal is required under the provisions of the act of February 28, 1958, 72 Stat. 27, Pub. L. 85–337.

On or before August 8, 1975 all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 555 Cordova Street, Anchorage, Alaska 99501.

The Department's regulations 43 CFR 2351.4(c) provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

FORT WAINWRIGHT MANEUVER AREA

TRACT A

A parcel of land situated approximately 20 miles southeast of Fairbanks, Fourth Judicial District, State of Alaska. Said parcel being all of the following unsurveyed townships and ranges:

T. 1 S., R. 3 E., Fairbanks Meridian
Sec. 22, E½SE¼;
Secs. 23 and 24, S½;
Secs. 25, 26, 35 and 36, all;
Secs. 27 and 34, E½E¼.
Containing 3,600 acres, more or less.
T. 1 S., R. 4 E., Fairbanks Meridian
Secs. 19, 22, 23 and 24, S½;
Sec. 21, SE¼;
Secs. 25 to 36 inclusive, all.
Containing 9,120 acres, more or less.
T. 1 S., R. 5 E., Fairbanks Meridian
Secs. 19 to 24 inclusive, S½;
Secs. 25 to 36 inclusive, all.
Containing 9,600 acres, more or less.
T. 1 S., R. 6 E., Fairbanks Meridian
Secs. 19 to 22 inclusive, S½;
Secs. 27 to 34 inclusive, all.
Containing 6,400 acres, more or less.
T. 2 S., R. 3 E., Fairbanks Meridian
Secs. 1, 2, 11, 12 and 25, all;
Secs. 3, 10 and 15, E½E½;
Sec. 14, N½, W½SW¼;
Sec. 22, E½NE¼, NE¼SE¼;
Sec. 23, W¼NW¼, SE¼SE¼, NE¼SE¼;
Sec. 24, S½;
Sec. 26, E½, SW¼, S½NW¼, NE¼NW¼.
Containing 5,320 acres, more or less.
T. 3 S., R. 7 E., Fairbanks Meridian
Secs. 1 to 36 inclusive, all.
Containing 23,040 acres, more or less.
T. 3 S., R. 8 E., Fairbanks Meridian
Secs. 6, 7, 18, 19, 30 and 31, all;
Secs. 5, 8, 17, 20, 29 and 32, W½, W½E½;
Containing 6,720 acres, more or less.
T. 4 S., R. 4 E., Fairbanks Meridian
Sec. 1, all;
Sec. 2, E½, NW¼, N½SW¼;
Sec. 3, NE¼, N½NW¼;
Sec. 12, NE¼, N½NW¼.
Containing 1,680 acres, more or less.
T. 4 S., R. 5 E., Fairbanks Meridian
Secs. 1 to 6 inclusive, 8 to 15 inclusive, all;
Secs. 7 and 16, N½, SE¼, N½SW¼;
Sec. 17, NE¼, N½NW¼;
Excepting therefrom that parcel of land (Fairbanks Serial No. F–012867) withdrawn by PLO No. 1345 dated October 16, 1956 as amended by PLO No. 1523 dated October 8, 1957.
Containing 9,393.09 acres, more or less.
T. 4 S., R. 6 E., Fairbanks Meridian
Secs. 1 to 18 inclusive, all.
Containing 11,520 acres, more or less.
T. 4 S., R. 7 E., Fairbanks Meridian
Secs. 1 to 11 inclusive, 16 to 18 inclusive, all;
Sec. 12, N½, N½SW¼;
Sec. 14, N½NW¼, SW¼NW¼, NW¼NE¼;
Sec. 15, N½, N½SW¼, SW¼SW¼, NW¼SE¼.
Containing 10,000 acres, more or less.
T. 4 S., R. 8 E., Fairbanks Meridian
Sec. 5, NW¼, W½NE¼, NW¼SW¼;
Sec. 6, all;
Sec. 7, N½NW¼.
Containing 1,000 acres, more or less.

The above-described parcels of land contain 249,551.67 acres, more or less.

JULES V. TILESTON,
Acting State Director.

[FR Doc.75–17780 Filed 7–8–75;8:45 am]

[NM 25984, 25985]

NEW MEXICO

Applications

JUNE 30, 1975.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Southern Union Gas Company has applied for two 4 inch natural gas pipeline rights-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 29 N., R. 8 W.,
Sec. 32, S½NW¼, NW¼SW¼ and NW¼SE¼.

These pipelines will convey natural gas across .554 miles of national resource lands in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, 3550 Pan American Freeway, NE, Albuquerque, NM 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.75-17777 Filed 7-8-75;8:45 am]

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[Notice of Designation No. A239]

COLORADO

Designation of Emergency Area

The Secretary of Agriculture has found that a general need for agricultural credit exists in Cheyenne County, Colorado, as a result of a natural disaster consisting of prolonged drought and high winds June 6, 1974, through May 5, 1975.

Therefore, the Secretary has designated this area as eligible for Emergency loans, pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Public Law 93-237, and the provisions of 7 CFR 1832.3 (b) including the recommendation of Governor Richard D. Lamm that such designation be made.

Applications for emergency loans must be received by this Department no later than August 25, 1975, for physical losses and March 26, 1976, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rule making and invite public participation.

Done at Washington, D.C., this 2nd day of July, 1975.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.75-17822 Filed 7-8-75;8:45 am]

[Notice of Designation No. A111, Amdt. 1]

MISSISSIPPI

Designation of Emergency Area

The Secretary of Agriculture has found that an additional general need for agricultural credit exists in Itawamba County, Mississippi, as a result of a natural disaster consisting of an early freeze October 3, 1974, and excessive rainfall November 5, 1974, to January 20, 1975.

Therefore, the Secretary has designated this area as eligible for Emergency loans, pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 93-237, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor William L. Waller that such designation be made.

Applications for emergency loans must be received by this Department no later than August 25, 1975, for physical losses and March 26, 1976, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice or proposed rule making and invite public participation.

Done at Washington, D.C., this 2nd day of July, 1975.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.75-17823 Filed 7-8-75;8:45 am]

[Notice of Designation No. A158, Amdt. 1]

NEW MEXICO

Designation of Emergency Area

The Secretary of Agriculture has found that an additional general need for agricultural credit exists in Curry County, New Mexico, as a result of a natural disaster consisting of insect damage from September 16, 1973, to August 16, 1974, which was caused by drought which occurred during the same period, and damaging hail occurring June 12 and 13 and August 8, 1974.

Therefore, the Secretary has designated this area as eligible for emergency loans, pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 93-237, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Jerry Apodaca that such designation be made.

Applications for emergency loans must be received by this Department no later than August 25, 1975, for physical losses and March 26, 1976, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rule making and invite public participation.

Done at Washington, D.C., this 2nd day of July, 1975.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.75-17824 Filed 7-8-75;8:45 am]

[Notice of Designation No. A240]

TEXAS

Designation of Emergency Areas

The Secretary of Agriculture has found that a general need for agricultural credit exists in the following counties in Texas as a result of natural disasters consisting of:

Jim Hogg—Drought January 1, 1974, through May 14, 1975.
Sherman—Drought August 1, 1973, through March 31, 1975; Hailstorm June 6, 1974; Unseasonably cool, damp weather August and September 1974; and High winds February, March, and April 1974.

Therefore, the Secretary has designated these areas as eligible for Emergency loans, pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Public Law 93-237, and the provisions of 7 CFR 1832.3 (b) including the recommendation of Governor Dolph Briscoe that such designation be made.

Applications for Emergency loans must be received by this Department no later than August 25, 1975, for physical losses and March 26, 1976, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated areas makes it impracticable and contrary to the public interest to give advance notice of proposed rule making and invite public participation.

Done at Washington, D.C., this 2nd day of July, 1975.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.75-17825 Filed 7-8-75;8:45 am]

[Notice of Designation Number A238]

GEORGIA

Designation of Emergency Area

The Secretary of Agriculture has found that a general need for agricultural credit exists in Seminole County, Georgia, as a result of a natural disaster consisting of excessive rainfall and flooding April 10 and 14, 1975.

Therefore, the Secretary has designated this area as eligible for Emergency loans, pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 93–237, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor George Busbee that such designation be made.

Applications for Emergency loans must be received by this Department no later than August 25, 1975, for physical losses and March 26, 1976, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rule making and invite public participation.

Done at Washington, D.C., this 1st day of July, 1975.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.75–17751 Filed 7–8–75;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

DESERT RESEARCH INSTITUTE

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (40 FR 12253 et seq., 15 CFR Part 701, 1974.)

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 75–00434–50–41700. Applicant: Desert Research Institute, University of Nevada System, SAGE Bldg., Stead Campus, Reno, Nevada 89507. Article: System 100 Dye Laser. Manufacturer: Electro-Photonics, Ltd., United Kingdom. Intended use of article: The article is intended to be used for the study of properties of the atmosphere, clouds and air pollution by providing a means of obtaining the optical backscatter from the atmosphere and thereby measuring the composition of the atmosphere including gases, particulates and cloud structure. It will supply intense illumination which can be tuned to specific wavelengths with the aid of the grating. The article will also be used to train graduate students in the technology of optical radar and remote sensing techniques including resonance, Raman and other wavelength dependent effects.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: This application is a resubmission of Docket Number 74–00531–50–41700 and 74–00035–52–41700 which were denied without prejudice to resubmission on October 24, 1974 and March 20, 1974 respectively for informational deficiencies. The foreign article provides in a single laser a maximum pulse rate of at least 10 pulses per second. The National Bureau of Standards (NBS) advises in its memorandum dated June 12, 1975 that specification described above is pertinent to the applicant's intended purposes. NBS also advises that it knows of no domestic instrument of equivalent scientific value to the foreign article for the applicant's intended purposes.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

A. H. STUART,
Director,
Special Import Programs Division.

[FR Doc.75–17694 Filed 7–8–75;8:45 am]

IIT RESEARCH INSTITUTE

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (40 FR 12253 et seq, 15 CFR Part 701, 1974).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 75–00333–65–46040. Applicant: IIT Research Institute, 10 West 35th Street, Chicago, Illinois 60616. Article: Electron Microscope, Model JEM 100C. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used to detect, identify, size, count, and chemically characterize fine particles below the resolution limits of optical microscopes. The article will also be used for the analysis of biological and metallurgical specimens.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article is equipped with a high resolution scanning attachment which provides images in the scanning transmission, secondary electron, and back scattered electron modes as well as scanning microdiffraction from microareas as small as 200 Angstroms in diameter. We are advised by the National Bureau of Standards (NBS) in its memorandum dated June 5, 1975 that the scanning electron transmission microscopy capability of the foreign article described above is pertinent to the applicant's use to detect, identify, size, count, and chemically characterize fine particles below the resolution of light microscopes and for the analysis of biological and metallurgical specimens. NBS further advises that domestic transmission electron microscopes do not provide the pertinent scanning capability.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

A. H. STUART,
Director,
Special Import Programs Division.

[FR Doc.75–17695 Filed 7–8–75;8:45 am]

MISSISSIPPI STATE UNIVERSITY, ET AL.

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, on or before July 29, 1975.

Amended regulations issued under cited Act, as published in the March 18, 1975 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C. 20230.

Docket Number: 75–00543–90–46070. Applicant: Mississippi State University, Electron Microscope Center, Drawer EM, Mississippi State, MS 39762. Article: Scanning Electron Microscope, Model HHS–2R. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article is intended to be used for research of morphological types of sensilla on insects. As part of a long term study of crop plant resistance to insect pests,

studies will be made on the structure and function of chemoreceptors involved in host plant selection in such insects of major economic importance as *Heliothis* spp., *Lygus lineolaris* and *Curculio caryae*. Functional studies involve learning behavioral and electrophysiological techniques. Structural studies involve light microscopy, transmission electron microscopy and most importantly scanning electron microscopy. Application received by Commissioner of Customs: May 30, 1975.

Docket Number: 75–00544–01–77030. Applicant: University of Vermont, Burlington, Vermont 05401. Article: NMR Spectrometer, Model JNM–C–60–HL. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for the following research projects:

(1) Phosphorus-nitrogen chemistry. Structure and bonding from ^{19}F and ^{31}P nmr.

(2) Structural chemistry via ^{13}C nmr with proton noise decoupling.

(3) Use of ^{13}C chemical shifts in aryl cyclotriphosphazene derivatives to probe phosphorus/aryl conjugative interactions.

(4) 60 MHz proton nmr experiments which include the following:

(a) Synthesis of enamines and applications to organic synthesis especially alkaloid synthesis.

(b) Analysis of reaction mixtures from photolyses of small ring hydrocarbons especially thione derivatives.

(c) Structure assignments of organosulfur compounds and hydrazo and azobenzenes.

(d) Structure of organometallic cyclopropane complexes.

(e) Cis-dicyanoethylene - 1, 2-dithiolato complexes of In, Tl, and Pb organometallics studied by proton nmr spectroscopy.

(5) Organic stereochemistry by ^{19}F nmr of induced $-CF_3$ groups.

(6) Stereochemistry of complexes of the type $((CF_3)_2C_2S_2)_2SnX_2$ by ^{19}F nmr.

The article will also be used for educational purposes in chemistry course for postdoctoral, graduate and undergraduate students. Application received by Commissioner of Customs: May 30, 1975.

Docket Number: 75–00545–33–46500. Applicant: Yale University, Purchasing Department, 20 Ashmun Street, New Haven, Connecticut 06520. Article: Ultramicrotome, Model OM U3. Manufacturer: C. Reichert Optische Werke, AG Austria. Intended use of article: The article is intended to be used to study the mammalian nervous system, specifically to section Epon-embedded portions of spinal cord, primarily for electron microscopy as well as for light and phase contrast microscopy in experiments concerned with the fine structure of both normal and traumatized spinal cord. Application received by Commissioner of Customs: May 30, 1975.

Docket Number: 75–00546–00–46040. Applicant: Harvard University, Children's Hospital Medical Center, 300 Longwood Avenue, Boston, Mass. 02115. Article: Scanning Attachments, High Resolution Specimen Tilting/Rotating Device for Electron Microscope. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used to convert an existing JEM 100B transmission electron microscope into an instrument which can perform both high resolution scanning and transmission electron microscopy. With scanning electron microscopy growing blood vessels can be examined topographically, including the relationships between such vessels and the tissues which they penetrate, such as tumors, connective tissues, etc. Application received by Commissioner of Customs: May 30, 1975.

Docket Number: 75–00547–33–00530. Applicant: University of Tennessee, Memorial Hospital, 1924 Alcoa Highway; Knoxville, Tennessee 37920. Article: Linear Accelerator and Accessory. Manufacturer: Atomic Energy of Canada Ltd., Canada. Intended use of article: The article is intended to be used in a number of research projects which include investigation of:

(1) The improvement in reliability of radiation therapy delivery as provided by a system capable of verifying all treatment parameters.

(2) The shape of isodose curves produced by a 6 MeV linear accelerator as a function of design and elemental composition of the flattening filter.

(3) The percentage depth doses and tissue-air ratios produced by a 6 MeV travelling-wave linear accelerator.

(4) Modeling procedures for computer generation of isodose curves.

(5) The differences between film dosimetry and ionization chamber (or solid state diode) dosimetry for a 6 MeV x-ray beam.

(6) The dose delivered in the buildup region of a 6 MeV x-ray beam (0–1.5 cm depth).

(7) The tissue-air ratio as a function of the fraction of 6 MeV x-radiation transmitted through sections of a patient during rotation therapy.

The article will also be used for the training of radiology residents as well as medical physics students in supervoltage radiation therapy techniques. Application received by Commissioner of Customs: May 30, 1975.

Docket Number: 75–00548–00–46040. Applicant: DHEW, National Institutes of Health, National Institute of Environmental Health Sciences, P.O. Box 12233, Research Triangle Park, N.C. 27709. Article: Goniometer Stage Assembly for Electron Microscope. Manufacturer: Philips Electronic Instruments NVD, The Netherlands. Intended use of article: The article is an accessory to be used to modify an existing electron microscope so that energy dispersive X-ray microanalysis may be conducted on sections of liver, kidney, brain, and gonad, for intracellular localization of heavy metals. Tissue sections of animals exposed to mercury, cadmium, lead and arsenic will be examined to localize those metals within lysosomes, nuclei, and mitochondria. The objectives of these studies are to demonstrate the intracellular localization of toxic metals in situ and detect early and subtle changes in cell structure and function. Application received by Commissioner of Customs: May 30, 1975.

Docket Numbers: 75–00550–99–30095. Applicant: The Evergreen State College, Laboratory Building, Olympia, Washington 98505. Article: Stopped Flow Spectrophotometer and attachments. Manufacturer: Nortech Lab. Ltd., United Kingdom. Intended use of Article: The article is intended to be used in the courses Chemical Kinetics, Advanced Biochemistry, and Foundations of Natural Science to enable students to understand the basic chemistry, physics, mathematics and biology presented; to provide experience in certain advanced areas in these subjects; and to give practical laboratory experience with current experimental methods. Application received by Commissioner of Customs: May 30, 1975.

Docket Number: 75–00552–33–46040. Applicant: University of North Carolina at Charlotte, Department of Biology, UNCC Station, Charlotte, North Carolina 28223. Article: Electron Microscope, Model EM 201C. Manufacturer: Philips Electronic Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for student training at several levels. As part of their laboratory experience in Cell Biology undergraduates will be introduced to techniques of high resolution transmission microscopy. An introductory course in Electron Microscopy is planned for upper level undergraduates, interested graduate students and staff from local colleges to give them personal experience with specimen preparation, scope operation, electron microscopic cytochemistry, and micrograph interpretation. A short course in Electron Microscopic Techniques is also planned to familiarize interested faculty, with the microscope for its application to their areas of research. Application received by Commissioner of Customs: May 30, 1975.

Docket Number: 75–00553–00–77030. Applicant: University of California—San Francisco, 1438 South Tenth Street, Richmond, California 94804. Article: Pulse Programmer (PGC–2). Manufacturer: Spin Lock Electronics Ltd., Canada. Intended use of article: The article is an accessory to an existing nmr spectrometer which is being used in research with a two fold objective. First, to develop a fast, reliable method of diagnosing a cancerous or precancerous condition that can be employed on a routine basis. Second, to establish the cause of the larger water proton relaxation time observed in samples from tumorous animals in terms of cellular or molecular properties that may be altered by the existence of cancer in an animal. Application received by Commissioner of Customs: May 30, 1975.

Docket Number: 75–00554–98–77030. Applicant: Lafayette College, Easton, Pennsylvania 18042. Article: NMR Spectrometer, Model CPS–2. Manufacturer: Spin Lock Electronics Ltd., Canada. Intended use of article: The article is intended to be used in the study of the vol-

ume change at the liquid-solid phase transition and molecular motion in the solid near the melting point so as to test quasi-lattice models of liquids and shed more light on the mechanism of melting itself. Application received by Commissioner of Customs: May 30, 1975.

Docket Number: 75-00555-33-46500. Applicant: Southern Illinois University, School of Medicine, Carbondale, IL 62901. Article: Ultramicrotome, Model Om U3. Manufacturer: C. Reichert Optische Werke AG, Austria. Intended use of article: The article is intended to be used for cardiovascular studies dealing with hypertension; anatomical and embryological studies; and invertebrate nervous system studies. The article will also be used in the preparation of pathological and normal tissues for the histology work of the first year medical school class. Application received by Commissioner of Customs: May 30, 1975.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

A. H. STUART,
Director,
Special Import Programs Division.

[FR Doc.75-17702 Filed 7-8-75;8:45 am]

NATIONAL RADIO ASTRONOMY OBSERVATORY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (40 FR 12253 et seq, 15 CFR Part 701, 1974.)

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 75-00400-00-80050. Applicant: National Radio Astronomy Observatory, Associated Universities, Inc., Edgemont Road, Charlottesville, Virginia 22901. Article: Coupling Sleeves for 60 mm Helical Circular Waveguide. Manufacturer: Furukawa Electric Co. Ltd., Japan. Intended use of article: The articles are accessories to an existing helical circular waveguide which is intended to be used as part of the Very large Array radio telescope to transmit radio wavelength radiation received from extraterrestrial objects to recording apparatus. The study of this radiation enables astronomers to study the sources of energy, origin, and evolution of the universe.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in was ordered (February 2, 1975). Reasons: the United States at the time the article The foreign article provides the capabilities for transmitting a signal over a 21 kilometer path in a frequency range of from 49 to 51 gigahertz (GHz) at bandwidths on the order of 40 GHz with very low signal distortion and for minimum signal attenuation.

The National Bureau of Standards (NBS) advised in its memorandum dated June 4, 1975 that the capabilities described above are pertinent to the applicant's intended use. NBS also advised that it knows of no domestic instrument of equivalent scientific value to the foreign article for the applicant's intended use. The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

A. H. STUART,
Director,
Special Import Programs Division.

[FR Doc.75-17696 Filed 7-8-75;8:45 am]

GEOLOGICAL SURVEY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (40 FR 12253 et seq., 15 CFR Part 701, 1974.)

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 75-00328-88-46040. Applicant: U.S. Geological Survey, National Center, Stop 959, Reston, Virginia 22092. Article: Electron Microscope, Model JEM 200B and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used to study the microstructure of geologic materials (both terrestrial and extraterrestrial origin (and appropriate synthetic analogs. These materials include natural silicates, oxides, sulphides, and other inorganic compounds and possibly natural organic materials which occur within inorganic aggregates. The materials are to be studied as single phases or as polyphase aggregates. The experiments to be carried out for the purpose of investigating the properties and phenomena of geologic materials are as follows: (1) characterization of large areas of microstructure using bright field imaging, and (2) characterization of defect structures (dislocation, stacking faults, precipitates, twins, antiphase domains) by dark field and bright field imaging techniques and selected area electron diffraction.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientfic value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: This application is a resubmission of Docket Number 75-00009-88-46040 which was denied without prejudice to resubmission on October 10, 1974 for informational deficiencies. The foreign article provides a maximum accelerating voltage of 200 kilovolts (kv). The most closely comparable domestic instrument is the Model EMU-4C supplied by the Adam David Company. The EMU-4C has a specified maximum accelerating voltage of 100 kilovolts. Higher accelerating voltage provides proportionately greater penetrating power and, consequently higher resolution for a specimen of a given thickness. The National Bureau of Standards (NBS) advises in its memorandum dated June 13, 1975 that the specification of a transmission electron microscope with 200 kv accelerating voltage capability is pertinent to the applicant's intended research which will require imaging thick specimens. NBS also advises that it knows of no domestic instrument of equivalent scientific value to the foreign article for the applicant's intended use.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

A. H. STUART,
Director,
Special Import Programs Division.

[FR Doc.75-17697 Filed 7-8-75;8:45 am]

UNIVERSITY OF CALIFORNIA—LOS ALAMOS

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (40 FR 12253 et seq., 15 CFR Part 701, 1974).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 75-00451-75-27000. Applicant: University of California, Los Alamos Scientific Laboratory, P.O. Box 990, Los Alamos, New Mexico 87544. Article: Streak Camera System, ICC 512. Manufacturer: Electro-Photonics Ltd., United Kingdom. Intended use of article: The article is intended to be used as part of a laser fusion research project to measure extremely short laser pulse lengths.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the

United States. Reasons: The foreign article provides a time resolution of less than 5 picoseconds. The National Bureau of Standards advises in its memorandum dated June 12, 1975 that the capability described above is pertinent to the applicant's intended uses. NBS also advises that it knows of no domestic instrument of equivalent scientific value to the foreign article for the applicant's intended use.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

A. H. STUART,
Director,
Special Import Programs Division.

[FR Doc.75-17698 Filed 7-8-75;8:45 am]

UNIVERSITY OF NEW MEXICO

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (40 FR 12253 et seq., 15 CFR 701, 1974).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 75-00114-33-46040. Applicant: University of New Mexico, Biology Department, Albuquerque, New Mexico 87131. Article: Electron Microscope, Model Corinth 275. Manufacturer: AEI Scientific Apparatus Ltd., United Kingdom. Intended use of article: The article is intended to be used to examine ultrathin sections and surface replications of biological materials in the following research projects:

(1) Localization of enzymes in bacteria,

(2) Fine structural studies of topography, appendages and internal structures of bacteria conducted on bacteria of ecological importance,

(3) Transmission electron microscopy and autoradiography on thin sections of millipede cuticle used to investigate seasonal utilization of metabolic reserves in a desert millipede,

(4) Study of the role of microtubules and/or microfilaments in the reorganizational response to thyroid-stimulating hormone (TSH) of cultured thyroid gland cells,

(5) Studies of the separation, culture and metabolic properties of cells dissociated from mammalian lung tissue,

(6) Detailed studies of the host acceptance of transplants of cells cultured in vitro,

(7) Studies of cell surface phenomena associated with dispersed, cultured and transplanted cells, and

(8) Observations of cells in the ganglion cell layer of vertebrate retinae from rats, mice, cats, dogs and primates. The article will also be used in the courses Techniques and Electron Microscopy, Cytology, and Cell Physiology to teach the use of electron microscope techniques and applications in the biological sciences, and to aid the student in interpretation of cell structure and function.

Comments: No comments have been received with respect to this application. Decision: Application denied. An instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this acticle is intended to be used, is being manufactured in the United States. Reasons: This application is a resubmission of Docket Number 74-00282-33-46040 which was denied without prejudice to resubmission on May 15, 1974 for informational deficiencies. The applicant in response to Question 8 alleges that the foreign article provides the following pertinent specifications not available in the most closely comparable domestic instrument:

(a) Multiple specimen holder which allows operator to examine as many as four grids without removing the specimen holder from the column of the scope. It also offers better efficiency by enabling more people to use the article in a given period of time.

(b) Serial section holder that allows operator to examine extremely long serial sections which are necessary in many research studies which require three dimensional structure analysis.

(c) A 250X low magnification for rapidly scanning specimens which is needed for anticipated heavy multiple use by graduate students and faculty.

(d) A workable magnification range of 600× to 100,000× (with high illumination at high magnifications), the lower range being much lower than that of comparable scopes. 600× is needed for relating ganglion cells seen in light microscopy to those seen with the article. This range is obtainable without a pole piece change thereby providing ease of operation.

(e) A resolving power of better than 10Å and a theoretical limiting resolution of 3.5Å at 60 kv. The eventual purchase of the appropriate accessories will adapt the article for 3.5Å resolution.

(f) A relatively large viewing screen (6½" x 6½") which makes operating extremely easy and is of particular advantage in instructional procedures as a surface viewing device.

(g) A specimen anticontaminator which provides contamination-free viewing of one area of the specimen for up to thirty minutes. Other instruments do not have this accessory which avoids hydrocarbon formation that ruins specimens.

(h) Film for the 70 mm^2 film camera that is much cheaper than plate film which is standard on most electron microscopes.

The intended uses of the article are largely research oriented with educational uses at a relatively sophisticated level. The Department of Health, Education, and Welfare (HEW) advises in its memoranda dated January 9, 1975 and May 14, 1975 that inasmuch as the applicant's intended use has a research orientation, the Model EMU-4C electron microscope (available continuously from the Adam David Company since early 1973) is the most closely comparable domestic instrument (article ordered November 11, 1973). HEW further advises that the applicant provides no pertinent specification within the meaning of subsection 301.2(n) of the regulations upon which duty-free entry could be based. As to the specifications alleged to be pertinent by the applicant in reply to Question 8, in the order listed above (a-h), the following is noted:

(a) The EMU-4C can be provided with a multiple specimen holder. Moreover, HEW advises that the multiple specimen holder is a non-pertinent convenience.

(b) HEW advises that the serial section holder is a non-pertinent convenience.

(c) The EMU-4C utilizes a conveniently located console switch, to decrease the objective lens current, so as to achieve a direct magnification of 400X and less for survey and scanning. In this connection, HEW advises the EMU-4C matches specification (c) of the article.

(d) The EMU-4C provides a high intensity grid cap for high illumination at high magnifications and has a magnification range of 1400 to 240,000X with a switch which provides survey and scanning to 400X and less without a pole piece change. Again, HEW advises that the EMU-4C matches specification (d) of the article. Moreover, with respect to (c) and (d) above, HEW advises that magnification differences (between the foreign and domestic articles) are not scientifically significant, since in addition to the 400X scanning, the low magnification pole piece for the EMU-4C provides 500X to 70,000X with very low and variable scan magnifications.

(e) The EMU-4C provides a guaranteed resolution of 5Å point to point. The eventual purchase or future use of accessories to adapt the article for 3.5Å cannot be considered in the Department's determination of scientific equivalency according to subsection 301.6(a)(3) of the regulations. In any event, HEW advises that specification (e) is a non-pertinent convenience.

(f) HEW advises that the relatively large viewing screen (6½ inches x 6½ inches) is not needed for the work described and, accordingly, is not pertinent.

(g) The EMU-4C provides a specimen anticontamination device as well as an electrically heated objective lens aperture for the purpose of eliminating aperture contamination. In any event, HEW advises that the specimen anticontaminator is a non-pertinent convenience.

(h) The fact that 70 millimeter (mm) film is less expensive than plate film is a cost related item which cannot be considered in the Department's determination of scientific equivalency according to subsection 301.2(n) of the regulations. Also, the EMU-4C provides a 70 mm film use capability as did the predecessor EMU-4B. Again, HEW advises that this specification is a nonpertinent convenience.

In response to Question 9 the applicant repeats some of the issues raised in response to Question 8 and adds that the foreign article provides a water cooled objective lens, a two stage astigmatism correction, and ease of operation. With regard to the features described in response to Question 9 HEW advises that these additional features are not pertinent to the applicant's intended purposes.

For the foregoing reasons, we find that the Model EMU-4C electron microscope is of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

A. H. STUART,
Director,
Special Import Programs Division.

[FR Doc.75-17699 Filed 7-8-75;8:45 am]

UNIVERSITY OF WISCONSIN—MADISON

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (40 FR 12253 et seq., 15 CFR Part 701, 1974).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 75-00354-01-46040. Applicant: University of Wisconsin—Madison, Department of Biochemistry, 420 Henry Mall, Madison, Wisconsin 53706. Article: Electron Microscope, Model HS-9. Manufacturer: Hitachi Ltd., Japan. Intended use of article: The article is intended to be used in carrying out the following research:

(1) Study of the cellular location and chemical composition of the ion conductance mechanism in the protozoan Paramecium aurelia.

(2) Study of the membrane changes which take place in the bacterium Bacillus megaterium during a process of intracellular differentiation (sporulation).

(3) Studies of motility in the bacterium Escherichia coli in which the fine structure of the bacterial flagellum and its associated basal bodies will be compared in motile bacteria and in non-motile mutants.

(4) Study of the properties of mutants of E. coli which have altered resistance to drugs.

(5) Heteroduplex mapping of the drug resistance factor in bacteria and the mapping of the chromosomes of several bacterial viruses, including T4 and Lambda.

(6) Studies of the mode of action of colicin E3 from E. coli.

(7) Studies of the mode of action of colicin.

(8) Studies of chemical and physical changes in adrenocortical mitochondria which are induced by the hormone ACTH.

In addition the article will be used in teaching graduate students and will serve certain undergraduates doing advanced course work or research.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (November 30, 1973). Reasons: The foreign article is a relatively simple, easy to operate, medium resolution electron microscope designed for confident use by beginning students with a minimum of detailed programming. The article provides 6Å point to point resolution, an accelerating voltage of 75 kilovolts, and low distortion magnifications 500X through 100,000X with 200X for scanning which permits an overlap of light and electron microscopy.

Domestic instruments available at the time the article was ordered were the Model EMU-4C supplied by the Adam David Company and the model ETEM-101 manufactured by Elektros Incorporated. The Model EMU-4C is a relatively complex instrument designed for use of an experienced operator which provides magnifications of 1400X to 240,000X with its standard pole piece and low distortion magnifications of 500X to 70,000X through the use of a low magnification pole piece. The Model ETEM 101 is a relatively simple low resolution instrument (10 Å point to point) with a magnification range of 600 to 38,000X. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated May 9, 1975 that the magnification range of the article without a pole piece change and relative simplicity of operation are pertinent to the applicant's intended purposes. HEW also advises that the Model EMU-4C does not have an equivalent magnification range without a pole piece change and is more complex than the work requires. In addition, HEW advises in its memorandum cited above that the Model PA-1 supplied by the Adam David Company was in development at the time the article was ordered. In this regard, we note that a prototype of the PA-1 was first shown by Adam David in November, 1974. The record shows that neither the Department nor its consultants have been able to determine or verify the capabilities of the PA-1 as of the date of this decision. Thus the Department does not have a sufficient basis for ruling that the Adam David Company was able to supply the PA-1 at the time the foreign article was ordered, or that it is the scientific equivalent of the foreign article.

We, therefore, find that neither the Model EMU-4C nor the Model ETEM-101 was of equivalent scientific value to the foreign article for such purposes as the article is intended to be used at the time the article was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

A. H. STUART,
Director,
Special Import Programs Divisions.

[FR Doc.75-17700 Filed 7-8-75;8:45 am]

COLLEGE OF MEDICINE & DENTISTRY OF NNJ

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (40 FR 12253 et seq, 15 CFR Part 701, 1974.)

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 75-00415-33-66700. Applicant: College of Medicine and Dentistry of NNJ, P.O. Box 101, Piscataway, New Jersey 08854. Article: Weibel Projection Unit for Stereology, (Anatomisches Institut) with Interchangeable Screens. Manufacturer: Anatomisches Institut, Switzerland. Intended use of article: The article is intended to be used for quantitative electron microscopic study of adrenal tissue to determine any possible alterations in cell structures induced by adrenocorticotrophic hormone (ACTH).

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides the capability for area measurement of three-dimensional structures. The Department of Health, Education, and Welfare (HEW) in its memorandum dated June 10, 1975 advises that the capability described above is pertinent to the applicant's use in measuring the total surface area of complex structures in electron micrographs of adrenal tissue. HEW also advised that it knows of no domestic instrument of equivalent scientific value to the foreign article for the applicant's intended uses.

The Department of Commerce knows of no other instrument or apparatus of

equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

A. H. STUART,
Director, Special Import Programs Division.

[FR Doc.75-17794 Filed 7-8-75;8:45 am]

DUKE UNIVERSITY MEDICAL CENTER

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (40 FR 12253 et seq., 15 CFR Part 701, 1974).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 75-00419-01-46040. Applicant: Duke University Medical Center, Department of Biochemistry, Durham, North Carolina 27710. Article: Electron Microscope, Model JEM-100C with Side Entry Goniometer. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for studying membrane proteins in solution, and, in particular attempting to obtain such proteins in a state as close as possible to the "native" state. These studies involve the visualization of particle shape or mode of aggregation, the interaction of specific compounds with specific membranes and determining.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (February 19, 1975). Reasons: The foreign article has a specified resolving power of 3 Angstroms (Å) point to point and is equipped with a high resolution universal side entry goniometer stage with a guaranteed point to point resolution of 7Å. The most closely comparable domestic instrument is the Model EMU-4C electron microscope supplied by the Adam David Company. The EMU-4C has a guaranteed resolution of 5Å point to point and can be equipped with a tilt stage with a guaranteed resolution of 8Å point to point. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated June 10, 1975 that the characteristics of the foreign article described above are pertinent to the applicant's research studies. HEW further advises that domestic instruments did not provide a scientifically equivalent goniometer stage nor scientifically equivalent resolution at the time the article was ordered. We, therefore, find that the EMU-4C was not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used at the time the article was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

A. H. STUART,
Director, Special Import Programs Division.

[FR Doc.75-17795 Filed 7-8-75;8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (40 FR 12253 et seq., 15 CFR Part 701, 1974.)

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 75-00420-84-46040. Applicant: Health and Safety Laboratory, U.S. Energy Research & Development Administration, Health Protection Engineering Division, 376 Hudson Street, New York, N.Y. 10014. Article: Electron Microscope, Model JEM 100C/SEG. Manufacturer: JEOL Ltd., Japan. Intended use of Article: The article is intended to be used for the investigation of laboratory produced and environmental aerosols, and track etch films to improve capabilities to assess and control exposures of the general population to hazardous substances. The investigations are designed to: (a) develop fundamental information about airborne particles and measurement techniques for environmental study, (b) examine the behavior and hazard of contaminants, (c) develop and/or evaluate systems to provide basic information about stratospheric aerosols.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article is equipped with a high resolution scanning attachment which provides images in the scanning transmission, secondary electron, and back scattered electron modes as well as scanning microdiffraction from microareas as small as 200 Angstroms in diameter and provides distortion free micrographs in the optical range (90×). The Department of Health, Education, and Welfare (HEW) in its memorandum dated February 21, 1975 advises that the scanning and low magnification capabilities of the foreign article described above are pertinent to the applicant's research studies. The most closely comparable domestic instrument is the Model EMU-4C electron microscope produced by the Adam David Company. HEW further advises that domestic transmission electron microscopes do not provide the pertinent scanning capability or equal low magnification micrographs. We, therefore, find that the EMU-4C is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

A. H. STUART,
Director, Special Import Programs Division.

[FR Doc.75-17796 Filed 7-8-75;8:45 am]

LOUISIANA STATE UNIVERSITY MEDICAL SCHOOL

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (40 FR 12253 et seq., 15 CFR Part 701, 1974).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 75-00411-33-46040. Applicant: Louisiana State University Medical School, 1542 Tulane Avenue, New Orleans, Louisiana 70112. Article: Electron Microscope, Model EM 201 and Accessories. Manufacturer: Philips Electronic Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for ultrastructural studies of cell-virus interactions and the response of the host to virus infection. The materials studied will consist of specimens of normal and virus infected cell cultures embedded in a variety of materials and are subjected

to thick and ultra-thin sectioning by ultramicrotomy.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article is equipped with a eucentric goniometer stage and has a specified resolving power of 5Å. The most closely comparable domestic instrument is the Model EMU–4C available from the Adam David Company. The Department of Health, Education, and Welfare (HEW) advised in its memorandum dated June 10, 1975 that the eucentric goniometer stage of the article is pertinent to the applicant's studies of the ultrastructural changes in developing virons, determination of sequences in viral assembly, and differences in altered and unaltered intracellular membrane. HEW further advises that the EMU–4C does not have a scientifically, equivalent eucentric goniometer stage. We, therefore, find that EMU–4C is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

A. H. STUART,
Director, Special Import Programs Division.

[FR Doc.75–17797 Filed 7–8–75;8:45 am]

UNIVERSITY OF ALASKA, ET AL.

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6 (c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, on or before July 29, 1975.

Amended regulations issued under cited Act, as published in the March 18, 1975 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C. 20230.

Docket Number: 75–00557–50–70000. Applicant: University of Alaska, Geophysical Institute, Fairbanks, Alaska 99701. Article: Radiometers (4 each). Manufacturer: Middleton & Co., Australia. Intended use of article: The article is intended to be used to measure fluxes of incoming radiation from the sun and sky at the surface of the pack ice in the Beaufort Sea as well as outgoing fluxes from the same surface to determine a radiation climatology for the Beaufort Sea. Application received by Commissioner of Customs: June 5, 1975.

Docket Number: 75–00558–99–74600. Applicant: Colorado State University, Physics Department, College Avenue, Fort Collins, Colorado 80521. Article: 24 Channel Store Unit for a Malvern High Speed Correlator. Manufacturer: Precision Devices and Systems Ltd., United Kingdom. Intended use of article: The article is an accessory to an existing Malverin High Speed Correlator which is intended to be used to increase the resolution and flexibility of the system which will be used to determine and analyze the correlation spectrum of the laser light scattered from the turbulent flow (either laboratory flow or the real atmospheric flow) under investigation. Application received by Commissioner of Customs: June 5, 1975.

Docket Number: 75–00559–33–46500. Applicant: U.S. Environmental Protection Agency, Gulf Breeze Environmental Research, Laboratory, Sabine Island, Gulf Breeze, Fla. 32561. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of biological materials, mainly fish and invertebrate tissues derived from experimental animals, exhibiting both normal and pathologic structure. The experiments to be conducted include experiments on the normal structure and physiological behavior of cells and tissues in regard to toxicant effect. In addition, variations in the behavior of cells and tissues under experimental pathological conditions will be studied. Application received by Commissioner of Customs: June 5, 1975.

Docket Number: 75–00560–96–03400. Applicant: The University of Tennessee, Knoxville, Tenn. 37916. Article: (8) Mini Suvag Body Hearing Aids, (11) Vebar Suvag Boneoscillator and (2) Sennheiser Microphone Suvag II. Manufacturer: Serv. Europeen De Diffusion Des Inventions S.A., France. Intended use of article: The article is intended to be used for studies of the auditory perception of deaf children and hearing impaired adults. The article will also be used in courses in aural rehabilitation to educate students in therapy and diagnosis. Application received by Commissioner of Customs: May 30, 1975.

Docket Number: 75–00561–33–90000. Applicant: Bishop Clarkson Memorial Hospital, 44th and Dewey Avenue, Omaha, Nebraska 68105. Article: EMI Scanner System with Magnetic Tape Storage System. Manufacturer: EMI Limited United Kingdom. Intended use of article: The article is intended to be used as a diagnostic tool in areas of patient care and research. It will also be used as an educational tool in the training of medical students and residents as well as radiology students. Application received by Commissioner of Customs: June 5, 1975.

Docket Number: 75–00562–33–46040. Applicant: University of Southern California School of Medicine, Keith Administration Bldg., Room 100, 2025 Zonal Avenue, Los Angeles, CA 90033. Article: Electron Microscope, Model Corinth 500. Manufacturer: AEI Scientific Apparatus, United Kingdom. Intended use of article: The article is intended to be used in investigation aimed at understanding the normal maturation process of human bone marrow cells and aberrations of this process which occur in neoplastic diseases. Experiments to be conducted involve: (1) A description of the architecture and cellular components of normal human blood and bone marrow on a morphological and histochemical basis; (2) a description of the same material obtained from untreated patients with leukemia (acute and chronic), lymphoma, and multiple myeloma; (3) assessment of the effects of chemotherapy on these disease processes by following individual patients through therapy and (4) use of tissue culture methods to alter behavior of cells in a leukemic process to a normal pattern of maturation. The article will also be used to train physicians in techniques for electron microscopy, and (5) a description of the vascular elements of marrow in order to be able to reconstruct a three dimensional model to assess cellular exchange between the marrow cavity and circulating blood. Application received by Commissioner of Customs: June 5, 1975.

Docket Number: 75–00563–33–90000. Applicant: The Methodist Hospital, 6516 Bertner Drive, Houston, Texas 77025. Article: EMI Scanner System. Manufacturer: EMI Limited, United Kingdom. Intended use of article: The article is intended to be used in studies of tumors of the brain in patients, in particular, the subtle absorption between normal and abnormal brain tissue will be determined and charted by the article. The article will also be used in the evaluation of patients with a wide variety of suspected central nervous system disease and the diagnosis will be related with current available techniques to understand the best diagnostic approach to patients. In addition, the article will be used for training residents in radiology, neuroradiology, neurosurgery and neuroradiology fellows in nuclear medicine, neuroradiology, radiation physics of the Methodist Hospital and clinicians and research scientists in the fields of Radiology, Neuroradiology and Neurosurgery. Application received by Commissioner of Customs: June 10, 1975.

Docket Number: 75–00564–33–46040. Applicant: University of Rhode Island, College of Resource Development, Woodward Hall, Kingston, RI 02881. Article:

Electron Microscope, Model HS–9. Manufacturer: Hitachi Limited, Japan. Intended use of article: The article is intended to be used in the area of ultrastructure using thin-sectioning and freeze-etch replication and associated techniques such as shadowing and autoradiography. The projects to be undertaken will include the following:

(1) A study of the ultrastructure of the phenolic-storing cells in the endodermis of cotton roots,

(2) A study of the ultrastructural morphology of the glandular hairs of various plants,

(3) A study of the ultrastructural responses in tomato roots following infection by vascular-wilt pathogens,

(4) A study of the ultrastructural relationships between turf-grasses and the fungal pathogen *Sclerophthora macrospora*,

(5) A study of the ultrastructural morphology of bacterial and fungal isolates capable of degrading hydrocarbons, and

(6) A study of the ultrastructural changes occurring in the epidermis of apple fruits affected with scald.

Application received by Commissioner of Customs: June 11, 1975.

Docket Number: 75–00565–15–80050. Applicant: Smithsonian Institution, Astrophysical Observatory, 60 Garden Street, Cambridge, Mass. 02138. Article: Multiple Mirror Telescope Mount with Control. Manufacturer: SPA Forni Ed. Impianti Industriala, Italy. Intended use of Article: The article is intended to be used as a major component of a large-ground-based astronomical telescope of new and unique concept utilizing six 72-inch mirrors. The mount system will support and position a telescope tube assembly (tube) and its associated optics. Application received by Commissioner of Customs: June 12, 1975.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

A. H. STUART,
Director,
Special Import Programs Division.

[FR Doc.75–17800 Filed 7–8–75;8:45 am]

UNIVERSITY OF CALIFORNIA, IRVINE

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (40 FR 12253 et seq., 15 CFR Part 701, 1974.)

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 75–00418–01–47500. Applicant: University of California, Department of Physiology, California College of Medicine, Irvine, California 92664. Article: High Tensity Monochromator, Used. Manufacturer: Ontario Cancer Institute, Canada. Intended use of article: The article is intended to be used in the investigation of wavelength dependence (or action spectra) for the creation of pyrimidine dimers in solution and/or in DNA and action spectra for monomerization of dimers by PRE or parts thereof. Kinetics of the above reactions will also be investigated.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides a controlled high intensity irradiation system. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated June 10, 1975 that the capability described above is pertinent to the applicant's research in a study of the actinic wavelengths responsible for cell transformation. HEW also advises that it knows of no domestic instrument of equivalent scientific value to the foreign article for the applicant's intended purpose.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

A. H. STUART,
Director, Special Import Programs Division.

[FR Doc.75–17793 Filed 7–8–75;8:45 am]

UNIVERSITY OF OREGON HEALTH SCIENCES CENTER

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (40 FR 12253 et seq., 15 CFR Part 701, 1974.)

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 75–00408–33–46040. Applicant: University of Oregon Health Sciences Center, 3181 S. W. Sam Jackson Park Road, Portland, Oregon 97201. Article: Electron Microscope, Model Elmiskop 101. Manufacturer: Siemens AG, West Germany. Intended use of article: The article is intended to be used for the investigation of the basic causes of ocular diseases such as the following: retinitis pigmentosa, macular degenerations, and retinal detachments; diseases of the anterior segment of the eye such as cataract, glaucoma and corneal ulcers. In addition, basic underlying mechanisms responsible for the maintenance of normal ocular structure and function are also under investigation, e.g. the molecular basis for active transport of ionic constituents of the aqueous humor by the ciliary processes; the biochemical and ultrastructural basis for vitamin A storage and transport by the pigment epithelium of the retina; analysis of cell surface characteristics of rod and cone outer segments and pigment epithelial cells; factors that facilitate recognition of worn-out photoreceptor and bring about their subsequent phagocytosis and digestion by the pigment epithelial cell; study of intracellular mechanisms that affect cell movements during repair of corneal ulcers of surgical wounds. The article will also be used to aid in the teaching of the course Cell Organization and Function for first year medical students and a course in ultrastructure of the human eye for Ophthalmology residents.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the article was ordered (February 12, 1975). Reasons: The foreign article provides 3.5 Angstroms (Å) point to point (pt.) resolution and a continuous magnification range from 285 to 280,000× without a pole-piece change. The most closely comparable domestic instrument is the Model EMU–4C manufactured by the Adam David Company. The Model EMU–4C provides 5Å pt. and with its standard pole-piece has a specified range from 1,400 to 240,000 magnifications. For survey and scanning, the lower end of this range can be reduced to 400 magnifications or less. But the continued reduction of magnification induces an increasingly greater distortion. The domestic manufacturer suggests in its literature on the Model EMU–4C that for highest quality, low magnification electron micrographs in the magnification range between 500 and 70,000 magnifications, an optional low magnification pole piece should be used. Changing the pole piece on the Model EMU–4C requires a break in the vacuum of the column. The Department of Health, Education, and Welfare (HEW) in its memorandum dated June 10, 1975 that the capabilities provided above by the article are pertinent to the applicant's intended purposes. HEW also advises that domestic instruments did not provide an equivalent magnification range or resolution at the time the article was ordered. For these reasons, we find that the Model EMU–4C was not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being

manufactured in the United States at the time the article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

A. H. STUART,
Director, Special Import Programs Division.

[FR Doc.75-17798 Filed 7-8-75;8:45 am]

UNIVERSITY OF OREGON MEDICAL SCHOOL

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (40 FR 12253 et seq., 15 CFR Part 701, 1974).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 75-00421-33-57000. Applicant: University of Oregon Medical School, 3181 S.W. Sam Jackson Road, Portland, Oregon 97201. Article: Anaerobic Cell Assembly. Manufacturer: Dr. Kiyochiro Imai, Osaka Univ., Japan. Intended use of article: The article is intended to be used for studies of oxygen equilibrium properties of normal and abnormal human hemoglobin and selected animal hemoglobin under various conditions of temperature, pH, ionic strength and allosteric effector concentrations.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides measurement to the extremes of the oxygenation curve by the Amai technique. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated June 10, 1975 that the capability described above is pertinent to the applicant's use in studies of the oxygen binding properties of normal and abnormal human and animal hemoglobin. HEW also advises that it knows of no domestic instrument of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

A. H. STUART,
Director, Special Import Programs Division.

[FR Doc.75-17799 Filed 7-8-75;8:45 am]

Maritime Administration

APPROVAL OF CERTAIN CHARTERS

Policy Review

Notice is hereby given that the Maritime Administration is reviewing with the intention to revise as appropriate its practices and policies regarding approvals of time charters or like forms of charters of vessels eligible for coastwise operations to persons, corporations, partnerships or associations, which are not themselves otherwise qualified to operate a vessel in the coastwise trade. While in the past approvals have been granted to such charter arrangements on an ad hoc basis, substantial question has recently arisen as to the advisability of continuing the present policy for domestic trade charters.

Notice is also given that the Maritime Administration has revised its policy regarding the approvals of bareboat charters to non-citizens for operation in the coastwise trade. While in the past the Maritime Administration has approved such arrangements in a limited number of instances it will no longer grant its approval pursuant to the provisions of 808 and 835 of Title 46, U.S.C., for the demise or bareboat charters of vessels in the coastwise trade to persons who do not meet the standards of 802(a) of Title 46, U.S.C.

The policy enunciated herein shall be without prejudice to any approvals previously granted by the Maritime Administration. It is also contemplated that any future modification of our existing policy concerning time charters will also be adopted without prejudice to any outstanding approvals.

Interested persons are requested to submit written comments regarding the review of policy currently being undertaken by the Maritime Administration. Comments should be submitted in 5 copies to the Secretary, Maritime Administration, Washington, D.C. 20230, on or before October 2, 1975.

Sec. 204(b) Merchant Marine Act of 1936, as amended (46 U.S.C. 1114); Reorganization Plans No. 21 of 1950 (64 Stat. 1273) and No. 7 of 1961 (75 Stat. 842) as amended by Pub. L. 91-469 (84 Stat. 1036); Department of Commerce Organization Order 10-8 (38 FR 19707, July 23, 1973).

Dated: July 3, 1975.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.75-17828 Filed 7-8-75;8:45 am]

[Docket No. S-454]

PACIFIC FAR EAST LINE, INC.

Notice of Application

Notice is hereby given that Pacific Far East Line, Inc., has applied for amendment of its service description to permit LASH vessels of Pacific Far East Line, Inc., operating on the Operator's subsidized Trade Route 29 service to call at ports in Oregon, Washington, British Columbia, and Alaska for carriage of cargoes between those areas and the Persian Gulf-Gulf of Oman area.

As information, service between the areas being herewith Noticed was included in the application of Pacific Far East Line, Inc., docketed S-443 (40 FR 21505); that application has been amended to delete the Persian Gulf-Gulf of Oman area.

Any person, firm or corporation having any interest in such application and desiring a hearing on issues pertinent to section 605(c) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1175), should, by the close of business on July 21, 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 a section 605(c) hearing is ordered to be held, the purpose thereof will be to receive evidence relevant to (1) whether the application is one with respect to a vessel to be operated in an essential service, served by citizens of the United States which would be in addition to the existing service, or services, and if so, whether the service already provided by vessels of United States registry in such essential service is inadequate, and (2) whether in the accomplishment of the purposes and policy of the Act additional vessels should be operated thereon.

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 Subsidies (ODS))

By Order of the Maritime Administration.

Date: July 3, 1975.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.75-17829 Filed 7-8-75;8:45 am]

Office of the Secretary

ELECTRIC CLOTHES DRYERS

Voluntary Program for Appliance Efficiency

By notice published in the FEDERAL REGISTER March 3, 1975 (40 FR 8846), the Department of Commerce announced its intention of issuing a set of individual proposed programs for each appliance type covered by the Voluntary Program for Appliance Efficiency, each program setting the energy efficiency goal for one type of appliance and describing how the product testing and performance calculations for that appliance type are to be made. Interested persons were invited to participate in the development of the proposed programs by sending suggestions and comments to the Assistant Secretary for Science and Technology on or before April 2, 1975. The public comment period was extended

to April 20, 1975, by a notice published in the FEDERAL REGISTER March 28, 1975 (40 FR 14107).

Comments and suggestions in response to the above referenced notice were received from forty-five sources and were reviewed within the Department. Copies of the letters are available for public inspection at the Department's Central Reference and Records Inspection Facility, Room 7068, Commerce Building, 14th Street between Constitution Avenue and E Street, NW., Washington, D.C. 20230.

Based on the comments received and on discussions with representatives of the Federal Energy Administration and with other interested persons, a proposed program plan for electric clothes dryers as set forth below was developed. The Department of Commerce now proposes to initiate a Voluntary Program for Appliance Efficiency—Electric Clothes Dryers by publication of the plan set forth below. Proposed plans for programs covering other appliance types will be published for public comment as they are developed.

Interested persons are invited to participate in further development of the proposed program by submitting written comments or suggestions in four copies to the Assistant Secretary for Science and Technology, Room 3862, U.S. Department of Commerce, Washington, D.C. 20230, on or before July 30, 1975.

Suggestions and comments received will be placed in a public docket available for examination by interested persons at the Central Reference and Records Inspection Facility at the address shown above.

The overall goal of the Voluntary Program for Appliance Efficiency is to effect by 1980 a 20 percent reduction in the energy usage of new major home appliances, as compared to their 1972 energy usage. President Ford stated in his January 15, 1975, Message to Congress that unless there is substantial agreement by manufacturers before July 15, 1975, to try to achieve this overall goal, legislation for a mandatory appliance efficiency program will be requested. Therefore, manufacturers who support the concept of the Voluntary Program for Appliance Efficiency are urged to make this support known to Secretary of Commerce Rogers C. B. Morton before July 15, 1975. As detailed programs are developed for each product type, manufacturers are urged to become actual program participants with respect to the types of appliances they manufacture.

BETSY ANCKER-JOHNSON,
Assistant Secretary for Science and Technology.

The following is the proposed Voluntary Program for Appliance Efficiency—Electric Clothes Dryers now under consideration:

PROPOSED VOLUNTARY PROGRAM FOR APPLIANCE EFFICIENCY—ELECTRIC CLOTHES DRYERS

1.0 *Purpose.*

1.1 The Voluntary Program for Appliance Efficiency was initiated in response to the direction of President Ford in his January 15, 1975, Message to Congress, that a voluntary program be developed to achieve by 1980 a 20 percent average reduction in the energy usage of new home appliances, as compared to new home appliances built in 1972. The overall program was announced in the FEDERAL REGISTER March 3, 1975 (40 FR 8846).

1.2 The Voluntary Program for Appliance Efficiency—Electric Clothes Dryers, hereinafter referred to as "Program," is one of several documents to be developed, each covering one major appliance category.

1.3 The specific purpose of this Program is to establish procedures for implementing improvement in the energy usage of new electric clothes dryers by 1980.

2.0 *Scope.*

2.1 Except as provided in this section, this Program shall apply to the product class consisting of all electric clothes dryers as defined in 3.8.

2.2 Individual units of electric clothes dryers manufactured for export are not included in the Program.

3.0 *Definitions.*

3.1 The term "Department" means the Department of Commerce.

3.2 The term "Secretary" means the Secretary of Commerce.

3.3 The term "designated agent" means a party that is selected by the Secretary to handle the data processing aspect of the Program.

3.4 The term "manufacturer" means any person engaged in the fabricating or assembling of electric clothes dryers in the United States for sale or resale, and importers.

3.5 The term "importer" means any person engaged in the importing of electric clothes dryers into the United States for sale or resale.

3.6 The term "private brand labeler" means an owner of a brand or trademark whose brand or trademark appears on electric clothes dryers supplied by manufacturers other than himself for resale

3.7 The term "industry" means the collection of all manufacturers of electric clothes dryers who are participants in the Program.

3.8 The term "electric clothes dryer" means a cabinet like appliance designed to dry fabrics in a tumble type drum with forced air circulation. The heat source is electricity and the drum and blower(s) are driven by an electric motor(s).

3.9 The term "load" means the standard test load as described in the energy consumption tests to be developed under 4.1.

3.10 The term "basic model group" means all electric clothes dryers actually manufactured or assembled by one manufacturer and having the identical performance characteristics. A basic model group may contain one or more members. A member consists of all units of a given sales model. Members of a basic model group may differ in details that do not affect performance as measured by the methods to be developed under 4.1. Acceptable differences include, but are not limited to, variations in trim, color, sales model number, and brand name.

3.11 The term "factory shipment" means the number of electric clothes dryers that has been actually manufactured by a given manufacturer and that has been shipped by that manufacturer for domestic sale or resale. This includes:

3.11.1 Shipments billed to distributors, factory distributing branches, and sales districts.

3.11.2 Shipments made directly by the manufacturer to retailers and all other customers.

3.11.3 Shipments to factory distributing branches, sales districts, and factory owned distributing outlets for their use where their inventory is owned by the manufacturer.

3.12 The term "year" and year designations, unless otherwise required by the context in which they appear, mean the calendar year, model year, or other yearly period, if the use of such other yearly period has been requested by a manufacturer and approved by the Secretary, that shall be used by the manufacturers as a basis for providing information required under this Program.

4.0 *Test Methods.*

4.1 Samples of electric clothes dryers shall be tested by manufacturers or their agents for energy consumption in accordance with test procedures to be developed by cooperative efforts between the National Bureau of Standards and the industry.

4.2 Samples of electric clothes dryers shall be tested by manufacturers or their agents in accordance with the following requirements:

4.2.1 Unless otherwise required by the Secretary under 4.2.4, test results obtained in the testing of one member of a basic model group of electric clothes dryer may be accepted as applicable to all members of that basic model group.

4.2.2 Sufficient units of each basic model group of electric clothes dryer, that are representative of units to be shipped, shall be tested according to the methods and conditions to be developed under 4.1 to provide a valid basis for determining ratings. Results of tests and calculations shall be retained as required under 9.8.

4.2.3 Manufacturers shall maintain such quality control programs to include testing, as are necessary to insure that the performance of manufactured units is within the tolerances to be developed under 4.4. The use of national certification programs that are open to all manufacturers and under which energy consumption is certified based on the procedures to be developed under 4.1 is acceptable for this purpose. Results of tests and calculations shall be retained as required under 9.8.

4.2.4. In addition to the testing required under 4.2.2 and 4.2.3, the Secretary may require that one or more units of any specific model, selected at random from among recently shipped units, be tested by the manufacturer or his agent according to the methods and conditions to be developed under 4.1. Such testing shall be performed at the manufacturer's expense and the resulting test data and calculations shall be provided to the Secretary within 30 days of receipt by the manufacturer of such a request. This requirements does not preclude the Department from testing or having

tested at its own expense any unit of electric clothes dryer.

4.3 Energy consumption for electric clothes dryers shall be reported in kWh per load and shall be based on the results of the energy consumption tests to be developed under 4.1.

4.4 All members of a basic model group shall be held to be improperly rated if two of that group are tested and rated under 4.2.3 or 4.2.4 and the results of such tests and ratings on both units fall outside the limits to be determined concurrently with the test methods to be developed under 4.1.

4.5 Energy consumption adjustments for energy saving devices on electric clothes dryers, when the effect of such features cannot be determined under the methods and conditions to be developed under 4.1, shall be determined by test procedures developed in response to the specific situation.

5.0 *Method for Determining Efficiency.*

5.1 The basic measure of efficiency for electric clothes dyers shall be the Energy Factor which shall be reported in load per kWh.

5.2 The Energy Factor of a model shall be equal to the reciprocal of the energy consumption as determined in 4.3.

5.3 The factory shipment weighted Energy Factor for a manufacturer shall be equal to the manufacturer's total factory shipment in the given year multiplied by the load (1.0) and divided by the sum of the products of the energy consumption for each model the manufacturer shipped in the given year and the factory shipment of that model of the manufacturer for that year. This quotient is rounded to the nearest 0.001.

5.4 The factory shipment weighted Energy Factor for the industry shall be equal to the industry's total factory shipment in the given year multiplied by the load (1.0) and divided by the sum of the products of the energy consumption for each model the industry shipped in the given year and the factory shipment of that model for the industry in that year. This quotient is rounded to the nearest 0.001.

5.5 When energy saving features are provided by manufacturers and the use of such features is optional with consumers, an energy consumption adjustment shall be credited to those models having such features based on the extent to which consumers utilize such features. When the extent of consumer use of such features is not known, a tentative energy consumption adjustment equivalent to 50% of the potential energy saving for such features shall be credited to models having such features, such tentative adjustments being subject to subsequent revision based on actual use data when it becomes available. See example in appendix A.

6.0 *Base Data.*

6.1 The base year from which improvements are to be measured is 1972. For those manufacturers who ship their products by model year, model year 1972 may be used. For manufacturers who have no definite model year, calendar year 1972 may be used. Other special yearly periods, such as fiscal year 1972, may be used if a request to that effect is approved by the Secretary.

6.2 Manufacturers participating in the Program shall provide the following data regarding the base year 1972 to the Secretary's designated agent:

6.2 A list of all models shipped by the manufacturer in 1972.

6.2.2 Energy consumption, as determined under 4.3 for each model shipped in 1972.

6.2.3 Total factory shipments of each model shipped in 1972.

6.2.4 Identification of any energy saving feature covered under 4.5 which was on models shipped in 1972.

6.3 If test information is not available for determining the energy consumption for 1972 models as required under 6.2.2, the manufacturer shall use the options listed in 6.3.1, 6.3.2, and 6.3.3.

6.3.1 If 1972 models are available, perform the tests to be developed under 4.1 and submit the required data to the designated agent.

6.3.2 If 1972 models are not available, but other year models of the same basic model groups are available, perform the tests to be developed under 4.1 and submit the required data to the designated agent.

6.3.3 If 1972 models or other year models of the same basic model groups are not available, prepare estimates of model energy consumptions based on the best engineering theory and judgment and submit these to the designated agent. In this case, the bases for the estimates shall be documented and submitted to the Chief, Product Systems Analysis Division, National Bureau of Standards, Washington, D.C. 20234, for review and approval prior to the submission to the designated agent. This documentation shall be maintained in files at the National Bureau of Standards until June 1981.

7.0 *Goal.*

7.1 The objective for the Program is to effect a 6 percent decrease in the total energy usage for the total number of 1980 factory shipped electric clothes dryer models when compared with the total energy usage of an equal number of 1972 factory shipped models having the same model mix proportions as in 1972. See example in Appendix A.

7.2 The industry goal under this Program shall be expressed in terms of an increased factory shipment weighted Energy Factor for the industry. This goal shall be determined by calculating the factory shipment weighted Energy Factor for the industry for the base year 1972, and then dividing by 0.94. This recalculated factory shipment weighted Energy Factor for the industry shall be the goal assigned to the industry for 1980.

7.3 The 1972 base year factory shipment weighted Energy Factor for the industry shall be determined on the basis of the base data, as defined in 6.0, provided by the manufacturers participating in the Program.

7.4 After receiving the base data, the Secretary shall have the calculations indicated in 7.2 performed to determine the goal for the industry.

7.5 The required improvements of individual manufacturers to the factory shipment weighted Energy Factor for the manufacturer shall be set according to the method described in 8.3.

7.6 The industry goal shall be published in the FEDERAL REGISTER. Manufacturers shall be notified of their individual goals by letter.

8.0 *Method for Calculating the Goal.*

8.1 For the base year 1972, the factory shipment weighted Energy Factor shall be calculated for each manufacturer and the industry.

8.2 The assigned Energy Factor goal for the industry shall be equal to the 1972 factory shipment weighted Energy Factor for the industry divided by 0.94.

8.3 The required improvement for each manufacturer shall be the difference between the assigned Energy Factor goal for the industry and the 1972 factory shipment weighted Energy Factor for that manufacturer. Should the difference be negative, improvement shall not be required but shall be encouraged.

8.4 A numerical example illustrating the methodology for determining the factory shipment weighted Energy Factor for a manufacturer and the 1980 industry goal is given in Appendix A.

9.0 *Monitoring and Record Keeping Requirements.*

9.1 Each manufacturer shall establish proposed intermediate goals for himself by year reflecting how he plans to meet the target goal for 1980. These proposed goals shall be relayed to the Chief, Product Systems Analysis Division, National Bureau of Standards, Washington, D.C. 20234. Based upon these submissions, the Secretary shall set and publish in the FEDERAL REGISTER intermediate goals for the industry. The Secretary shall notify each manufacturer separately of his own intermediate goals. For the year 1976, the intermediate goal shall be at least that which has been attained since the base year.

9.2 The intermediate yearly goals shall be used to monitor the progress of the individual manufacturers and of the industry as a whole.

9.3 If a manufacturer finds at a later date that he cannot meet the intermediate goals, he should notify the Secretary within 30 days of such finding.

9.4 For years 1976 through 1980, manufacturers shall provide, before March 31 of each following year, the following information to the Secretary's designated agent:

9.4.1 A list of all models shipped in that year.

9.4.2. Energy consumption, as determined under 4.3, for each model shipped in that year.

9.4.3. Total factory shipments of each model shipped in that year.

9.4.4 Identification of any energy saving feature covered under 4.5 which was not on models shipped in 1972 and the approval for the energy consumption adjustment from the Department.

9.5 Based upon information submitted under 9.4, the Secretary's designated agent shall annually calculate the factory shipment weighted Energy Factor for each manufacturer and the industry, and report the results to the Secretary.

9.6 The Secretary shall publish in the FEDERAL REGISTER the factory shipment weighted Energy Factor for the industry, and notify each manufacturer separately of his own factory shipment weighted Energy Factor.

9.7 The Secretary's designated agent shall maintain for a period of two years the data submitted by manufacturers under 9.4. Information submitted by manufacturers to the designated agent which is proprietary shall remain confidential and not be disclosed to anyone. Pursuant, however, to the Secretary's responsibilities under 9.6, he, or his designee, may be permitted to examine such data solely for the purpose of verifying the calculations made by the designated agent under 9.5.

9.8 Manufacturers shall maintain files of test results and calculations on which ratings are based and files of factory shipments. Data relating to a given model shall be preserved for a period of two years after production of that model has been terminated, and if requested shall be provided to the Secretary within 30 days of receipt of the request.

10.0 *Participation in the Program.*

10.1 Manufacturers desiring to participate in the Program shall notify the Secretary of their intent no later than July 15, 1975. A manufacturer's notice of participation shall be substantially in the form shown in Appendix B and shall include all statements given in that form. Unless otherwise ruled by the Secretary, approval for participation by any manufacturer shall automatically be granted upon this notification to the Department. Receipt of this notification shall be acknowledged.

10.2 Participating manufacturers shall submit the base data described in 6.0 to the Secretary's designated agent within ninety

days after the date of publication in the FEDERAL REGISTER of the test procedures for the Program.

10.3 Participating manufacturers who terminate their operations before 1981 shall notify the Secretary. The 1972 base data and the 1980 industry goals shall not be affected.

10.4 Manufacturers shall advise the Secretary of any energy saving features covered under 4.5 which affect the primary function of a model and of any other innovations. No energy consumption adjustment for an energy saving feature shall be made without prior written approval from the Secretary.

10.5 Manufacturers that undergo a reorganization due to merger or for other reasons shall be treated, for purposes of determining progress toward and satisfaction of the 1980 goal, as if the original organization had been maintained.

10.6 When one manufacturer ships units of electric clothes dryers to another manufacturer for purposes of resale, the former and not the latter shall report the units as part of his factory shipments.

10.7 Private brand labelers are encouraged to cooperate with their manufacturer-suppliers and are covered through their manufacturer-suppliers in the Program.

11.0 *Privileged Material.* Any proprietary information submitted in confidence to and in the possession of the Department in connection with the operation of this Program shall be considered privileged and, as such, be subject to the protection afforded under the provisions of 5 U.S.C. 552, the Freedom of Information Act.

VOLUNTARY PROGRAM FOR APPLIANCE EFFICIENCY—ELECTRIC CLOTHES DRYERS

APPENDIX A: METHOD FOR CALCULATING THE INDUSTRY GOAL—AN EXAMPLE

In this hypothetical example, for convenience and economy of calculation, an industry consisting of three manufacturers is assumed. Tables 1, 2, and 3 illustrate the method for calculating the factory shipment weighted Energy Factor for each individual manufacturer for the base year. Table 1 also shows how the saving from optional energy saving features of a model is incorporated into the calculation of the Energy Factor of the model. Table 4 shows how the data for determining the factory shipment weighted Energy Factor for the industry for the base year is obtained from Tables 1, 2, and 3. This is followed by the calculation of the factory shipment weighted Energy Factor for the Industry for the base year. The 1980 industry factory shipment weighted Energy Factor goal for the industry is then obtained by dividing the factory shipment weighted Energy Factor for the industry by 0.94. Table 5 shows the changes required by each manufacturer to meet the assigned 1980 industry factory shipment weighted Energy Factor goal.

TABLE 1.—*Calculation of factory shipment weighted energy factor for manufacturer A*

Model	Load	Energy consumption (kilowatthours)	Factory shipment	Load times factory shipment	Energy consumption times factory shipment
1	1	5.43	20,000	20,000	108,600
2	1	4.92	30,000	30,000	147,600
3	1	5.82	50,000	50,000	291,000
4[1]	1	6.55	10,000	10,000	65,500
Total			110,000	110,000	612,700

[1] Model 4 of manufacturer A has been rated according to the standard test procedures to have an energy consumption of 6.89 kWh. The manufacturer reports that an energy saving device has been installed on that model as an energy saving feature. It is determined through test procedures that a 10-percent energy consumption reduction can be achieved, but there is no field data at this time relating to the frequency of use of this device. Therefore, 50 percent of the saving is credited to the model. The adjusted energy consumption is:

$$6.89\times(1-0.1\times0.5)=6.55 \text{ kWh}$$

NOTE.—Factory shipment weighted energy factor for manufacturer A $=\frac{110,000}{612,700}=0.180$ load per kilowatthour

TABLE 2.—*Calculation of factory shipment weighted energy factor for manufacturer B*

Model	Load	Energy consumption (kilowatthours)	Factory shipment	Load times factory shipment	Energy consumption times factory shipment
1	1	4.93	30,000	30,000	147,900
2	1	4.52	50,000	50,000	226,000
3	1	5.21	20,000	20,000	104,200
4	1	5.13	40,000	40,000	205,200
5	1	5.25	60,000	60,000	315,000
Total			200,000	200,000	998,300

NOTE.—Factory shipment weighted energy factor for manufacturer B $=\frac{200,000}{998,300}=0.200$ load per kilowatthour.

TABLE 3.—*Calculation of factory shipment weighted energy factor for manufacturer C*

Model	Load	Energy consumption (kilowatthours)	Factory shipment	Load times factory shipment	Energy consumption times factory shipment
1	1	5.30	10,000	10,000	53,000
2	1	5.85	20,000	20,000	117,000
3	1	6.70	30,000	30,000	201,000
4	1	6.20	30,000	30,000	186,000
Total			90,000	90,000	557,000

NOTE.—Factory shipment weighted energy factor for manufacturer C $=\frac{90,000}{557,000}=0.162$ load per kilowatthour.

TABLE 4.—*Calculation of factory shipment weighted energy factor for the industry*

Manufacturer	Load times factory shipment	Energy consumption times factory shipment
A	110,000	612,700
B	200,000	998,300
C	90,000	557,000
Total	400,000	2,168,000

Notes.—Factory shipment weighted energy factor for the industry

$$=\frac{400,000}{2,168,000}=0.185 \text{ load per kilowatthour}$$

The assigned factory shipment weighted energy factor for the industry for 1980

$$=\frac{400,000}{(0.94\times2,168,000)}=0.196 \text{ load per kilowatthour}$$

TABLE 5.—*Changes per manufacturer*

Manufacturer	1972 energy factor (load per kilowatthour)	Assigned energy factor (load per kilowatthour)	Required change (load per kilowatthour)
A	0.180	0.196	+0.016
B	.200	.196	----------
C	.162	.196	+.034

APPENDIX B: FORM FOR MANUFACTURER'S NOTICE OF THE INTENT TO PARTICIPATE IN THE PROGRAM

Assistant Secretary for Science and Technology,
Room 3862,
Department of Commerce,
Washington, D.C. 20230

(NAME OF CORPORATION) intends to participate in the Department of Commerce Voluntary Appliance Efficiency Program with respect to electric clothes dryers subject to finalization of the test procedures to be developed cooperatively by the National Bureau of Standards and the industry. Accordingly, (NAME OF CORPORATION) agrees to abide by all conditions for participation as set forth in the Voluntary Program for Appliance Efficiency—Electric Clothes Dryers (40 FR ——), including provision to the Secretary's designated agent of the information enumerated in Sections 6.0 and 9.4.

The effective date for participation of (NAME OF CORPORATION) in the Program is ----------.

(DATE)
(SIGNATURE)
(CORPORATE TITLE)

[FR Doc.75-17616 Filed 7-8-75;8:45 am]

ELECTRIC RANGES

Voluntary Program for Appliance Efficiency

By notice published in the FEDERAL REGISTER March 3, 1975 (40 FR 8846), the Department of Commerce announced its intention of issuing a set of individual proposed programs for each appliance type covered by the Voluntary Program for Appliance Efficiency, each program setting the energy efficiency goal for one type of appliance and describing how the product testing and performance calculations for that appliance type are to be made. Interested persons were invited to participate in the development of the proposed programs by sending suggestions and comments to the Assistant Sec-

retary for Science and Technology on or before April 2, 1975. The public comment period was extended to April 20, 1975, by a notice published in the FEDERAL REGISTER March 28, 1975 (40 FR 14107).

Comments and suggestions in response to the above referenced notice were received from forty-five sources and were reviewed within the Department. Copies of the letters are available for public inspection at the Department's Central Reference and Records Inspection Facility, Room 7068, Commerce Building, 14th Street between Constitution Avenue and E Street NW., Washington, D.C. 20230.

Based on the comments received and on discussions with representatives of the Federal Energy Administration and with other interested persons, a proposed program plan for electric ranges as set forth below was developed. The Department of Commerce now proposes to initiate a Voluntary Program for Appliance Efficiency—Electric Ranges by publication of the plan set forth below. Proposed plans for programs covering other appliance types will be published for public comment as they are developed.

Interested persons are invited to participate in further development of the proposed program by submitting written comments or suggestions in four copies to the Assistant Secretary for Science and Technology, Room 3862, U.S. Department of Commerce, Washington, D.C. 20230, on or before July 30, 1975.

Suggestions and comments received will be placed in a public docket available for examination by interested persons at the Central Reference and Records Inspection Facility at the address shown above.

The overall goal of the Voluntary Program for Appliance Efficiency is to effect by 1980 a 20 percent reduction in the energy usage of new major home appliances, as compared to their 1972 energy usage. President Ford stated in his January 15, 1975, Message to Congress that unless there is substantial agreement by manufacturers before July 15, 1975, to try to achieve this overall goal, legislation for a mandatory appliance efficiency program will be requested. Therefore, manufacturers who support the concept of the Voluntary Program for Applicance Efficiency are urged to make this support known to Secretary of Commerce, Rogers C. B. Morton, before July 15, 1975. As detailed programs are developed for each product type, manufacturers are urged to become actual program participants with respect to the types of appliances they manufacture.

BETSY ANCKER-JOHNSON,
Assistant Secretary for Science and Technology.

The following is the proposed Voluntary Program for Appliance Efficiency—Electric Ranges now under consideration:

PROPOSED VOLUNTARY PROGRAM FOR APPLIANCE EFFICIENCY—ELECTRIC RANGES

1.0 *Purpose.*

1.1 The Voluntary Program for Appliance Efficiency was initiated in response to the direction of President Ford in his January 15, 1975, Message to Congress, that a voluntary program be developed to achieve by 1980 a 20 percent average reduction in the energy usage of new home appliances, as compared to new home appliances built in 1972. The overall program was announced in the FEDERAL REGISTER March 3, 1975 (40 FR 8846).

1.2 The Voluntary Program for Appliance Efficiency—Electric Ranges, hereinafter referred to as "Program," is one of several documents to be developed, each covering one major appliance category.

1.3 The specific purpose of this Program is to establish procedures for implementing improvement in the energy usage of new electric ranges by 1980.

2.0 *Scope.*

2.1 Except as provided in this section, this Program shall apply to the product class consisting of all electric ranges as defined in 3.8.

2.2 Individual units of electric ranges manufactured for export are not included in the Program.

3.0 *Definitions.*

3.1 The term "Department" means the Department of Commerce.

3.2 The term "Secretary" means the Secretary of Commerce.

3.3 The term "designated agent" means a party that is selected by the Secretary to handle the data processing aspect of the Program.

3.4 The term "manufacturer" means any person engaged in the fabricating or assembling of electric ranges in the United States for sale or resale, and importers.

3.5 The term "importer" means any person engaged in the importing of electric ranges into the United States for sale or resale.

3.6 The term "private brand labeler" means an owner of a brand or trademark whose brand or trademark appears on electric ranges supplied by manufacturers other than himself for resale.

3.7 The term "industry" means the collection of all manufacturers of electric ranges who are participants in the Program.

3.8 The term "electric range" means an appliance for cooking which uses electricity as its energy source and includes free-standing ranges equipped with surface units and one or more ovens; built-in combinations of surface units and one or more ovens; wall-mounted ovens with one or more ovens; counter-mounted surface assemblies; and microwave (electronic) ovens. "Surface unit" includes griddles, deep-well cookers, and any other type unit accessible from the top.

3.9 The term "basic model group" means all electric ranges actually manufactured or assembled by one manufacturer and having the identical wattage and amperage ratings and thermal efficiency rating. A basic model group may contain one or more members. A member consists of all units of a given sales model. Members of a basic model group may differ in details that do not affect performance as measured by the test methods to be developed under 4.1. Acceptable differences include, but are not limited to, variations in trim, color, sales model number, and brand name.

3.10 The term "factory shipment" means the number of electric ranges that has been actually manufactured by a given manufacturer and that has been shipped by that manufacturer for domestic sale or resale. This includes:

3.10.1 Shipments billed to distributors, factory distributing branches, and sales districts.

3.10.2 Shipments made directly by the manufacturer to retailers and all other customers.

3.10.3 Shipments to factory distributing branches, sales districts, and factory owned distributing outlets for their use where their inventory is owned by the manufacturer.

3.11 The term "year" and year designations, unless otherwise required by the context in which they appear, mean the calendar year, model year, or other yearly period, if the use of such other yearly period has been requested by a manufacturer and approved by the Secretary, that shall be used by the manufacturers as a basis for providing information required under this Program.

4.0 *Test Methods.*

4.1 Samples of electric ranges shall be tested by manufacturers or their agents for energy consumption in accordance with test procedures to be developed by cooperative efforts between the National Bureau of Standards and the industry.

4.2 Samples of electric ranges shall be tested by manufacturers or their agents in accordance with the following requirements:

4.2.1 Unless otherwise required by the Secretary under 4.2.4, test results obtained in the testing of one member of a basic model group of electric range may be accepted as applicable to all members of that basic model group.

4.2.2 Sufficient units of each basic model group of electric range, that are representative of units to be shipped, shall be tested according to the methods and conditions to be developed under 4.1 to provide a valid basis for determining ratings. Results of tests and calculations shall be retained as required under 9.8.

4.2.3 Manufacturers shall maintain such quality control programs to include testing, as are necessary to insure that the performance of manufactured units is within the tolerances to be developed under 4.4. The use of national certification programs that are open to all manufacturers and under which energy consumption is certified based on the procedures to be developed under 4.1 is acceptable for this purpose. Results of tests and calculations shall be retained as required under 9.8.

4.2.4 In addition to the testing required under 4.2.2 and 4.2.3, the Secretary may require that one or more units of any specified model, selected at random from among recently shipped units, be tested by the manufacturer or his agent according to the methods and conditions to be developed under 4.1. Such testing shall be performed at the manufacturer's expense and the resulting test data and calculations shall be provided to the Secretary within 30 days of receipt by the manufacturer of such a request. This requirement does not preclude the Department from testing or having tested at its own expense any unit of electric range.

4.3 Ratings for electric ranges shall be as follows:

4.3.1 Energy consumption shall be reported in watt-hours per year and shall be

based upon the result of the energy consumption tests to be developed under 4.1.

4.3.2 Range Thermal Efficiency, as defined in 5.2, shall be reported in percent and shall be based on the test procedures to be developed under 4.1.

4.4 All members of a basic model group shall be held to be improperly rated if two of that group are tested and rated under 4.2.3 or 4.2.4 and the results of such tests and ratings on both units fall outside the limits to be determined concurrently with the test methods to be developed under 4.1.

4.5 Energy consumption adjustments for energy saving devices on electric ranges, when the effect of such features cannot be determined under the methods and conditions to be developed under 4.1, shall be determined by test procedures developed in response to the specific situation.

5.0 *Method for Determining Efficiency.*

5.1 The basic measure of efficiency for electric ranges shall be the Range Thermal Efficiency (E_t), which shall be reported in percent.

5.2 Range Thermal Efficiency shall equal the sum (over all components, i.e., surface, oven, microwave) of the products of efficiency of a component and the energy consumption of that component, the resulting sum (the range's useful output) then being divided by the sum of the energy consumptions for all components. The result is then rounded to the nearest 0.1.

In symbols:

$$E_t = \frac{\sum_{i=1}^{n_s} E_s(i)q_s(i)t_s(i) + \sum_{j=1}^{n_o} E_o(j)q_o(j)t_o(j) + \sum_{k=1}^{n_m} E_m(k)q_m(k)t_m(k)}{\sum_{i=1}^{n_s} q_s(i)t_s(i) + \sum_{j=1}^{n_o} q_o(j)t_o(j) + \sum_{k=1}^{n_m} q_m(k)t_m(k)}$$

where:

E_t = Range Thermal Efficiency in percent.
E_s = Efficiency of a surface component in percent.
E_o = Efficiency of an oven component in percent.
E_m = Efficiency of a microwave component in percent.
W_s = Power of a surface component in watts.
W_o = Power of an oven component in watts.
W_m = Power of a microwave component in watts.
t_s = Operation time of a surface component in hours.
t_o = Operation time of an oven component in hours.
t_m = Operation time of a microwave component in hours.
n_s = Number of surface components.
n_o = Number of oven components.
n_m = Number of microwave components.

The rated efficiency, power and operation time of each component (surface, oven, microwave) are to be determined by test procedures to be developed under 4.1.

5.3 The factory shipment weighted Range Thermal Efficiency for a manufacturer shall be equal to the sum of the products of the Range Thermal Efficiency for each model the manufacturer shipped in a given year times the factory shipment of that model in the given year times the energy consumption of that model, the resulting sum (the manufacturer's useful output) then being divided by the sum of the products of the energy consumption of the model and the factory shipment of that model for that year. This quotient is then multiplied by 100 and then rounded to the nearest 0.1.

5.4 The factory shipment weighted Range Thermal Efficiency for the industry shall be equal to the sum of the products of the Range Thermal Efficiency for each model the industry shipped in a given year times the factory shipment of that model in the given year times the energy consumption of that model, the resulting sum (the industry's useful output) then being divided by the sum of the products of the energy consumption of the model and the factory shipment of that model for that year. This quotient is then multiplied by 100 and then rounded to the nearest 0.1.

5.5 When energy saving features are provided by manufacturers and the use of such features is optional with consumers, an energy consumption adjustment shall be credited to those models having such features based on the extent to which consumers utilize such features. When the extent of consumer use of such features is not known, a tentative energy consumption adjustment equivalent to 50% of the potential energy saving for such features shall be credited to models having such features, such tentative adjustments being subject to subsequent revision based on actual use data when it becomes available. See example in Appendix A.

6.0 *Base Data.*

6.1 The base year from which improvements are to be measured is 1972. For those manufacturers who ship their products by model year, model year 1972 may be used. For manufacturers who have no definite model year, calendar year 1972 may be used. Other special yearly periods, such as fiscal year 1972, may be used if a request to that effect is approved by the Secretary.

6.2 Manufacturers participating in the Program shall provide the following data regarding the base year 1972 to the Secretary's designated agent:

6.2.1 A list of all models shipped by the manufacturer in 1972.

6.2.2 Range Thermal Efficiency as determined under 4.3.2, and rated energy consumption as determined under 4.3.1, for each model shipped in 1972.

6.2.3 Total factory shipments of each model shipped in 1972.

6.2.4 Identification of any energy saving feature covered under 4.5 which was on models shipped in 1972.

6.3 If test information is not available for determining the energy consumption for 1972 models as required under 6.2.2, the manufacturer shall use the options listed in 6.3.1, 6.3.2, and 6.3.3.

6.3.1 If 1972 models are available, perform the tests to be developed under 4.1 and submit the required data to the designated agent.

6.3.2 If 1972 models are not available, but other year models of the same basic model groups are available, perform the tests to be developed under 4.1 and submit the required data to the designated agent.

6.3.3 If 1972 models or other year models of the same basic model groups are not available, prepare estimates of model energy consumptions based on the best engineering theory and judgment and submit these to the designated agent. In this case, the bases for the estimates shall be documented and submitted to the Chief, Product Systems Analysis Division, National Bureau of Standards, Washington, D.C. 20234, for review and approval prior to the submission to the designated agent. This documentation shall be maintained in files at the National Bureau of Standards until June 1981.

7.0 *Goal.*

7.1 The objective for the Program is to effect a 10 percent decrease in the total energy usage for the total industry useful output of all 1980 factory shipped electric range models when compared with the total energy usage of an equal industry useful output of 1972 factory shipped electric range models having the same model mix proportions as in 1972. See example in appendix A.

7.2 The industry goal under this Program shall be expressed in terms of an increased factory shipment weighted Range Thermal Efficiency for the industry. This goal shall be determined by calculating the factory shipment weighted Range Thermal Efficiency for the industry for the base year 1972, and then dividing by 0.90. This recalculated factory shipment weighted Range Thermal Efficiency for the industry shall be the goal assigned to the industry for 1980.

7.3 The 1972 base year factory shipment weighted Range Thermal Efficiency for the industry shall be determined on the basis of the base data, as defined in 6.0, provided by manufacturers participating in the Program.

7.4 After receiving the base data, the Secretary shall have the calculations indicated in 7.2 performed to determine the goal for the industry.

7.5 The required improvements of individual manufacturers to the factory shipment weighted Range Thermal Efficiency for the manufacturer shall be set according to the method described in 8.3.

7.6 The industry goal shall be published in the FEDERAL REGISTER. Manufacturers shall be notified of their individual goals by letter.

8.0 *Method for Calculating the Goal.*

8.1 For the base year 1972, the factory shipment weighted Range Thermal Efficiency shall be calculated for each manufacturer and the industry.

8.2 The assigned Range Thermal Efficiency goal for the industry shall be equal to the 1972 factory shipment weighted Range Thermal Efficiency for the industry divided by 0.90.

8.3 The required improvement for each manufacturer shall be the difference between the assigned goal for the industry and the 1972 factory shipment weighted Range Thermal Efficiency for that manufacturer. Should the difference be negative, improvement shall not be required but shall be encouraged.

8.4 A numerical example illustrating the methodology for determining the factory shipment weighted Range Thermal Efficiency for a manufacturer and the 1980 industry goal is given in appendix A.

9.0 *Monitoring and Record Keeping Requirements.*

9.1 Each manufacturer shall establish proposed intermediate goals for himself by year reflecting how he plans to meet the target goal for 1980. These proposed goals shall be relayed to the Chief, Product Systems Analysis Division, National Bureau of Standards, Washington, D.C. 20234. Based upon these submissions, the Secretary shall set and publish in the FEDERAL REGISTER intermediate goals for the industry. The Secretary shall notify each manufacturer separately of his own intermediate goals. For the year 1976, the intermediate goal shall be at least that which has been attained since the base year.

9.2 The intermediate yearly goals shall be used to monitor the progress of the individual manufacturers and of the industry as a whole.

9.3 If a manufacturer finds at a later date that he cannot meet the intermediate goals, he should notify the Secretary within 30 days of such finding.

9.4 For years 1976 through 1980, manufacturers shall provide, before March 31 of each following year, the following information to the Secretary's designated agent:

9.4.1 A list of all models shipped in that year.

9.4.2 Range Thermal Efficiency as determined under 4.3.2, and energy consumption as determined under 4.3.1, for each model shipped in that year.

9.4.3 Total factory shipments of each model shipped in that year.

9.4.4 Identification of any energy saving feature covered under 4.5 which was not on models shipped in 1972 and the approval for adjustment from the Department.

9.5 Based upon information submitted under 9.4, the Secretary's designated agent shall annually calculate the factory shipment weighted Range Thermal Efficiency for each manufacturer and the industry, and report the results to the Secretary.

9.6 The Secretary shall publish in the FEDERAL REGISTER the factory shipment weighted Range Thermal Efficiency for the industry, and notify each manufacturer separately of his own factory shipment weighted Range Thermal Efficiency.

9.7 The Secretary's designated agent shall maintain for a period of two years the data submitted by manufacturers under 9.4. Information submitted by manufacturers to the designated agent which is proprietary shall remain confidential and not be disclosed to anyone. Pursuant, however, to the Secretary's responsibilities under 9.6, he, or his designee, may be permitted to examine such data solely for the purpose of verifying the calculations made by the designated agent under 9.5.

9.8 Manufacturers shall maintain files of test results and calculations on which ratings are based and files of factory shipments. Data relating to a given model shall be preserved for a period of two years after production of that model has been terminated, and if requested shall be provided to the Secretary within 30 days of receipt of the request.

10.0 *Participation in the Program.*

10.1 Manufacturers desiring to participate in the Program shall notify the Secretary of their intent no later than July 15, 1975. A manufacturer's notice of participation shall be substantially in the form shown in Appendix B and shall include all statements given in that form. Unless otherwise ruled by the Secretary, approval for participation by any manufacturer shall automatically be granted upon this notification to the Department. Receipt of this notification shall be acknowledged.

10.2 Participating manufacturers shall submit the base data described in 6.0 to the Secretary's designated agent within ninety days after the date of publication in the FEDERAL REGISTER of the test procedures for the Program.

10.3 Participating manufacturers who terminate their operations before 1981 shall notify the Secretary. The 1972 base data and the 1980 industry goals shall not be affected.

10.4 Manufacturers shall advise the Secretary of any energy saving features covered under 4.5 which affect the primary function of a model and of any innovations. No energy consumption adjustment for an energy saving feature shall be made without prior written approval from the Secretary.

10.5 Manufacturers that undergo a reorganization due to merger or for other reasons shall be treated, for purposes of determining progress toward and satisfaction of the 1980 goal, as if the original organization had been maintained.

10.6 When one manufacturer ships units of electric ranges to another manufacturer for purposes of resale, the former and not the latter shall report the units as part of his factory shipments.

10.7 Private brand labelers are encouraged to cooperate with their manufacturer-suppliers and are covered through their manufacturer-suppliers in the Program.

11.0 *Privileged Material.*

Any proprietary information submitted in confidence to and in the possession of the Department in connection with the operation of this Program shall be considered privileged and, as such, be subject to the protection afforded under the provisions of 5 U.S.C. 552, the Freedom of Information Act.

VOLUNTARY PROGRAM FOR APPLIANCE EFFICIENCY—ELECTRIC RANGES

APPENDIX A: METHOD FOR CALCULATING THE INDUSTRY GOAL—AN EXAMPLE

In this hypothetical example, for convenience and economy of calculation, an industry consisting of three manufacturers is assumed. Tables 1, 2, and 3 illustrate the method for calculating the factory shipment weighted Range Thermal Efficiency for each individual manufacturer for the base year. Table 1 also shows how the saving from optional energy saving features of a model is incorporated into the calculation of the Range Thermal Efficiency of the model. Table 4 shows how the data for determining the factory shipment weighted Range Thermal Efficiency for the industry for the base year is obtained from Tables 1, 2, and 3. This is followed by the calculation of the factory shipment weighted Range Thermal Efficiency for the industry for the base year. The 1980 industry factory shipment weighted Range Thermal Efficiency goal for the industry is then obtained by dividing the factory shipment weighted Range Thermal Efficiency for the industry by 0.90. Table 5 shows the changes required by each manufacturer to meet the assigned 1980 industry factory shipment weighted Range Thermal Efficiency goal.

TABLE 1.—*Calculation of factory shipment weighted range thermal efficiency for manufacturer A*

Model	Range thermal efficiency (percent)	Energy consumption (watthours)	Factory shipment	Total energy consumption (kilowatthours)	Range thermal efficiency times total energy consumption (kilowatthours)
1	39	4,202	100,000	420,200	163,878
2	42	3,423	50,000	171,150	71,883
3	29	5,330	20,000	106,600	30,914
4 [1]	32	4,840	30,000	145,200	46,464
Total			200,000	843,150	313,139

[1] Model 4 of manufacturer A has been rated according to the standard test procedures defined in 4, to use 5,095 Wh, thus having a range thermal efficiency of 30.4 percent. The manufacturer reports that an energy saving device has been installed on that model as an energy saving feature. It is determined through test procedures that a 10-percent energy consumption reduction can be achieved, but there is no field data at this time relating to the frequency of use of this device. Therefore, 50 percent of the saving is credited to the model. The adjusted energy consumption is $5{,}095\times(1-0.1\times0.5)=4{,}840$ Wh and the adjusted range thermal efficiency is 32 percent.

NOTE.—Factory shipment weighted range thermal efficiency for manufacturer A

$$=\left(\frac{313{,}139}{843{,}150}\right)\times100=37.1 \text{ percent}$$

TABLE 2.—*Calculation of factory shipment weighted range thermal efficiency for manufacturer B*

Model	Range thermal efficiency (percent)	Energy consumption (watthours)	Factory shipment	Total energy consumption (kilowatthours)	Range thermal efficiency times total energy consumption (kilowatthours)
1	32	4,950	20,000	99,000	31,680
2	28	5,440	10,000	54,400	15,232
3	40	3,540	100,000	354,000	141,600
4	35	4,330	20,000	86,600	30,310
5	30	4,400	10,000	44,000	13,200
Total			160,000	638,000	232,022

NOTE.—Factory shipment weighted range thermal efficiency for manufacturer B

$$=\left(\frac{232{,}022}{638{,}000}\right)\times100=36.4 \text{ percent}$$

TABLE 3.—*Calculation of factory shipment weighted range thermal efficiency for manufacturer C*

Model	Range thermal efficiency (percent)	Energy consumption (watthours)	Factory shipment	Total energy consumption (kilowatthours)	Range thermal efficiency times total energy consumption (kilowatthours)
1	45	2,940	60,000	176,400	79,380
2	38	4,350	10,000	43,500	16,530
3	40	3,530	30,000	105,900	42,360
4	42	3,420	40,000	136,800	57,456
Total			140,000	462,600	195,726

NOTE.—Factory shipment weighted range thermal efficiency for manufacturer C

$$=\left(\frac{195{,}726}{462{,}600}\right)\times100=42.3 \text{ percent}$$

TABLE 4.—*Calculation of factory shipment weighted range thermal efficiency for the industry*

Manufacturer	Total energy consumption (kilowatthours)	Range thermal efficiency times total energy consumption (kilowatthours)
A	843,150	313,139
B	638,000	232,022
C	462,600	195,726
Total	1,943,750	740,887

NOTES.—Factory shipment weighted range thermal efficiency for the industry
$= (740{,}887\ 1{,}943{,}750) \times 100 = 38.1$ percent

$$= \left(\frac{740{,}887 \times 100}{0.9 \times 1{,}943{,}750}\right) = 42.4 \text{ percent}$$

The assigned factory shipment weighted range thermal efficiency for the industry

$$\left(\frac{744{,}887 \times 100}{0.9 \times 1{,}943{,}750}\right) = 42.4 \text{ percent}$$

TABLE 5.—*Changes per manufacturer*

Manufacturer	1972 range thermal efficiency (percent)	Assigned range thermal efficiency (percent)	Required change (percent)
A	37.1	42.4	+5.3
B	37.4	42.4	+6.0
C	42.3	42.4	+.1

APPENDIX B: FORM FOR MANUFACTURER'S NOTICE OF THE INTENT TO PARTICIPATE IN THE PROGRAM

Assistant Secretary for Science and Technology,
Room 3862,
Department of Commerce,
Washington, D.C. 20230

(NAME OF CORPORATION) intends to participate in the Department of Commerce Voluntary Appliance Efficiency Program with respect to electric ranges subject to finalization of the test procedures to be developed cooperatively by the National Bureau of Standards and the industry. Accordingly, (NAME OF CORPORATION) agrees to abide by all conditions for participation as set forth in the Voluntary Program for Appliance Efficiency—Electric Ranges (40 FR ——), including provision to the Secretary's designated agent of the information enumerated in Sections 6.0 and 9.4.

The effective date for participation of (NAME OF CORPORATION) in the Program is_____
(DATE)
(SIGNATURE)
(CORPORATE TITLE)

[FR Doc.75-17618 Filed 7-8-75;8:45 am]

GAS CLOTHES DRYERS

Voluntary Program for Appliance Efficiency

By notice published in the FEDERAL REGISTER March 3, 1975 (40 FR 8846), the Department of Commerce announced its intention of issuing a set of individual proposed programs for each appliance type covered by the Voluntary Program for Appliance Efficiency, each program setting the energy efficiency goal for one type of appliance and describing how the product testing and performance calculations for that appliance type are to be made. Interested persons were invited to participate in the development of the proposed programs by sending suggestions and comments to the Assistant Secretary for Science and Technology on or before April 2, 1975. The public comment period was extended to April 20, 1975, by a notice published in the FEDERAL REGISTER March 28, 1975 (40 FR 14107).

Comments and suggestions in response to the above referenced notice were received from forty-five sources and were reviewed within the Department. Copies of the letters are available for public inspection at the Department's Central Reference and Records Inspection Facility, Room 7068, Commerce Building, 14th Street between Constitution Avenue and E Street NW., Washington, D.C. 20230.

Based on the comments received and on discussions with representatives of the Federal Energy Administration and with other interested persons, a proposed program plan for gas clothes dryers as set forth below was developed. The Department of Commerce now proposes to initiate a Voluntary Program for Appliance Efficiency—Gas Clothes Dryers by publication of the plan set forth below. Proposed plans for programs covering other appliance types will be published for public comment as they are developed.

Interested persons are invited to participate in further development of the proposed program by submitting written comments or suggestions in four copies to the Assistant Secretary for Science and Technology, Room 3862, U.S. Department of Commerce, Washington, D.C. 20230, on or before 21 days after publication of this notice in the FEDERAL REGISTER.

Suggestions and comments received will be placed in a public docket available for examination by interested persons at the Central Reference and Records Inspection Facility at the address shown above.

The overall goal of the Voluntary Program for Appliance Efficiency is to effect by 1980 a 20 percent reduction in the energy usage of new major home appliances, as compared to their 1972 energy usage. President Ford stated in his January 15, 1975, Message to Congress that unless there is substantial agreement by manufacturers before July 15, 1975, to try to achieve this overall goal, legislation for a mandatory appliance efficiency program will be requested. Therefore, manufacturers who support the concept of the Voluntary Program for Appliance Efficiency are urged to make this support known to Secretary of Commerce Rogers C. B. Morton before July 15, 1975. As detailed programs are developed for each product type, manufacturers are urged to become actual program participants with respect to the types of appliances they manufacture.

Issued:

BETSY ANCKER-JOHNSON,
Assistant Secretary for Science and Technology.

The following is the proposed Voluntary Program for Appliance Efficiency—Gas Clothes Dryers now under consideration:

PROPOSED VOLUNTARY PROGRAM FOR APPLIANCE EFFICIENCY—GAS CLOTHES DRYERS

1.0 *Purpose.*

1.1 The Voluntary Program for Appliance Efficiency was initiated in response to the direction of President Ford in his January 15, 1975, Message to Congress, that a voluntary program be developed to achieve by 1980 a 20 percent average reduction in the energy usage of new home appliances, as compared to new home appliances built in 1972. The overall program was announced in the FEDERAL REGISTER March 3, 1975 (40 FR 8846).

1.2 The Voluntary Program for Appliance Efficiency—Gas Clothes Dryers, hereinafter referred to as "Program," is one of several documents to be developed, each covering one major appliance category.

1.3 The specific purpose of this Program is to establish procedures for implementing improvement in the energy usage of new gas clothes dryers by 1980.

2.0 *Scope.*

2.1 Except as provided in this section, this Program shall apply to the product class consisting of all gas clothes dryers as defined in 3.9.

2.2 Individual units of gas clothes dryers manufactured for export are not included in the Program.

3.0 *Definitions.*

3.1 The term "Department" means the Department of Commerce.

3.2 The term "Secretary" means the Secretary of Commerce.

3.3 The term "designated agent" means a party that is selected by the Secretary to handle the data processing aspect of the Program.

3.4 The term "manufacturer" means any person engaged in the fabricating or assembling of gas clothes dryers in the United States for sale or resale, and importers.

3.5 The term "importer" means any person engaged in the importing of gas clothes dryers into the United States for sale or resale.

3.6 The term "private brand labeler" means an owner of a brand or trademark whose brand or trademark appears on gas clothes dryers supplied by manufacturers other than himself for resale.

3.7 The term "industry" means the collection of all manufacturers of gas clothes dryers who are participants in the Program.

3.8 The term "gas" means either natural gas or propane gas.

3.9 The term "gas clothes dryer" means a cabinet like appliance designed to dry fabrics in a tumble type drum with forced air circulation. The heat source is gas and the drum and blower(s) are driven by an electric motor(s).

3.10 The term "load" means the standard test load as described in the energy consumption tests to be developed under 4.1.

3.11 The term "basic model group" means all gas clothes dryers actually manufactured or assembled by one manufacturer and having the identical performance characteristics. A basic model group may contain one or more members. A member consists of all units of a given sales model. Members of a basic model group may differ in details that do not affect performance as measured by the methods to be developed under 4.1. Acceptable differences include, but are not limited to, variations in trim, color, sales model number, and brand name.

3.12 The term "factory shipment" means the number of gas clothes dryers that has been actually manufactured by a given manufacturer and that has been shipped by that manufacturer for domestic sale or resale. This includes:

3.12.1 Shipments billed to distributors, factory distributing branches, and sales districts.

3.12.2 Shipments made directly by the manufacturer to retailers and all other customers.

3.12.3 Shipments to factory distributing branches, sales districts, and factory owned distributing outlets for their use where their inventory is owned by the manufacturer.

3.13 The term "year" and year designations, unless otherwise required by the context in which they appear, mean the calendar year, model year, or other yearly period, if the use of such other yearly period has been requested by a manufacturer and approved by the Secretary, that shall be used by the manufacturers as a basis for providing information required under this Program.

4.0 *Test Methods.*

4.1 Samples of gas clothes dryers shall be tested by manufacturers or their agents for energy consumption in accordance with test procedures to be developed by cooperative efforts between the National Bureau of Standards and the industry.

4.2 Samples of gas clothes dryers shall be tested by manufacturers or their agents in accordance with the following requirements:

4.2.1 Unless otherwise required by the Secretary under 4.2.4, test results obtained in the testing of one member of a basic model group of gas clothes dryer may be accepted as applicable to all members of that basic model group.

4.2.2 Sufficient units of each basic model group of gas clothes dryer, that are representative of units to be shipped, shall be tested according to the methods and conditions to be developed under 4.1 to provide a valid basis for determining ratings. Results of tests and calculations shall be retained as required under 9.8.

Docket Number: 75-00451-75-27000.

4.2.3 Manufacturers shall maintain such quality control programs, to include testing, as are necessary to insure that the performance of manufactured units is within the tolerances to be developed under 4.4. The use of national certification programs that are open to all manufacturers and under which energy consumption is certified based on the procedures to be developed under 4.1 is acceptable for this purpose. Results of tests and calculations shall be retained as required under 9.8.

4.2.4 In addition to the testing required under 4.2.2 and 4.2.3, the Secretary may require that one or more units of any specified model, selected at random from among recently shipped units, be tested by the manufacturer or his agent according to the methods and conditions to be developed under 4.1. Such testing shall be performed at the manufacturer's expense and the resulting test data and calculations shall be provided to the Secretary within 30 days of receipt by the manufacturer of such a request. This requirement does not preclude the Department from testing or having tested at its own expense any unit of gas clothes dryer.

4.3 Energy consumption for gas clothes dryers shall be reported in therms per load and shall be based on the results of the energy consumption tests to be developed under 4.1, which will provide an electrical energy consumption expressed in watt-hours per load and gas energy consumption expressed in British Thermal Units (Btu) per load. The electrical energy consumption shall be converted to Btu per load and added to the gas energy consumption; this sum is the energy consumption rating. The conversion factors are 3.413 Btu per watt-hour and 100,000 Btu per therm.

4.4 All members of a basic model group shall be held to be improperly rated if two of that group are tested and rated under 4.2.3 or 4.2.4 and the results of such tests and ratings on both units fall outside the limits to be determined concurrently with the test methods to be developed under 4.1.

4.5 Energy consumption adjustments for energy saving devices on gas clothes dryers, when the effect of such features cannot be determined under the methods and conditions to be developed under 4.1, shall be determined by test procedures developed in response to the specific situation.

5.0 *Method for Determining Efficiency.*

5.1 The basic measure of efficiency for gas clothes dryers shall be the Energy Factor which shall be reported in loads per therm.

5.2 The Energy Factor of a model shall be equal to the reciprocal of the energy consumption as determined in 4.3.

5.3 The factory shipment weighted Energy Factor for a manufacturer shall be equal to the manufacturer's total factory shipment in the given year multiplied by the load (1.0) and divided by the sum of the products of the energy consumption for each model the manufacturer shipped in the given year and the factory shipment of that model of the manufacturer for that year. This quotient is rounded to the nearest 0.01.

5.4 The factory shipment weighted Energy Factor for the industry shall be equal to the industry's total factory shipment in the given year multiplied by the load (1.0) and divided by the sum of the products of the energy consumption for each model the industry shipped in the given year and the factory shipment of that model for the industry in that year. This quotient is rounded to the nearest 0.01.

5.5 When energy saving features are provided by manufacturers and the use of such features is optional with consumers, an energy consumption adjustment shall be credited to those models having such features based on the extent to which consumers utilize such features. When the extent of consumer use of such features is not known, a tentative energy consumption adjustment equivalent to 50% of the potential energy saving for such features shall be credited to models having such features, such tentative adjustment being subject to subsequent revision based on actual use data when it becomes available. See example in appendix A.

6.0 *Base Data.*

6.1 The base year from which improvements are to be measured is 1972. For those manufacturers who ship their products by model year, model year 1972 may be used. For manufacturers who have no definite model year, calendar year 1972 may be used. Other special yearly periods, such as fiscal year 1972, may be used if a request to that effect is approved by the Secretary.

6.2 Manufacturers participating in the Program shall provide the following data regarding the base year 1972 to the Secretary's designated agent:

6.2.1 A list of all models shipped by the manufacturer in 1972.

6.2.2 Energy consumption, as determined under 4.3, for each model shipped in 1972.

6.2.3 Total factory shipments of each model shipped in 1972.

6.2.4 Identification of any energy saving feature covered under 4.5 which was on models shipped in 1972.

6.3 If test information is not available for determining the energy consumption for 1972 models as required under 6.2.2, the manufacturer shall use the options listed in 6.3.1, 6.3.2, and 6.3.3.

6.3.1 If 1972 models are available, perform the tests to be developed under 4.1 and submit the required data to the designated agent.

6.3.2 If 1972 models are not available, but other year models of the same basic model groups are available, perform the tests to be developed under 4.1 and submit the required data to the designated agent.

6.3.3 If 1972 models or other year models of the same basic model groups are not available, prepare estimates of model energy consumptions based on the best engineering theory and judgment and submit these to the designated agent. In this case, the bases for the estimates shall be documented and submitted to the Chief, Product Systems Analysis Division, National Bureau of Standards, Washington, D.C. 20234, for review and approval prior to the submission to the designated agent. This documentation shall be maintained in files at the National Bureau of Standards until June 1981.

7.0 *Goal.*

7.1 The objective for the Program is to effect a 12 percent decrease of the total energy usage for the total number of 1980 factory shipped gas clothes dryer models when compared with the total energy usage of an equal number of 1972 factory shipped models having the same model mix proportions as in 1972. See example in appendix A.

7.2 The industry goal under this Program shall be expressed in terms of an increased factory shipment weighted Energy Factor for the industry. The goal shall be determined by calculating the factory shipment weighted Energy Factor for the industry for the base year 1972, and then dividing by 0.88. This recalculated factory shipment weighted Energy Factor for the industry shall be the goal assigned to the industry for 1980.

7.3 The 1972 base year factory shipment weighted Energy Factor for the industry shall be determined on the basis of the base data, as defined in 6.0 provided by the manufacturers participating in the Program.

7.4 After receiving the base data, the Secretary shall have the calculations indicated in 7.2 performed to determine the goal for the industry.

7.5 The required improvements of individual manufacturers to the factory shipment weighted Energy Factor for the manufacturer shall be set according to the method described in 8.3.

7.6 The industry goal shall be published in the Federal Register. Manufacturers shall be notified of their individual goals by letter.

8.0 *Method for Calculating the Goal.*

8.1 For the base year 1972, the factory shipment weighted Energy Factor shall be

calculated for each manufacturer and the industry.

8.2 The assigned Energy Factor goal for the industry shall be equal to the 1972 factory shipment weighted Energy Factor for the industry divided by 0.88.

8.3 The required improvement for each manufacturer shall be the difference between the assigned Energy Factor goal for the industry and the 1972 factory shipment weighted Energy Factor for that manufacturer. Should the difference be negative, improvement shall not be required but shall be encouraged.

8.4 A numerical example illustrating the methodology for determining the factory shipment weighted Energy Factor for a manufacturer and the 1980 industry goal is given in appendix A.

9.0 *Monitoring and Record Keeping Requirements.*

9.1 Each manufacturer shall establish proposed intermediate goals for himself by year reflecting how he plans to meet the target goal for 1980. These proposed goals shall be relayed to the Chief, Product Systems Analysis Division, National Bureau of Standards, Washington, D.C. 20234. Based upon these submissions, the Secretary shall set and publish in the Federal Register intermediate goals for the industry. The Secretary shall notify each manufacturer separately of his own intermediate goals. For the year 1976, the intermediate goal shall be at least that which has been attained since the base year.

9.2 The intermediate yearly goals shall be used to monitor the progress of the individual manufacturers and of the industry as a whole.

9.3 If a manufacturer finds at a later date that he cannot meet the intermediate goals, he should notify the Secretary within 30 days of such finding.

9.4 For years 1976 through 1980, manufacturers shall provide, before March 31 of each following year, the following information to the Secretary's designated agent:

9.4.1 A list of all models shipped in that year.

9.4.2 Energy consumption, as determined under 4.3, for each model shipped in that year.

9.4.3 Total factory shipments of each model shipped in that year.

9.4.4 Identification of any energy saving feature covered under 4.5 which was not on models shipped in 1972 and the approval for the energy consumption adjustment from the Department.

9.5 Based upon information submitted under 9.4, the Secretary's designated agent shall annually calculate the factory shipment weighted Energy Factor for each manufacturer and the industry, and report the results to the Secretary.

9.6 The Secretary shall publish in the FEDERAL REGISTER the factory shipment weighted Energy Factor for the industry, and notify each manufacturer separately of his own factory shipment weighted Energy Factor.

9.7 The Secretary's designated agent shall maintain for a period of two years the data submitted by manufacturers under 9.4. Information submitted by manufacturers to the designated agent which is proprietary shall remain confidential and not be disclosed to anyone. Pursuant, however, to the Secretary's responsibilities under 9.6, he, or his designee, may be permitted to examine such data solely for the purpose of verifying the calculations made by the designated agent under 9.5.

9.8 Manufacturers shall maintain files of test results and calculations on which ratings are based and files of factory shipments. Data relating to a given model shall be preserved for a period of two years after production of that model has been terminated, and if requested shall be provided to the Secretary within 30 days of receipt of the request.

10.0 *Participation in the Program.*

10.1 Manufacturers desiring to participate in the Program shall notify the Secretary of their intent no later than July 15, 1975. A manufacturer's notice of participation shall be substantially in the form shown in appendix B and shall include all statements given in that form. Unless otherwise ruled by the Secretary, approval for participation by any manufacturer shall automatically be granted upon this notification to the Department. Receipt of this notification shall be acknowledged.

10.2 Participating manufacturers shall submit the base data described in 6.0 to the Secretary's designated agent within ninety days after the date of publication in the FEDERAL REGISTER of the test procedures for the Program.

10.3 Participating manufacturers who terminate their operations before 1981 shall notify the Secretary. The 1972 base data and the 1980 industry goals shall not be affected.

10.4 Manufacturers shall advise the Secretary of any energy saving features covered under 4.5 which affect the primary function of a model and of any other innovations. No energy consumption adjustment for an energy saving feature shall be made without prior written approval from the Secretary.

10.5 Manufacturers that undergo a reorganization due to merger or for other reasons shall be treated, for purposes of determining progress toward and satisfaction of the 1980 goal, as if the original organization had been maintained.

10.6 When one manufacturer ships units of gas clothes dryers to another manufacturer for purposes of resale, the former and not the latter shall report the units as part of his factory shipments.

10.7 Private brand labelers are encouraged to cooperate with their manufacturer-suppliers and are covered through their manufacturer-suppliers in the Program.

11.0 *Privileged Material.*

Any proprietary information submitted in confidence to and in the possession of the Department in connection with the operation of this Program shall be considered privileged and, as such, be subject to the protection afforded under the provisions of 5 U.S.C. 552, the Freedom of Information Act.

VOLUNTARY PROGRAM FOR APPLIANCE EFFICIENCY—GAS CLOTHES DRYERS

APPENDIX A: METHOD FOR CALCULATING THE INDUSTRY GOAL—AN EXAMPLE

In this hypothetical example, for convenience and economy of calculation, an industry consisting of three manufacturers is assumed. Tables 1, 2, and 3 illustrate the method for calculating the factory shipment weighted Energy Factor for each individual manufacturer for the base year. Table 1 also shows how the saving from optional energy saving features of a model is incorporated into the calculation of the Energy Factor of the model. Table 4 shows how the data for determining the factory shipment weighted Energy Factor for the industry for the base year is obtained from Tables 1, 2, and 3. This is followed by the calculation of the factory shipment weighted Energy Factor for the industry for the base year. The 1980 industry factory shipment weighted obtained by dividing the factory shipment Energy Factor goal for the industry is then weighted Energy Factor for the industry by 0.88. Table 5 shows the changes required by each manufacturer to meet the assigned 1980 industry factory shipment weighted Energy Factor goal.

TABLE 1.—*Calculation of factory shipment weighted energy factor for manufacturer A*

Model	Load	Energy consumption			Factory shipment	Load times factory shipment	Energy consumption times factory shipment
		Electrical (watthours)	Gas (British thermal units)	Total (therm)			
1	1	431	20,000	0.215	20,000	20,000	4,300
2	1	523	18,000	.198	50,000	50,000	9,900
3	1	620	24,000	.261	30,000	30,000	7,830
4[1]	1	550	23,000	.249	30,000	30,000	7,470
Total					130,000	130,000	29,500

[1] Model 4 of manufacturer A has been rated according to the standard test procedures to have an energy consumption of 24,211 Btu. The manufacturer reports that an energy saving device has been installed on that model as an energy saving feature. It is determined through test procedures that a 10-percent energy consumption reduction can be achieved, but there is no field data at this time relating to the frequency of use of this device. Therefore, 50 percent of the saving is credited to the model. The adjusted energy consumption is:

$$24,211 \times (1 - 0.1 \times 0.5) = 23,000 \text{ Btu}$$

NOTE.—Factory shipment weighted energy factor for manufacturer A

$$= \frac{130,000}{29,500} = 4.41 \text{ loads per therm}$$

TABLE 2.—*Calculation of factory shipment weighted energy factor for manufacturer B*

Model	Load	Energy consumption			Factory shipment	Load times factory shipment	Energy consumption times factory shipment
		Electrical (watthours)	Gas (British thermal units)	Total (therm)			
1	1	500	21,000	0.227	30,000	30,000	6,810
2	1	535	24,000	.258	60,000	60,000	15,480
3	1	470	27,000	.286	40,000	40,000	11,440
4	1	580	25,000	.270	20,000	20,000	5,400
5	1	550	19,000	.209	50,000	50,000	10,450
Total					200,000	200,000	49,580

NOTE.—Factory shipment weighted energy factor for manufacturer B $= \frac{200,000}{49,580} = 4.03$ loads per therm.

TABLE 3.—*Calculation of factory shipment weighted energy factor for manufacturer C*

Model	Load	Energy consumption			Factory shipment	Load times factory shipment	Energy consumption times factory shipment
		Electrical (watthours)	Gas (British thermal units)	Total (therm)			
1	1	600	22,000	0.240	10,000	10,000	2,400
2	1	590	24,000	.260	20,000	20,000	5,200
3	1	545	23,000	.249	10,000	10,000	2,490
4	1	570	26,000	.279	30,000	30,000	8,370
Total					70,000	70,000	18,460

NOTE.—Factory shipment weighted energy factor for manufacturer C $=\frac{70,000}{18,460}=3.79$ loads per therm.

TABLE 4.—*Calculation of factory shipment weighted energy factor for the industry*

Manufacturer	Load times factory shipment	Energy consumption times factory shipment
A	130,000	29,500
B	200,000	49,580
C	70,000	18,460
Total	400,000	97,540

NOTES.—Factory shipment weighted energy factor for the industry

$$=\frac{400,000}{97,540}=4.10 \text{ loads per therm}$$

The assigned factory shipment weighted energy factor for the industry for 1980

$$=\frac{400,000}{(0.88\times 97,540)}=4.66 \text{ loads per therm}$$

TABLE 5.—*Changes per manufacturer*

Manufacturer	1972 energy factor (load per therm)	Assigned energy factor (load per therm)	Required change (load per therm)
A	4.41	4.66	+0.25
B	4.03	4.66	+.63
C	3.79	4.66	+.87

APPENDIX B: FORM FOR MANUFACTURER'S NOTICE OF THE INTENT TO PARTICIPATE IN THE PROGRAM

Assistant Secretary for
Science and Technology,
Room 3862,
Department of Commerce,
Washington, D.C. 20203

(Name of Corporation) intends to participate in the Department of Commerce Voluntary Appliance Efficiency Program with respect to gas clothes dryers subject to finalization of the test procedures to be developed cooperatively by the National Bureau of Standards and the industry. Accordingly, (Name of Corporation) agrees to abide by all conditions for participation as set forth in the Voluntary Program for Appliance Efficiency—Gas Clothes Dryers (40 FR ____), including provision to the Secretary's designated agent of the information enumerated in Sections 6.0 and 9.4.

The effective date for participation of (Name of Corporation) in the Program is

---

(Date)
(Signature)
(Corporate Title)

[FR Doc.75-17617 Filed 7-8-75;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket Nos. 75N-0013, FDC-82]

POLYCHLORINATED BIPHENYLS (PCB'S) IN PAPER FOOD-PACKAGING MATERIAL

Prehearing Conference

A notice of prehearing conference regarding polychlorinated biphenyls (PCB's) was published in the FEDERAL REGISTER of May 5, 1975 (40 FR 19514). Party and nonparty participants were required to submit all direct evidence for the hearing record, including both testimony and documentary exhibits to the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852 not later than June 30, 1975. The prehearing conference was scheduled for July 14, 1975. Notice is hereby given that the deadline of June 30, 1975 has been suspended and the final date for submission of written direct testimony and supporting documentary evidence will be set at the prehearing conference, which has been rescheduled for Monday, July 21, 1975, in the Hearing Room, Food and Drug Administration, Rm. 4A-35, 5600 Fishers Lane, Rockville, MD 20852, beginning at 10 a.m.

Dated: July 1, 1975.

HORACE H. ROBBINS,
Administrative Law Judge.

[FR Doc.75-17758 Filed 7-8-75;8:45 am]

Office of Education

NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION

Meeting

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), that the next meeting of the Executive Committee of the National Advisory Council on Indian Education will be held July 26 and 27, 1975 at the Federal Bldg. Room 13126C, 450 Golden Gate, San Francisco, California.

The National Advisory Council on Indian Education is established under section 442 of the Indian Education Act (Pub. L. 92-318, Title IV, 20 U.S.C. 1221g). The Council, among other things, is directed to:

(1) Advise the Commissioner of Education with respect to the administration (including the development of regulations and of administrative practices and policies) of any program in which Indian children or adults participate from which they can benefit, including sections 241aa to 241ff and 887c of this title and with respect to adequate funding thereof;

(2) Review applications for assistance under sections 241aa to 241ff, 887c and 1211a of this title, and make recommendations to the Commissioner with respect to their approval;

(3) Evaluate programs and projects carried out under any program of the Department of Health, Education, and Welfare in which Indian children or adults can participate or from which they can benefit, and disseminate the results of such evaluations;

(4) Provide technical assistance to local educational agencies and to Indian educational agencies, institutions, and organizations to assist them in improving the education of Indian children;

(5) Assist the Commissioner in developing criteria and regulations for the administration and evaluation of grants made under section 241bb(b) of this title; and

(6) To submit to the Congress not later than March 31 of each year a report on its activities, which shall include any recommendations it may deem necessary for the improvement of Federal education programs in which Indian children and adults participate, or from which they can benefit, which report shall include statement of the National Council's recommendations to the Commissioner with respect to the funding of any such programs.

The meetings on July 26-27, 1975 will be open to the public beginning at 10 a.m. on Saturday and 9 a.m. on Sunday. These meetings will be held at the San Francisco Hilton Hotel.

The proposed agenda includes:

(1) A planning schedule for NACIE for FY 1976.
(2) Review and revise NACIE policies.
(3) Regular Committee business.

Records shall be kept of all Council proceedings (and shall be available for public inspection) at the Office of the National Advisory Council on Indian Education located at 425 13th Street, NW, Suite 326, Washington, D.C. 20004.

Signed at Washington, D.C. on July 2, 1975.

DORRANCE D. STEELE,
Acting Executive Director, National Advisory Council on Indian Education.

[FR Doc.75-17693 Filed 7-8-75;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Interstate Land Sales Registration

[Docket No. N-75-383]

CEDAR ESTATES

Hearing

In the matter of The Cedar Estates, OILSR No. 0-3755-18-22 Docket No. 75-47-IS, pursuant to 15 U.S.C 1706(d) and 24 CFR 1720.160(d).

Notice is hereby given that: 1. Glenn Houser Land Management, Inc., Glenn Houser, President, its officers and agents, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1701 et seq), received a Notice of Proceedings and Opportunity for Hearing issued May 30, 1975, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for The Cedar Estates, located in Osage County, Kansas contain untrue statements of material fact or omit to state material facts required to be stated therein as necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received June 19, 1975, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *it is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW, Washington, D.C., on July 23, 1975, 10 a.m.

5. The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before July 16, 1975.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: July 1, 1975.

By the Secretary.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc. 75-17781 Filed 7-8-75; 8:45 am]

Office of the Secretary

[Docket No. D-75-345]

BALTIMORE AREA OFFICE

Acting Area Director

Each of the officials appointed to the following positions is designated to serve as Acting Area Director during the absence of, or vacancy in the position of, the Area Director, with all the powers, functions and duties redelegated or assigned to the Area Director: *Provided*, That no official is authorized to serve as Acting Area Director unless all officials listed before him in this designation are unavailable to act by reason of absence or vacancy in the position:

1. The Deputy Area Director.
2. The Director, Housing Production and Mortgage Credit Division.
3. The Director, Community Planning and Development Division.
4. The Director, Housing Management Division.
5. The Area Counsel.

This designation supersedes Section A of the designation effective October 1, 1970 (36 FR 3389, February 23, 1971) as amended effective September 1, 1971 (37 FR 746, January 18, 1972).

(Delegation of Authority by the Secretary effective October 1, 1970 (36 FR 3389, February 23, 1971).

Effective Date—This designation shall be effective as of June 27, 1975.

EVERETT H. ROTHSCHILD,
Area Director, Baltimore Area Office, Region III, (Philadelphia).

VINCENT A. MARINO,
Acting Regional Administrator, Region III, (Philadelphia).

[FR Doc.75-17782 Filed 7-8-75;8:45 am]

[Docket No. D-75-346]

PHILADELPHIA AREA OFFICE

Acting Area Director

Each of the officials appointed to the following positions is designated to serve as Acting Area Director during the absence of, or vacancy in the position of, the Area Director, with all the powers, functions and duties redelegated or assigned to the Area Director: *Provided*, That no official is authorized to serve as Acting Area Director unless all officials listed before him in this designation are unavailable to act by reason of absence or vacancy in the position:

1. The Deputy Area Director.
2. The Director, Housing Production and Mortgage Credit Division.
3. The Director, Community Planning and Development Division.
4. The Director, Housing Management Division.
5. The Area Counsel.

This designation supersedes Section A of the designation effective October 1, 1970 (36 FR 3389, February 23, 1971) as amended effective September 1, 1971 (37 FR 746, January 18, 1972).

(Delegation of Authority by the Secretary effective October 1, 1970 (36 FR 3389, February 23, 1971).

Effective Date—This designation shall be effective as of June 27, 1975.

ALFRED R. MARCKS, Jr.,
Acting Area Director, Philadelphia Area Office, Region III, (Philadelphia).

VINCENT A. MARINO,
Acting Regional Administrator Region III, (Philadelphia).

[FR Doc.75-17784 Filed 7-8-75;8:45 am]

[Docket No. D-75-349]

PITTSBURGH AREA OFFICE

Acting Area Director

Each of the officials appointed to the following positions is designated to serve as Acting Area Director during the absence of, or vacancy in the position of, the Area Director, with all the powers, functions and duties redelegated or assigned to the Area Director: *Provided*, That no official is authorized to serve as Acting Area Director unless all officials listed before him in this designation are unavailable to act by reason of absence or vacancy in the position:

1. The Deputy Area Director.
2. The Director, Housing Management Division.
3. The Director, Community Planning and Development Division.
4. The Director, Housing Production and Mortgage Credit Division.
5. The Area Counsel.

This designation supersedes Section A of the designation effective October 1, 1970 (36 FR 3389, February 23, 1971) as amended effective September 1, 1971 (37 FR 746, January 18, 1972).

(Delegation of Authority by the Secretary effective October 1, 1970 (36 FR 3389, February 23, 1971).)

Effective Date—This designation shall be effective as of June 27, 1975.

CHARLES J. LIEBERTH,
Area Director, Pittsburgh Area Office, Region III (Philadelphia).

VINCENT A. MARINO,
Acting Regional Administrator Region III (Philadelphia).

[FR Doc.75-17783 Filed 7-8-75;8:45 am]

[Docket No. D-75-347]

RICHMOND, VIRGINIA AREA OFFICE

Acting Area Director

Each of the officials appointed to the following positions is designated to serve as Acting Area Director during the absence of, or vacancy in the position of, the Area Director, with all the powers, functions and duties redelegated or assigned to the Area Director: *Provided*, That no official is authorized to serve as Acting Area Director unless all officials listed before him in this designation are unavailable to act by reason of absence or vacancy in the position:

1. The Deputy Area Director.
2. The Director, Housing Production and Mortgage Credit Division.

3. The Director, Community Planning and Development Division.
4. The Director, Housing Management Division.
5. The Area Counsel.

This designation supersedes Section A of the designation effective October 1, 1970 (36 FR 3389, February 23, 1971) as amended effective September 1, 1971 (37 FR 746, January 18, 1972).

(Delegation of Authority by the Secretary effective October 1, 1970 (36 FR 3389, February 23, 1971).)

Effective Date—This designation shall be effective as of June 27, 1975.

CARROLL A. MASON,
Area Director, Richmond Area Office, Region III, (Philadelphia).

VINCENT A. MARINO,
Acting Regional Administrator, Region III, (Philadelphia).

[FR Doc.75-17785 Filed 7-8-75;8:45 am]

[Docket No. D-75-348]

WASHINGTON, D.C. AREA OFFICE

Acting Area Director

Each of the officials appointed to the following positions is designated to serve as Acting Area Director during the absence of, or vacancy in the position of, the Area Director, with all the powers, functions and duties redelegated or assigned to the Area Director: *Provided,* That no official is authorized to serve as Acting Area Director unless all officials listed before him in this designation are unavailable to act by reason of absence or vacancy in the position:

1. The Deputy Area Director.
2. The Director, Housing Production and Mortgage Credit Division.
3. The Director, Community Planning and Development Division.
4. The Director, Housing Management Division.
5. The Area Counsel.

This designation supersedes Section A of the designation effective October 1, 1970 (36 FR 3389, February 23, 1971) as amended effective September 1, 1971 (37 FR 746, January 18, 1972).

(Delegation of Authority by the Secretary effective October 1, 1970 (36 FR 3389, February 23, 1971).)

Effective Date—This designation shall be effective as of June 27, 1975

HARRY W. STALLER,
Area Director, Washington, D.C. Area Office, Region III, (Philadelphia).

VINCENT A. MARINO,
Acting Regional Administrator Region III, (Philadelphia).

[FR Doc.75-17786; Filed 7-8-75;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

AIRPORT NOISE POLICY

Public Comment Period

The Federal Aviation Administration is pursuing actively a program to provide effective relief from aircraft noise. The primary emphasis of this program has been and remains wide-ranging—from improvements of aircraft engine technology to refinement of operational procedures.

In November 1969 the FAA published Federal Aviation Regulation Part 36, which put a lid on the escalation of aircraft noise. Under this regulation a number of significantly quieter aircraft have been developed and certificated, e.g., DC-10, L-1011, B-747, Cessna Citation. In October 1973 a regulation was issued which required that all newly produced large turbojet aircraft meet Part 36 noise criteria regardless of when they were certificated. The retrofitting of those aircraft certificated and produced prior to the establishment of noise criteria is being analyzed. Additionally, in December 1974 noise standards were established for propeller-driven small aircraft.

In February 1972 the FAA "Keep-'Em-High" program was implemented. Through this program arrival aircraft are kept as high as possible prior to maneuvering for a safe landing approach, thereby minimizing noise impact around airports. Other operational procedures are under study.

The FAA also has been studying the appropriateness of restrictions on the use of an airport as a means to provide relief from aircraft noise. This is an extremely complex area with substantial policy issues affecting the basic economic health of the aviation industry. It is not just a matter of investing in research efforts to develop the technological capability to produce a quieter aircraft engine, nor is it only a matter of devising operational procedures to reduce the impact of aircraft noise.

With the exception of Washington National Airport and Dulles International Airport, both of which are owned and operated by the FAA, the public airports of the United States are owned and operated by a variety of non-Federal local public authorities. The rights, responsibilities and obligations of these local authorities must be considered in developing policy related to airport use restrictions. At the same time the FAA has disbursed, through its airport development grant program, hundreds of millions of dollars to airport operators to pay for improvement and development of airports around the United States. Consequently, FAA policy in this area involves issues of a multijurisdictional nature and the overall relationship of the Federal Government to state and local governmental entities.

There are a number of possible airport use restrictions which may be imposed either individually or in combination. These have been identified as:

1. Curfews or the limitation on the hours of airport operation.
2. A total ban on jet powered aircraft.
3. A ban or curfew on all aircraft which do not meet FAR Part 36 noise level criteria.
4. A ban or curfew on all jet aircraft which do not meet FAR Part 36 noise level criteria.
5. A limit on the number of operations.

No determination has been made as to which, if any, of these various possible restrictions would be imposed at specific airports or the interrelationship of these restrictions. Neither is the effect nor consequences of such use restrictions known in terms of impact on the national air transportation system.

Under the Federal Aviation Act of 1958 the FAA is charged by the Congress with the duty and responsibility to regulate, among other things, air commerce in such a manner as to best promote its development and to promote, encourage and foster the development of civil aeronautics and air commerce. Through the enactment of the Noise Control Act of 1972, specifically section 7 thereof which amended Section 611 of the Federal Aviation Act of 1958, the Congress identified aircraft noise as one of the noise sources to be ameliorated to afford present and future relief and protection to the public health and welfare. In parallel, the Congress has indicated in the Airport and Airway Development Act of 1970 that the airport and airway system of the United States is inadequate to meet the current and projected growth in aviation and has directed FAA to establish a nationwide system of public airports adequate to meet the needs of civil aeronautics through the mechanism of grants for airport development.

Consequently, FAA is charged with aviation duties and responsibilities which potentially can be in conflict. Additionally, as a matter of basic Constitutional law, state and local governmental authorities are prohibited from unduly interfering with interstate commerce, including air commerce. Under the Airport and Airway Development Act, as well as the previous Federal Airport Act, recipients of Federal grants for airport development are required to provide assurance that the airport will be available for public use on fair and reasonable terms and without unjust discrimination.

The question of airport noise has been the subject of extensive litigation in the context of very specific and somewhat circumscribed issues being presented to the Courts in a limited factual context. The FAA does not believe that policy in this area should be the result or product of piece-meal judicial decisions. The FAA believes its role is to develop policy in a manner which, to the maximum extent possible, eliminates potential conflicts and accommodates the varying and competing interstate and local multijurisdictional interests.

In view of the scope and policy ramifications of the Federal versus state/local role in aircraft noise control, the FAA believes that it should obtain the widest possible public comment on this question. By inviting the public to assist in the identification and selection of a policy course or alternative courses of action, the FAA believes it is acting in the public interest. That interest is served by obtaining, in advance of a firm Federal policy, the view of the general public, the view of those who live around airports, and the view of potentially affected groups within the aviation industry, such as air carriers, airport operators,

air taxis, aircraft manufacturers, business aircraft operators and aircraft owners and pilots.

The FAA has identified four potential policy options and their implications.

1. *Airport proprietor actions unconstrained by FAA.* Under this option, an airport proprietor would be free to impose any restrictions he selected on the use of his airport so long as such restrictions did not interfere with those clearly Federal responsibilities for aircraft operating procedures and the management and control of navigable airspace.

This option would place the responsibility for developing and implementing airport use restrictions for noise control at the local level. It would permit the local governmental bodies responsible for the operation or management of an airport to be responsive to local interests in terms of balancing community needs for air transportation against local environmental objectives.

Conversely, this option could establish a framework for more litigation between the airport operator and local citizens as well as between the airport operator and various elements of the aviation industry. Additionally, this option fails to take into account the potential systemwide impacts of different and independently established restrictions such as the interrelationship between city-pairs. The impact of numerous individual and unrelated actions could be to pose an undue burden on interstate commerce and/or result in unjust discrimination.

2. *Airport proprietor completely constrained by FAA with a correlated development of a Federal airport noise abatement plan.* Under this option, a comprehensive Federal regulatory program of noise abatement would be instituted to minimize noise problems at individual airports. This would provide a comprehensive, uniform approach to the airport noise problem with a mechanism for assessing alternative use restrictions and operating procedures. It would ensure that the needs of the national air transportation system are met by precluding any undue burden on the interstate commerce or unjust discrimination. Authority and responsibility in this area would be concentrated in a single Federal agency, the FAA.

This option would take considerable time to implement. Substantial data would be required in order to assure that any plan developed would be both feasible and provide realistic noise relief in terms of a specific airport and in relation to the needs of the national air transportation system. During this development time the airport noise problem could escalate. A program of this scope and magnitude could be an "overreaction" to the airport noise problem.

3. *Airport proprietor to establish a noise abatement plan.* This option would require the proprietor or operator of a public airport to either (a) prepare a local airport noise abatement plan dealing with the local noise problem and the restrictions proposed for dealing with the problem or (b) advise the FAA that no unacceptable noise problem exists at the airport in question. This local plan would then be reviewed and approved or rejected by FAA.

Initial and primary responsibility for the development of an airport noise abatement plan or the determination that there is no need for such a plan would be at the local community level. This presumably would result in plans being tailored to more nearly reflect local needs for air transportation and local environmental objectives. FAA review of the plan would provide a reasonable degree of national uniformity as well as taking into account potential systemwide impacts on the national air transportation system to avoid undue burdens on air commerce and airspace management for system safety and efficiency.

This process could be extremely cumbersome. It would require extensive coordination between the Federal Government, state and local governmental bodies and airport proprietors. It would require the Federal Government to act as mediator or arbitrator in seeking accommodations and compromises between various state and local governmental bodies, citizens, aviation interests and airport proprietors. It would require substantial time to analyze the various restrictions proposed by airport proprietors, during which time the airport noise problem could escalate. The financial and technical demands made on airport proprietors to develop a plan may be beyond the capability of many of them, although the possibility exists that some financial support may be available through the Planning Grant Program of the Airport and Airway Development Act.

4. *Continue the present policy.* This option would continue to emphasize the present ongoing efforts to reduce aircraft noise at its source through the development of appropriate technology as well as the development of noise abatement operating procedures. The FAA would neither support nor oppose restrictions placed on the use of an airport to provide noise relief except in those instances where the restrictions constitute an undue burden on interstate commerce or unjust discrimination or interfere with aircraft operating procedures or the management and control of navigable airspace.

The initiative and responsibility for developing, establishing and implementing airport restrictions would be left to the local airport proprietor. However, nity would not be assured of noise relief if the implementation of those restrictions infringed on the above described areas since the FAA would act to preclude such infringement. While FAA would continue to deal with specific factual situations, this ad hoc approach does not assure consistency of application in all circumstances. This option could continue the situation in which there would be litigation between the airport operator and local citizens and between the airport operator and various elements of the aviation industry.

In view of the complexity of the subject of restrictions on the use of an airport as a means to provide noise relief, the FAA is soliciting the views of all interested persons concerning each of the policy options described above. The FAA believes this action is appropriate and reasonable in order to supplement its own study of this subject and to be sure that all aspects of each policy option are identified and considered before policy in this area is established. FAA particularly is inteersted in obtaining the viewpoint of all potentially affected persons and groups within the aviation industry, those who live around airports, and those who derive an economic benefit from the airport. The FAA is interested in receiving comments regarding these policy options in terms of the following questions:

1. Are there other possible restrictions beyond those already identified, and, if so, what are they?

2. Should the variety of possible restrictions be further limited? If not, why not? If so, which of the identified possible restrictions should be retained and which excluded and why?

3. Which of the identified policy options should be adopted by the FAA and why? Which of the identified policy options should be rejected by the FAA and why? Are there other policy options which should be considered and what are they?

4. What guidelines or parameters should be applied by the FAA in applying its policy? Should the FAA develop such guidelines for use by airport proprietors in creating airport use restrictions or should they be limited to guidelines to be applied by FAA in considering airport use restrictions under any of the policy options? Should there be FAA guidelines beyond those presently applied?

5. What benefit in terms of noise relief to people can be anticipated as a result of implementation of airport use restrictions? What additional benefits may accrue from airport use restrictions?

6. What costs can be anticipated as a result of implementations of airport use restrictions in terms of:

a. Loss of air transportation capacity to carry people and/or cargo;

b. Economic impact on the aviation industry in terms of lost revenue to air carriers and airport operators as well as any reductions in the number of people employed by air carriers, airports and government agencies;

c. Effect on mail service and any consequences of that effect; and

d. Economic impact on air transport dependent or related industries.

The FAA realizes that the cost/benefit questions identified above are not susceptible to quantitative answers without being airport site specific and use restriction specific. FAA is seeking at this time general information to enable more comprehensive analyses of the various policy options. Additionally, the FAA would appreciate information identifying those airports which would propose the application of use restrictions as well

as the type of restriction in order to ascertain the potential scope of such applications.

7. Should any type or category of airport be precluded from being considered for use restrictions? If so, which type or category and why?

In addition to the foregoing questions, the FAA would appreciate and welcome comments on any additional areas relating to the question of the appropriateness of restrictions on the use of an airport as a means to provide relief from aircraft noise.

All interested persons are invited to participate in the making of policy on this subject by submitting such written data, views or arguments as they may desire. Communications should be addressed to:

Federal Aviation Administration, Associate Administrator for Policy Development and Review, 800 Independence Avenue SW., Washington, D.C. 20591, Attention: Airport Noise Policy.

All communications received on or before January 1, 1976 will be considered by the FAA in identifying and selecting a course of action in terms of policy. All comments will be available both before and after the closing date for comments for examination by interested persons.

Issued in Washington, D.C. July 1, 1975.

F. A. MEISTER,
Associate Administrator for Policy Development and Review (Acting).

[FR Doc.75-17707 Filed 7-8-75;8:45 am]

National Highway Traffic Safety Administration

FRUEHAUF CORP.

Denials of Petition To Commence Rulemaking

This notice sets forth the reasons for denial of a petition for rulemaking to initiate or amend Federal motor vehicle safety standards promulgated under authority of section 103 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1391 et seq.). This notice is published in accordance with section 124 of the Act, which provides that the National Highway Traffic Safety Administration must grant or deny such petitions within 120 days, and "If the Secretary denies such petition he shall publish in the FEDERAL REGISTER his reasons for such denial" (Section 124(d)).

Fruehauf Corporation (April 25, 1975). Petition to suspend the requirements of S5.3.1 of Standard No. 121, *Air brake systems*, for at least 8 weeks as they apply to completed vehicles that are manufactured in two or more stages (if those vehicles were 121-equipped as incomplete vehicles and the systems are undisturbed during modification). Fruehauf's petition was denied because no evidence was submitted which would explain why representative vehicles could not be tested after modification to establish a basis of certification.

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); sec. 106, Pub. L. 93-492, 88 Stat. 1482 (15 U.S.C. 1410); delegations of authority at 49 CFR 1.51 and 49 CFR 501.8.)

Issued on July 2, 1975.

ROBERT L. CARTER,
Associate Administrator, Motor Vehicle Programs.

[FR Doc.75-17790 Filed 7-8-75;8:45 am]

NATIONAL HIGHWAY SAFETY ADVISORY COMMITTEE EXECUTIVE SUBCOMMITTEE

Public Meeting

On August 21, 1975, the National Highway Safety Advisory Committee's Executive Subcommittee will hold an open meeting at the Department of Transportation headquarters building, 400 Seventh Street, SW., Washington, D.C.

The National Highway Safety Advisory Committee is composed of 35 members appointed by the President in accordance with the Highway Safety Act of 1966 (23 U.S.C. 401 et seq.). The Committee consists of representatives of State and local governments, State legislatures, public and private interests contributing to, affected by, or concerned with highway safety, other public and private agencies, organizations, and groups demonstrating an active interest in highway safety, and research scientists and other experts in highway safety.

The Advisory Committee advises, consults with, and makes recommendations to the Secretary of Transportation on matters relating to the activities of the Department in the field of highway safety. The Committee is specifically authorized (1) to review research projects or programs, and (2) to review, prior to issuance, standards proposed to be issued by the Secretary under the national highway safety program.

The Executive Subcommittee will meet at 9 a.m. in room 4234 with the following agenda, subject to approval by the Secretary.

Status of Past Recommendations
Plans for Future NHSAC Activities
New Business
Old Business

Further information may be obtained from the Executive Secretariat, National Highway Traffic Safety Administration, Department of Transportation, 400 Seventh Street, SW, Washington, D.C. 20590, telephone 202-426-2872.

This notice is given pursuant to section 10(a)(2) of Pub. L. 92-463, Federal Advisory Committee Act (FACA), effective January 5, 1973.

Issued: July 2, 1975.

WM. H. MARSH,
Executive Secretary.

[FR Doc.75-17789 Filed 7-8-75;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 26943]

AEROAMERICA, INC., GAC CORPORATION, AND MODERN AIR TRANSPORT, INC.

Acquisition Agreement; Further Prehearing Conference

Notice is hereby given that a further prehearing conference in the above-entitled proceeding will be convened on July 22, 1975, at 10 a.m. (local time), in Room 911, Universal Building, 1825 Connecticut Ave. NW., Washington, D.C., before the undersigned.

Dated at Washington, D.C., July 3, 1975.

[SEAL] ALEXANDER N. ARGERAKIS,
Administrative Law Judge.

[FR Doc.75-17813 Filed 7-8-75;8:45 am]

[Order 75-7-18; Docket No. 27158]

AEROPERU

Transport Schedules; Amendment of

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 2nd day of July, 1975.

In the matter of the schedules of Aero-Peru (Empresa de Transportes Aero del Peru).

On March 20, 1975 the Board, pursuant to Part 213 of the Board's Economic regulations, adopted Order 75-5-100, effective June 26, 1975, disapproving certain of the schedules filed by AeroPeru on November 15, 1974.

Following issuance of that order, consultations were convened between representatives of the Governments of the United States and of Peru, and an understanding was reached with respect to proposed plans for scheduled air transport services between the two countries.

In order to avoid a reduction in the current level of services between the United States and Peru pending implementation of the understanding, we have decided, on the basis of reciprocity, to modify Order 75-5-100 so as to defer its effective date.

Accordingly, it is ordered, That:

1. Order 75-5-100 be amended to provide that it shall become effective on July 15, 1975.

2. This order shall be served on Aero-Peru (Empresa de Transportes Aero del Peru) and the Ambassador of Peru in Washington, D.C.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.75-17816 Filed 7-8-75;8:45 am]

[Order 75-7-22; Docket No. 27506]

ALLEGHENY AIRLINES, INC.

Air Service Between Baltimore, Md., and Norfolk, Va.; Hearing

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 3rd day of July, 1975.

Application of Allegheny Airlines, Inc. for amendment of its certificate of public convenience and necessity for route 97 (Baltimore-Norfolk).

On February 11, 1975, Allegheny Airlines filed an application for an amendment of its certificate so as to authorize the provision of nonstop service between Baltimore, Md., and Norfolk, Va. Service in this market is presently restricted to one stop by Condition (4) of Allegheny's certificate. On February 24, Allegheny, the State of Maryland, the Maryland State Aviation Administration and the Norfolk Port and Industrial Authority (hereinafter "movants") jointly moved the Board to set Allegheny's application for immediate hearing.

In support of their motion, the movants allege generally that the incumbent unrestricted carriers, National Airlines and United Air Lines, have virtually abandoned the market;[1] that, as recently as 1969 when 13 daily one-way flights (six nonstops) were offered, the market generated 62,740 (172 per day) online local and connecting passengers and 41,120 (113 per day) true origin-destination passengers; that improved Norfolk-Baltimore service will result in substantial public benefits both to local passengers and to through passengers between Norfolk, on the one hand, and Pittsburgh, Indianapolis and St. Louis, on the other hand, which Allegheny intends to serve on its two daily Baltimore-Norfolk round trips;[2] and that the service will produce an operating profit and a net profit after return and tax for Allegheny without adverse impact upon any other carrier.

Answers in support of the motion have been filed by Piedmont Aviation and by the Indianapolis Airport Authority and an answer in opposition has been filed by Airexec, Inc., a commuter carrier which instituted service in the primary market with nine-passenger Piper Chieftan equipment in December 1974.[3] Airexec argues that the movants have failed to demonstrate the existence of service deficiencies in light of Airexec's operations and that the entrance of Allegheny would jeopardize these commuter operations which might not have been undertaken in the first place were it not for the encouragement offered by the civic movants. Replies to Airexec's answer together with motions for leave to file the otherwise unauthorized documents were submitted separately by Allegheny and the Norfolk Port and Industrial Authority. Good cause having been shown, these motions are granted and the replies are considered herein.

Upon consideration of the pleadings and all the relevant facts, we have decided to set Allegheny's application for hearing.[4] We believe that the movants have made a sufficiently strong showing to warrant a hearing of their claims that significant service deficiencies have depressed the development of the Baltimore-Norfolk market and that additional service is necessary to meet passenger needs. In 1969 Baltimore was Norfolk's fifth largest true O&D market and sixth largest online local and connecting O&D market even though the stage length involved was quite short (159 miles). While true O&D had declined to 18,230 by fiscal 1974, Baltimore remained Norfolk's twelfth largest true O&D market but received only one poorly timed round trip by National for most of the period. To put it in another context, of the 42 Norfolk markets receiving single-plane service of two-stops or better quality on June 1, 1975 (by National, United, Allegheny and/or Piedmont), 31 of them were smaller than the Baltimore market in fiscal 1974, a market which now receives no single-plane certificated service.

It appears that service was reduced in 1970 in response to the nationwide downturn in airline travel but that neither United nor National, after 1970, ever attempted to resume its development despite appreciable traffic potential. In fact, National's pattern in 1974 suggests nothing more than service coincident to the positioning of aircraft rather than service designed to meet the needs of local and connecting passengers. Allegheny has come forward—and presumably Piedmont will also do so in view of its support of the motion for hearing—as a willing carrier proposing to provide the first effective single-plane service that this market has had for a number of years. The incumbents have not objected to a hearing and the concerned civic parties have strongly supported it. Considering all of the foregoing circumstances, it is our decision that a hearing should be set. Further, although the market may very well be able to support the services of one or two nonstop carriers, it is doubtful that it could support three or four such carriers. Accordingly, as requested by Piedmont, we will place in issue the question of whether the nonstop authority of National and United should be suspended or restricted pursuant to section 401(g) of the Act.

Finally, we have determined that the proceeding instituted herein by its very nature is 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 Quality 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 levels of service. Our conclusion in regard to the environment is largely based, therefore, upon our finding that there are likely to be no environmentally significant changes in such schedules and service levels should new nonstop service be authorized. In its application, Allegheny proposes two daily nonstop round trips in the Baltimore-Norfolk market which presently receives no certificated service. However, two carriers have nonstop authority and two have one-stop authority (Allegheny and Piedmont), all of which could be implemented without further action by the Board. In fact, as recently as 1970, nine daily round trips were operated in the market by the incumbents, a level which is not likely to be approached in the foreseeable future even with four unrestricted carriers in the market. Therefore, it is unreasonable to suppose on the face of the matter that authorization of additional or substitute nonstop service in the Baltimore-Norfolk market will lead to more than very minor environmental changes, at worst.

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. The motion of the State of Maryland, Maryland State Aviation Administration, Norfolk Port and Industrial Authority and Allegheny Airlines, Inc., for a hearing on the application of Allegheny Airlines, Inc., in Docket 27506 (hereinafter to be known as the Baltimore-Norfolk Service Case) be and it hereby is granted;

2. The proceeding set for hearing in 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 non-stop air transportation between Norfolk, Virginia, and Baltimore, Maryland?

---

[1] United abandoned the market in 1973 while National has not provided more than one round trip since 1971. At the time that the motion was filed, National provided a northbound one-stop flight departing at 5:15 p.m. and a southbound nonstop flight departing at 11:05 p.m.; however, on April 15, 1975, National, too, discontinued all service. OAG, April 15, 1975.

[2] Allegheny proposes to extend an existing daily Pittsburgh-Baltimore round trip and an existing daily St. Louis-Indianapolis-Baltimore round trip to Norfolk. Allegheny forecasts that it would carry 48,634 passengers in the four Norfolk markets in fiscal year 1976.

[3] Airexec's basic service pattern consists of five nonstop and one one-stop round trips on weekdays and one round trip on Saturdays and Sundays. OAG, June 1, 1975.

[4] We cannot find that Airexec's objections provide sufficient grounds to deny the motion for hearing. However, Airexec is free to participate in this proceeding and to present its case on the evidentiary record.

(b) If the answer to (a) is affirmative, which carrier(s) should be authorized to engage in such transportation?

(c) What conditions, if any, should be placed upon the operations of such carrier(s), including, but not limited to, a condition requiring the provision of nonstop service in the market?

(d) Do the public convenience and necessity require, pursuant to section 401(g) of the Federal Aviation Act of 1958, as amended, the alteration, amendment, modification or suspension of the certificates of National Air Lines, Inc., and/or United Air Lines, Inc., for routes 31 and 14, respectively, so as to prohibit the operation of nonstop service between the points Baltimore, Maryland, and Norfolk, Virginia?

3. The motions of Allegheny Airlines, Inc., and the Norfolk Port and Industrial Authority in Docket 27506 for leave to file otherwise unauthorized documents be and they hereby are granted; and

4. Applications, motions to consolidate, and petitions for reconsideration of this order shall be filed within twenty (20) days of the date of adoption of this order and answers thereto shall be filed within ten (10) days thereafter.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.75-17817 Filed 7-8-75;8:45 am]

[Docket No. 26968]

PAKISTAN INTERNATIONAL AIRLINES CORP.

Foreign Permit Amendment (Route Consolidation); Prehearing Conference and Hearing

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on July 23, 1975, at 10 a.m. (local time) in Room 503, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., before Administrative Law Judge Richard M. Hartsock.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement on or before July 11, 1975.

Ordinary transcript will be adequate for the proper conduct of this proceeding.

Dated at Washington, D.C., July 2, 1975.

[SEAL] ROBERT L. PARK,
Chief Administrative Law Judge.

[FR Doc.75-17814 Filed 7-8-75;8:45 am]

[Docket 23080-2]

PRIORITY AND NONPRIORITY DOMESTIC SERVICE MAIL RATES INVESTIGATION

Notice of Postponement of Hearing

Notice is hereby given that the hearing heretofore scheduled for July 15, 1975 (40 FR 23923, June 3, 1975) is, upon request for reconsideration, hereby postponed to September 3, 1975, at 10 a.m. (local time), in Room 726, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C.

Dated at Washington, D.C., July 3, 1975.

[SEAL] THOMAS P. SHEEHAN,
Administrative Law Judge.

[FR Doc.75-17812 Filed 7-8-75;8:45 am]

[Order 75-7-26; Docket No. 28036]

SOUTH PACIFIC SERVICE CASE

Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 3rd day of July, 1975.

By Order 75-6-153, the Board instituted this case to consider the need for additional services in the U.S.-South Pacific markets. The Board's instituting order allowed 60 days for the filing of applications, motions to consolidate and various other pleadings and provided for an additional 20 days for answers. Thereafter, in approving the Board's decision in American-Pan American Route Exchange Agreement, Order 75-6-152, the President recommended that the Board expedite its procedures so that its proposed decision in the present proceeding could be submitted for his review by July 1976. In line with the President's request for expedition, we have decided to advance the due date for applications, motions and petitions to 20 days from the adoption date of this order, and to require that answers be filed within 10 days thereafter.

Accordingly, it is ordered, That:

1. Order 75-6-153 be and it hereby is amended to provide that motions to consolidate, applications, and motions or petitions seeking modification or reconsideration of Order 75-6-153 shall be filed no later than 20 days after the adoption of this order and that answers to such pleadings shall be filed no later than 10 days thereafter.

2. A copy of this order shall be served on all parties in Docket 26245.

A copy of this order shall be placed in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.75-17815 Filed 7-8-75;8:45 am]

COMMISSION ON CIVIL RIGHTS

DELAWARE STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Delaware State Advisory Committee (SAC) will convene at 12 noon on July 25, 1975, at the YMCA—11th and Washington Streets, Wilmington, Delaware 19801.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, Room 510, 2120 L Street, NW, Washington, D.C. 20037.

The purpose of this meeting is to plan activities for 1975.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., July 2, 1975.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.75-17801 Filed 7-8-75;8:45 am]

PENNSYLVANIA STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the United States Commission on Civil Rights, that a planning meeting of the Pennsylvania State Advisory Committee (SAC) to this Commission will convene at 10 a.m. on July 21, 1975, at 600 Arch Street, Room 6310, Philadelphia, Pennsylvania.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, Room 510, 2120 L Street NW., Washington, D.C. 20425.

The purpose of this meeting is to discuss plans for the SAC's next major project.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., July 2, 1975.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.75-17802 Filed 7-8-75;8:45 am]

WEST VIRGINIA STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a fact-finding meeting of the West Virginia State Advisory Committee (SAC) to this Commission will convene at 12 noon on July 29, 1975, at 2805 Kanawha Blvd., E. Charleston, West Virginia.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, Room 510, 2120 L Street, NW., Washington, D.C. 20037.

The purpose of this meeting is to discuss Kanawha County Textbook Controversy.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C. July 2, 1975.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.75-17803 Filed 7-8-75;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 396-3]

NATIONAL DRINKING WATER ADVISORY COUNCIL

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given that a meeting of the National Drinking Water Advisory Council established under Pub. L. 93-523, the "Safe Drinking Water Act," will be held at 8:30 a.m. on July 30, 1975 in Conference Rooms 3305-7, Mall Area, and at 9 a.m. on July 31, 1975 in Conference Room 1101, West Tower, Environmental Protection Agency, Waterside Mall, 401 M Street SW., Washington, D.C. 20460.

The purpose of the meeting will be to discuss Drinking Water Regulations relating to primary standards, state programs and groundwater. In addition, the Council will review the current status of research and training activities in the drinking water supply program.

The meeting will be open to the public. Any member of the public wishing to attend or submit a written statement should contact William N. Long, Office of Water Supply (WH-450), Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460, by July 24, 1975. The telephone number is Area Code 202/426-8847.

Dated July 3, 1975.

JAMES L. AGEE,
Assistant Administrator for Water and Hazardous Materials.

[FR Doc.75-17854 Filed 7-8-75;8:45 am]

[FRL 395-8]

OIL POLLUTION PREVENTION

Applicability of 40 CFR Part 112 to Non-Petroleum Oils

The purpose of this notice is to affirm that non-petroleum oils, such as fats and oils from animal and vegetable sources, are subject to the oil spill reporting, civil penalty, clean-up cost, oil spill prevention plan preparation and implementation, and other requirements of section 311 of the Federal Water Pollution Control Act, as amended (FWPCA), 33 U.S.C. § 1321.

Section 311 of the FWPCA applies to all discharges of oil in harmful quantities into or upon the navigable waters of the United States. In addition to other requirements under section 311, any owner or operator of any vessel, onshore facility, or offshore facility from which oil is discharged in harmful quantities shall notify the appropriate agency of the United States Government of such discharge as soon as he has knowledge of the discharge, and shall be liable for the cost of removal of the discharged oil in addition to an appropriate civil penalty. Failure to notify the appropriate agency of the United States Government of such a discharge may result in a criminal prosecution.

Pursuant to the authority granted to the President of the United States under 33 U.S.C. § 1321(j)(1) and delegated, jointly, to the Administrator of the Environmental Protection Agency (EPA) and the Secretary of the Department of Transportation (Executive Order 11735) to "issue regulations consistent with maritime safety and with marine and navigation laws * * * (C) establishing procedures, methods, and equipment and other requirements for equipment to prevent discharges of oil and hazardous substances from vessels and from onshore facilities and offshore facilities, and to contain such discharges", regulations related to oil pollution prevention were promulgated by EPA on December 11, 1973 (40 CFR Part 112, 38 FR 34164). These regulations require all owners or operators of onshore and offshore facilities which have oil storage of over certain capacities that have discharged or, due to their location, could reasonably be expected to discharge oil in harmful quantities to prepare and have certified by a Registered Professional Engineer a Spill Prevention Control and Countermeasure (SPCC) Plan.

Certain owners or operators of facilities which store or process non-petroleum oils, such as fats and oils from animal and vegetable sources, have inquired whether these facilities are subject to the SPCC plan preparation and implementation requirements of 40 CFR Part 112.

Oil is defined in section 311(a)(1) as follows:

"Oil" means *oil of any kind or in any form,* including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil. (Emphasis added).

The statute language defines oils as broadly and comprehensively as possible. Such a definition is consistent with the expressed Congressional intent to strengthen Federal law for the prevention, control and clean-up of oil spilled in the aquatic environment.

Since 1970, EPA and the U.S. Coast Guard have consistently interpreted and administered section 311 and its predecessor, section 11, as applicable to spills of non-petroleum based oils. A number of non-petroleum based oil spills have been cleaned up using the section 311(k) revolving fund. The Coast Guard has assessed civil penalties for a number of discharges of non-petroleum based oils reaching navigable waters. This interpretation is logical in view of the common physical and chemical properties of animal and vegetable oils and petroleum oils, as well as their common potential for adverse environmental impact when discharged into water.

Given the objective of the FWPCA, as stated in section 101(a), "to restore and maintain the chemical, physical and biological integrity of the Nation's water," it would be inappropriate to interpret narrowly the FWPCA's provisions for preventing and mitigating oil spills. Accordingly, owners and operators of facilities storing or using fats and oils from animal and vegetable sources are subject to the provisions of section 311 and regulations promulgated thereunder. Consequently, all facilities processing and storing non-petroleum oils in the quantities and under circumstances set out in EPA Regulations 40 CFR Part 112 are required to prepare and implement an SPCC plan in accordance with that Part. The owners and operators of those facilities in violation of 40 CFR Part 112 will be subject to EPA enforcement actions and civil penalties.

Persons who own or operate facilities subject to the Oil Pollution Prevention Regulation and who have not implemented a certified plan should consider requesting an extension of time to do so. EPA Regional Offices will review requests for extensions for individual facilities on a case-by-case basis. Any party seeking such an extension should submit a written letter of request to the appropriate Regional Administrator stating with specificity the circumstances which merit an extension of the period allowed for compliance with the SPCC regulations. Pursuant to 40 CFR § 112.3(f)(2), the letter must include the following:

1. A complete copy of the SPCC plan, if completed;

2. A full explanation of the cause for any such delay and the specific aspects of the SPCC plan affected by the delay;

3. A full discussion of actions being taken or contemplated to minimize or mitigate such delay;

4. A proposed time schedule for the implementation of any corrective actions being taken or contemplated, including interim dates for completion of tests or studies, installation and operation of any necessary equipment or other preventive measures.

The statutory interpretation set forth in this notice is neither a departure from prior agency views, nor a previously undisclosed position. The Coast Guard has, as mentioned above, assessed penalties for discharges of non-petroleum oils on a number of occasions, and EPA has specifically informed a number of concerned parties, including trade associations, of the fact that it considers animal and vegetable oils to be covered by section 311. Both agencies have consistently maintained their positions and have responded to all requests for elucidation. This notice is therefore meant only as a means of assuring the widest possible dissemination of this information.

Dated: July 1, 1975.

ROBERT L. BAUM,
Acting Assistant Administrator for Enforcement.

[FR Doc.75-17689 Filed 7-8-75;8:45 am]

[Opp-66014; FRL 397-3]

PESTICIDES

Intent To Cancel Registrations of Pesticides Containing Heptachlor or Chlordane

On November 26, 1974, the Environmental Protection Agency (EPA) published a notice (39 FR 41298) of intent to cancel all registered uses of heptachlor and chlordane pursuant to section 6 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973, 7 U.S.C. 136d), with the exception of the use of heptachlor or chlordane through subsurface ground insertion for termite control and the dipping of roots or tops of nonfood plants. Registrants affected by this notice were afforded an opportunity to contest the action by requesting a hearing on specific registered uses within 30 days following receipt of such notice. The cancellation notice became final and effective at the end of 30 days from the date of the notice with regard to those registered uses for which a hearing was not requested by any affected party. The notice of intent to cancel will not take effect for any registered use for which a hearing was requested until the hearing has been completed, unless there is a concurrence from all parties to the proceeding.

At the time that this notice was issued, the registration process was being completed for several products which contain heptachlor/chlordane. Registrations were issued in error for four (4) "manufacturing use only" products. In light of the order and pending administrative proceedings, registrations for these products cannot remain in effect. Therefore, pursuant to section 6 of FIFRA the Agency has notified the following registrants of its intent to cancel the registrations of the pesticide products listed below:

EPA Reg. No. 9859-59. Landia Chemical Co., 1801 W. Olive St., Lakeland FL 33801. Chlordane 40 Dust Base.

EPA Reg. No. 876-244. Velsicol Chemical Corp., 341 E. Ohio St., Chicago IL 60611. Chlordane 4 EC Emulsifiable Concentrate for Repackaging of an Insecticide.

EPA Reg. No. 876-245. Velsicol Chemical Corp., 341 E. Ohio St., Chicago IL 60611. Chlordane 8 EC Emulsifiable Concentrate for Repackaging of an Insecticide.

EPA Reg. No. 876-246. Velsicol Chemical Corp., 341 E. Ohio St., Chicago IL 60611. Chlordane 10D Dust for Repackaging of an Insecticide.

Cancellation of these registrations shall be effective at the end of 30 days from the receipt of notice by the registrant or on July 9, 1975, whichever occurs later, unless the registrant complies with current requirements to restrict such products to use as subsurface ground applications for termite control or for dipping of roots or tops of nonfood plants as set forth in the FEDERAL REGISTER notice of intent to cancel. Within this period of time, any person adversely affected by this notice may request a hearing as provided in section 6(b) of FIFRA, and should file in accordance with the provisions of sections 164.5 and 164.20 of Part 164, Title 40 CFR, of the regulations for the enforcement of the FIFRA, an original and two copies of the document stating his objections to the notice of intent to cancel these registrations. The request for hearings and such documents should be filed with the Hearing Clerk, Environmental Protection Agency, Room 1019, East Tower, 401 M Street, SW, Washington, DC 20460.

Dated: July 3, 1975.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.75-17940 Filed 7-8-75;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20502; FCC 75-634]

COFFEY COUNTY COMMUNITY TV CO.

Order To Show Cause

1. The April, 1975 CATA Newsletter, a monthly publication of the Community Antenna Television Association, of which Kyle D. Moore is president, contained an article stating that Kyle D. Moore, also owner of TV Cable Company, began operating a cable television system at Gridley, Kansas in the fall of 1974 without having obtained a Commission certificate of compliance as required by § 76.11 of the Commission's rules. The article, entitled "Dear Chairman Wiley * * * I Have an Illegal CATV System," contained statements to the following effect: (1) That the cable television system serves approximately 130 subscribers at Gridley, Kansas; (2) That the system had neither applied for nor obtained a Commission certificate of compliance; (3) That no such Commission authorization would be requested in the future; and (4) That the system's franchise did not comply with § 76.31 of the Commission's rules. A review of the Commission's records reflects that none of the forms, pleadings or documents required by the Commission's rules have ever been filed for a cable television system at Gridley, Kansas.

2. On April 14, 1975, the Chief, Cable Television Bureau, notified Mr. Moore of the violations reported in the article in question and of the absence of required filings for the Gridley, Kansas cable television system from the Commission's records. Mr. Moore was directed to respond to specific question requesting certain information concerning cable television operations at Gridley, Kansas and an explanation for any failure to comply with the Commission's regulations. Mr. Moore, by his attorney, has filed a letter stating that the information requested is contained in a simultaneously-filed document described as a "Motion for Declaratory Ruling," which we are treating as his response to the April 14, 1975 letter.

3. The motion confirms that cable television service commenced at Gridley, Kansas, a community located outside all major and smaller television markets, in September, 1974, and that the system, which is operated by Coffey County Community TV Co. and franchised by the City of Gridley, distributes the following television broadcast stations to 113 subscribers:

KMBC-TV (ABC, Channel 9) Kansas City, Missouri
KCMO-TV (CBS, Channel 5) Kansas City, Missouri
KBMA-TV (Ind., Channel 41) Kansas City, Missouri
WDAF-TV (NBC, Channel 4) Kansas City, Missouri
KTSB (NBC, Channel 27) Topeka, Kansas
WIBW-TV (CBS, Channel 13) Topeka, Kansas
KTWU, Educ., Channel 11) Topeka, Kansas
KOAM-TV (NBC, Channel 7) Pittsburg, Kansas

However, the motion fails to specify the exact relationship between Coffey County Community TV Co. and Kyle D. Moore.

4. Specifically, the motion requests the Commission to issue a declaratory ruling affirming the right of Coffey County Community TV Co. to continue carriage of broadcast signals on the Gridley system. In support of the requested ruling, the system contends that it required no federal authorization prior to commencing cable television service and needs no further authorization to continue. Central to this contention is petitioner's argument that a certificate of compliance constitutes a license which the Commission does not have statutory jurisdiction to issue and which is unnecessary for a "simple reception service" such as the cable television system at Gridley.

5. By its own admission, the cable television system at Gridley, Kansas commenced operation and continues to operate in contravention of the Commission's Rules. Moreover, in view of the decisions in "United States v. Midwest Video Corp.," 406 U.S. 649 (1972), and "United States v. Southwestern Cable Co.," 392 U.S. 157 (1968), in which the Supreme Court sustained the Commission's jurisdiction to regulate cable television, we find that the above described jurisdictional contentions of the "Motion for Declaratory Ruling" are without merit. The provisions of § 76.11 of our rules, which require all proposed or existing cable television systems to obtain a certificate of compliance before initiating or adding service, apply as completely to Coffey County Community TV Co. as they have to the thousands of cable television systems with varying sizes and service packages that have been certified since the adoption of the Cable Television Report and Order in 1972.

Accordingly, *It is ordered,* That pursuant to sections 312 (b) and (c) and 409(a) of the Communications Act of 1934, as amended, 47 U.S.C. 312 (b) and (c) and 409(a), Coffey County Community TV Co. is directed to show cause why it should not be ordered to cease and desist from further violation of Part 76 of the Commission's rules and regulations on its cable television system at Gridley, Kansas.

It is further ordered, That Coffey County Community TV Co. is directed to appear and give evidence upon the issues specified below at a hearing to be held in Washington, D.C. at a time and place

before an Administrative Law Judge to be specified by subsequent order, unless the hearing is waived in which event a written statement may be submitted:

(1) To determine the nature and scope of cable television operations at Gridley, Kansas, including the identities and positions held of all stockholders, officers, directors and management of Coffey County Community TV Company;

(2) To determine whether the cable television system at Gridley, Kansas commenced operation in violation of § 76.11 of the Commission's Rules;

(3) To determine whether the cable television system at Gridley, Kansas has operated in violation of § 76.11 of the Commission's rules;

(4) To determine whether the cable television system at Gridley, Kansas continues to operate in violation of the Commission's Rules; and

(5) To determine whether Coffey County Community TV Company should be ordered to cease and desist from violating § 76.11 of the Commission's rules.

It is further ordered, That the Chief, Cable Television Bureau, is made a party to this proceeding.

It is further ordered, That the Secretary of the Commission shall send copies of this order by certified mail to Coffey County Community TV Company.

Adopted: May 29, 1975.

Released: June 6, 1975.

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

[FR Doc.75-17768 Filed 7-8-75;8:45 am]

[Docket Nos. 20528-20531]

THOMPSON FLYING SERVICE, ET AL.

Designating Applications for Consolidated Hearing on Stated Issues

In re Applications of Thompson Flying Service, Salt Lake City, Utah, Docket No. 20528, File No. 163-A-RL-114; Salt Lake City Corporation, Salt Lake City, Utah, Docket No. 20529, File No. 94-A-L-124; Key Transportation, Inc., Salt Lake City, Utah, Docket No. 20530, File No. 205-A-L-114; Interwest Aviation Corporation, Salt Lake City, Utah, for an Aeronautical Advisory Station to serve the Salt Lake City International Airport, Salt Lake City, Utah, Docket No. 20531, File No. 33-A-L-114.

1. Thompson Flying Service (hereinafter called Thompson) has timely filed an application for renewal of aeronautical advisory station KPP-3 to serve the Salt Lake City International Airport at Salt Lake City, Utah, and the Salt Lake City Corporation (hereinafter called City), Key Transportation, Inc. (hereinafter called Key) and the Interwest Aviation Corporation (hereinafter called Interwest) have filed a new application for authority to operate an aeronautical advisory station at the same airport. Since § 87.251(a) of the Commission's rules provides that only one aeronautical advisory station may be authorized at a landing area, the above-captioned applications are mutually exclusive. Accordingly it is necessary to designate the applications for comparative hearing in order to determine which, if any, should be granted. Except for the issues herein, each applicant is otherwise qualified.

2. Key and Interwest have alleged that the present licensee (Thompson) may have violated § 87.257(b) of the rules by not providing impartial information to aircraft concerning available ground services. In addition, Interwest has alleged that Thompson did not give written notice of their intent to file a renewal application (which was filed with the Commission on October 20, 1969) for station KPP-3 to all aviation service organizations, so-called fixed-base operators, located at the landing area, as required by § 87.251(b) of the rules.[1]

3. In view of the foregoing, *it is ordered,* That pursuant to the provisions of section 309(e) of the Communications Act of 1934, as amended, and § 0.331 of the Commission's rules, the above-captioned applications are hereby designated for hearing in a consolidated proceeding at a time and place to be specified in a subsequent Order on the following comparative issues:

(a) To determine which applicant would provide the public with better aeronautical advisory service based on the following considerations:

(1) Location of the fixed-base operation and proposed radio station in relation to the landing area and traffic patterns;

(2) Hours of operation;

(3) Personnel available to provide advisory service;

(4) Experience of applicant and employees in aviation and aviation communications;

(5) Ability to provide information pertaining to primary and secondary communications as specified in § 87.257 of the Commission's rules;

(6) Proposed radio system including control and dispatch points; and

(7) The availability of the radio facilities to other fixed-base operators.

(b) To determine whether Thompson has operated aeronautical advisory station KPP-3 in violation of § 87.257(b) by not providing impartial information concerning available ground services; and

(c) To determine whether Thompson gave written notice of their intent to file a renewal application for station KPP-3 (for the renewal application filed with the Commission on October 20, 1969) to all aviation service organizations, so-called fixed-base operators located on the landing area, as required by § 87.251 (b) of the rules; and

(d) To determine in light of the evidence adduced on the foregoing issues which of the applications should be granted.

4. *It is further ordered,* That the burden of proceeding with the introduction of evidence and the burden of proof on issues (b) and (c) shall be on Thompson; and on all other issues, the burdens are on each applicant with respect to its application, except issue (d) which is conclusory.

5. *It is further ordered,* That to avail themselves of an opportunity to be heard, Thompson, City, Key and Interwest, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date set for hearing and present evidence on the issues specified in this Order. Failure to file a written appearance within the time specified may result in dismissal of the application with prejudice.

Adopted: June 26, 1975.

Released: July 2, 1975.

[SEAL] ARLAN K. VAN DOORN,
Acting Chief, Safety and Special Radio Services Bureau.

[FR Doc.75-17767 Filed 7-8-75;8:45 am]

[1] Exchanges of letters from the Commission's staff to Thompson and Interwest have failed to satisfactorily resolve this allegation and, therefore, the question of whether Thompson did in fact notify all fixed-base operators located at the Salt Lake International Airport during October 1969 has been made an issue in this proceeding.

FEDERAL DEPOSIT INSURANCE CORPORATION

INSURED BANKS

Joint Call for Report of Condition

Pursuant to the provisions of section 7(a)(3) of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1817(a)(3)), each insured bank is required to make a Report of Condition as of the close of business June 30, 1975, to the appropriate agency designated herein, within ten days after notice that such report shall be made: *Provided,* That if such reporting date is a nonbusiness day for any bank, the preceding business day shall be its reporting date.

Each national bank and each bank in the District of Columbia shall make its original Report of Condition on Office of the Comptroller Form, CC-8022-05—Call No. 494,[1] and shall send the same to the Comptroller of the Currency and shall send a signed and attested copy thereof to the Federal Deposit Insurance Corporation. Each insured State bank which is a member of the Federal Reserve System, except a bank in the District of Columbia, shall make its original Report of Condition on Federal Reserve Form 105—Call No. 216[1] and shall send the same to the Federal Reserve Bank of the District wherein the bank is located and shall send a signed and attested copy thereof to the Federal Deposit Insurance Corporation. Each insured State bank not a member of the Federal Reserve System, except a bank in the District of Columbia and a mutual savings bank, shall make its original Report of Condition

[1] Filed as part of original document.

and one copy thereof on FDIC Form 64—Call No. 112 [1] and shall send the same to the Federal Deposit Insurance Corporation.

The original Report of Condition required to be furnished hereunder to the Comptroller of the Currency and the copy thereof required to be furnished to the Federal Deposit Insurance Corporation shall be prepared in accordance with "Instructions for Preparation of Consolidated Reports of Condition by National Banking Associations," dated November 1972 and any amendments thereto.[1] The original Report of Condition required to be furnished hereunder to the Federal Reserve Bank of the District wherein the bank is located and the copy thereof required to be furnished to the Federal Deposit Insurance Corporation shall be prepared in accordance with "Instructions for the Preparation of Reports of Condition by State Member Banks of the Federal Reserve System," dated January 1973 and any amendments thereto.[1] The original Report of Condition and the copy thereof required to be furnished hereunder to the Federal Deposit Insurance Corporation shall be prepared in accordance with "Instructions for the Preparation of Report of Condition on Form 64 by Insured State Banks Not Members of the Federal Reserve System," dated December 1970, and any amendments thereto.[1]

Each insured mutual savings bank not a member of the Federal Reserve System shall make its original Report of Condition and one copy thereof on FDIC Form 64 (Savings),[1] prepared in accordance with "Instructions for the Preparation of Report of Condition on Form 64 (Savings) and Report of Income on Form 73 (Savings) by Insured Mutual Savings Banks," dated December 1971, and any amendments thereto,[1] and shall send the same to the Federal Deposit Insurance Corporation.

[SEAL] FRANK WILLE,
Chairman, Federal Deposit Insurance Corporation.

JUSTIN T. WATSON,
Acting Comptroller of the Currency.

GEORGE W. MITCHELL,
Vice Chairman, Board of Governors of the Federal Reserve System

[FR Doc.75-17747 Filed 7-8-75;8:45 am]

FEDERAL MARITIME COMMISSION

[75-24]

INTERCONEX, INC. v SEA-LAND SERVICE, INC., ET AL.

Filing of Complaint

JULY 2, 1975.

Notice is hereby given that a complaint filed by Interconex, Inc. against Sea-Land Service, Inc., American Export Lines, Inc. and United States Lines, Inc. was served July 2, 1975.

The complaint annexes and makes a part thereof the complaint in Docket 75-19—Colt Industries Operating Corp. v. Interconex, et al., and alleges that respondent carriers are or may be liable to Interconex for all or part of any reparation Interconex may be required to pay as a consequence of the complaint in Docket 75-19.

Hearing in this matter shall commence on or before December 5, 1975.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-17810 Filed 7-8-75;8:45 am]

[Docket No. 75-16; Agreements Nos. 10107, as amended and 10108, as amended]

RATE AGREEMENTS IN TRADE FROM HONG KONG AND TAIWAN TO CERTAIN U.S. PORTS

Enlargement of Time To Reply

Rate agreements in the trade from Hong Kong and Taiwan to ports on the west coast of the United States (Agreement No. 10107) and to ports on the Gulf of Mexico and east coast of the United States (Agreement No. 10108).

Upon request of counsel for interveners in this proceeding, and good cause appearing, time within which reply affidavits and memoranda may be filed in this proceeding is enlarged to and including July 18, 1975.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-17809 Filed 7-8-75;8:45 am]

STOCKARD SHIPPING AND TERMINAL CORP. 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 July 18, 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:

William R. Deasey
Deasey, Scanlan & Bender, Ltd.
Two Girard Plaza, Suite 2900
Philadelphia, Pennsylvania 19102

Agreement No. T-2863-2, between Stockard Shipping and Terminal Corporation (Stockard) and Atlantic and Gulf Stevedores, Inc. (A & G) modifies the parties basic agreement providing for A & G's appointment as Stockard's terminal operating contractor for all terminal operations at Pier 78 South, Philadelphia, Pennsylvania. The purpose of the modification is to extend the term of the basic agreement for one year, to July 31, 1976.

By Order of the Federal Maritime Commission.

Dated: July 3, 1975.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-17808 Filed 7-8-75;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. E-9478]

ALABAMA POWER CO., ET AL.

Notice of Request for Commission Review Accounting Determination; Correction

JUNE 24, 1975.

On June 10, 1975, the Commission issued the above styled notice with Attachment A (40 FR 25267) listing individual utility members of Electric Companies Advertising Program (ECAP) for 1973 and 1974 requesting a shortened procedure in this matter.

Inadvertently, the list included Massachusetts Electric Company of Lawrence, Massachusetts Electric Company of Lowell, Massachusetts Electric Company of Malden and Massachusetts Electric Company of Worcester when in fact it should only have included Massachusetts Electric Company. That Attachment is therefore corrected accordingly.

Additionally, the Attachment, listing 14 additional companies requesting a shortened procedure was omitted. The attachment is corrected by adding the following companies:

Portland General Electric Co.
Public Service Company of Colorado (1973 only)
Public Service Co. of New Hampshire
Public Service Electric & Gas Co.
South Carolina Electric & Gas Company
Southern California Edison Company
Southwestern Electric Power Co.
Texas Power & Light Company
Toledo Edison Company (1973 only)
Union Electric Company (1973 only)
United Illuminating Company (1973 only)
Utah Power & Light Co.
The Washington Water Power Co.
Wisconsin Public Service Corporation

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-17711 Filed 7-8-75;8:45 am]

[1] Filed as part of original document.

[Docket No. RP72-110; PGA75-10]

ALGONQUIN GAS TRANSMISSION CO.

Rate Changes

JULY 1, 1975.

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas"), on June 23, 1975 tendered for filing Third Substitute Sixth Revised Sheet No. 10 to its FPC Gas Tariff, First Revised Volume No. 1.

Algonquin Gas states that this sheet is being filed pursuant to its Purchased Gas Cost Adjustment Provision set forth in section 17 of the General Terms and Conditions of its FPC Gas Tariff, First Revised Volume No. 1. Algonquin Gas further states that the rate change is being filed to reflect a change in purchased gas costs to be paid by Algonquin Gas to its supplier, Texas Eastern Transmission Corporation on August 1, 1975.

Any persons desiring to be heard or to protest said filing should file a petition to intervene a protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8, 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 18, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.75-17712 Filed 7-8-75;8:45 am]

[Docket No. G-18671]

DORCHESTER GAS PRODUCING CO.

Extension of Time

JULY 1, 1975.

On June 25, 1975, Dorchester Gas Producing Company filed a motion to extend the date for filing service of Direct Testimony and Exhibits fixed by order issued June 11, 1975, in the above designated matter. The motion states that the parties have no objection.

Upon consideration, notice is hereby given that the date for Dorchester's filing Direct Testimony and Exhibits is extended to and including July 8, 1975. The date for hearing remains August 5, 1975 at 10 a.m., e.d.t.

MARY B. KIDD,
Acting Secretary.

[FR Doc.75-17713 Filed 7-8-75;8:45 am]

[Docket No. E-9512]

DUKE POWER CO.

Filing of Supplement to Contract

JUNE 30, 1975.

Take notice that on June 23, 1975, Duke Power Company (Duke) tendered for filing a supplement to Duke Rate Schedule FPC No. 144. This contract is the contract between Duke and Laurens Electric Cooperative, Inc. (Laurens). The proposed effective date is June 20, 1975. Duke has requested waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 18, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.75-17714 Filed 7-8-75;8:45 am]

[Docket No. RP72-136; (PGA75-2 and PGA75-2a)]

FLORIDA GAS TRANSMISSION CO.

Filing and Suspending Proposed PGA Rate Change; Filing of Revised Rates

JUNE 30, 1975.

On May 15, 1975, as amended on May 27, 1975, Florida Gas Transmission Company (Florida Gas) filed herein a proposed PGA rate reduction of $1,202,-314 annually in its cost of purchased gas, and an increase of .012 cent per therm in the surcharge to recover deferred purchased gas costs. The changes are proposed to become effective on July 1, 1975.

Notice of Florida Gas' filings were issued on May 21 and June 3 respectively, providing for protests or petitions to intervene to be filed on or before June 16 and June 27 respectively. No protests or petitions have been received in response to the notice.

Our review of Florida Gas' proposed PGA adjustment indicates that it is based in part upon small independent producer and emergency purchases at rates in excess of the rate levels established in Opinion No. 699-H.[1] The proposed rates have not therefore been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or otherwise unlawful. Accordingly, we shall accept Florida Gas' May 15, 1975 PGA filing and suspend it for one day to become effective July 2, 1975, subject to refund.

With regard to the question of small producer purchases, we note that the Supreme Court has recently remanded the small independent producer rulemaking in order for the Commission to enunciate the standards in determining the justness and reasonableness for small producer purchases.[2] As to the emergency purchases, we note that the U.S. Circuit Court of Appeals for the D.C. Circuit has recently set aside Order No. 491, *et al.*[3] holding that the Commission exceeded its authority under the Natural Gas Act.[4] We shall, at an appropriate future time, set the issue of the justness and reasonableness of these costs for hearing.

Our review of Florida Gas' proposed tariff sheet indicates that the claimed increased costs other than those associated with that portion of small producer and emergency purchases in excess of Opinion No. 699-H complies with the standards set forth in Docket No. R-406. Accordingly, Florida Gas may file substitute tariff sheets to become effective July 1, 1975, reflecting costs other than that portion of claimed costs associated with small producer and emergency purchases in excess of the rate levels prescribed by Opinion No. 699-H.

The Commission finds: (1) It is necessary and appropriate in the public interest and to aid in the enforcement of the Natural Gas Act that Florida Gas' proposed PGA adjustment tendered on May 15, 1975, be accepted for filing, suspended for one day and permitted to become effective July 2, 1975, subject to refund.

(2) The claimed costs, other than those associated with that portion of small producer and emergency purchases in excess of the rate levels prescribed in Opinion No. 699-H have been reviewed and found to be in compliance with the standards set forth in Docket No. R-406.

The Commission orders: (A) Florida Gas' proposed PGA rate change, as filed herein on May 15, 1975, and as amended on May 27, 1975, and as set forth on First Substitute Seventh Revised Sheet No. 3-A to Florida Gas' FPC Gas Tariff, Original Volume No. 1, is hereby accepted for filing, suspended for one day, and permitted to become effective July 2, 1975, subject to refund.

(B) Florida Gas may file to become effective July 1, 1975, a substitute tariff sheet reflecting that portion of Florida Gas' proposed rates which reflect costs other than those costs associated with that portion of small producer and emergency purchases in excess of the rate levels prescribed in Opinion No. 699-H.

(C) The Secretary shall cause prompt publication of this order to be issued in the FEDERAL REGISTER.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

[FR Doc.75-17715 Filed 7-8-75;8:45 am]

---

[1] Docket No. R-389-B, issued June 21, 1974.

[2] *F.P.C. v. Texaco, Inc.*, 417 U.S. 380 (1974).

[3] Order No. 491, 50 FPC 742 (1973); Order No. 491-A, 50 FPC 848 (1973); Order No. 491-B, 50 FPC 1463 (1973); Order No. 491-C, 50 FPC 1634 (1973).

[4] *Consumer Federation of America, et al. v. F.P.C.* (D.C. Cir., Docket No. 73-20009, issued March 13, 1975).

[Docket No. CI75-319, *et al.*]

GETTY OIL CO., ET AL.

Extension of Procedural Dates

JUNE 23, 1975.

On June 18, 1975, Continental Oil Company, Atlantic Richfield Company, Getty Oil Company and Cities Service Oil Company filed a motion to extend the procedural dates fixed by order issued June 3, 1975, in the above-designated matter.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Applicants' and all Supporting Testimony; September 6, 1975.
Hearing, September 28, 1975 (10:00 a.m. e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-17716 Filed 7-8-75;8:45 am]

[Docket No. CP74-208]

HONEOYE STORAGE CORP.

Petition To Amend

JULY 1, 1975.

Take notice that on June 24, 1975, Honeoye Storage Corporation (Petitioner), 35 Newbury Street, Boston, Massachusetts 02116, filed in Docket No. CP74-208 a petition to amend the order of the Commission issued pursuant to section 7(c) of the Natural Gas Act on February 7, 1975, in said docket to authorize an initial rate for storage of gas in the Honeoye Field, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

Petitioner states that in its application in the instant docket filed February 15, 1974, Petitioner proposed to convert the Honeoye Field in Ontario County, New York, for use as an underground storage field. Further, in a supplement to the application filed August 23, 1974, Petitioner alleges that it lowered its estimated capital cost and lowered its estimated initial rate to a demand charge of $5.516 per Mcf of base daily quantity and an injection and withdrawal charge of 1.01 cents per Mcf of gas. The proposed 100 percent load factor cost resulting from such rates would have been 46 cents per Mcf.

In the instant petition it is proposed that the initial to be effective July 5, 1975, shall include a demand charge of $5.93 per Mcf of base daily quantity and an injection and withdrawal charge of 1.66 cents per Mcf of gas, which result in a 100 percent load factor cost of 50.8 cents per Mcf of gas. The increased charges are stated to be caused by an increased capital cost of $400,000 due to inflation of construction costs between the time of application and construction and because there has been an increase in the cost of compressor fuel which increases the cost of injection and withdrawal.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before July 21, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

MARY B. KIDD,
Acting Secretary.

[FR Doc.75-17717 Filed 7-8-75;8:45 am]

[Docket No. RP75-20]

MISSISSIPPI RIVER TRANSMISSION CORP.

Further Extension of Procedural Dates

JUNE 30, 1975.

On June 23, 1975, Staff Counsel filed a motion to extend the procedural dates fixed by order issued October 31, 1974, as most recently modified by notice issued May 27, 1975, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Staff Testimony, August 15, 1975.
Service of Intervenor Testimony, September 5, 1975.
Service of Company Rebuttal, September 26, 1975.
Hearing, October 14, 1975 (10:00 a.m. e.d.t.).

By direction of the Commission.

MARY B. KIDD,
Acting Secretary.

[FR Doc.75-17718 Filed 7-8-75;8:45 am]

[Docket No. E-9497]

OHIO EDISON CO.

Extension of Time

JULY 1, 1975.

On June 25, 1975, City of Wadsworth, Ohio, filed a request for extension of time to file petitions to intervene or protests fixed by notice issued June 20, 1975, in the above-designated matter.

Upon consideration, notice is hereby given that the date for filing petitions to intervene, and protests is extended to and including July 14, 1975.

MARY B. KIDD,
Acting Secretary.

[FR Doc.75-17719 Filed 7-8-75;8:45 am]

[Docket No. E-9508]

PUBLIC SERVICE COMPANY OF NEW MEXICO

Agreement

JUNE 30, 1975.

Take notice that Public Service Company of New Mexico (Company), on June 23, 1975, tendered for filing an agreement to provide wheeling service for Plains Electric Generation and Transmission Cooperative, Inc. (Plains).

The Company states that this Wheeling Agreement was initiated to provide Plains with wheeling service to receive their power and energy from West Mesa Switching Station, near Albuquerque, New Mexico, to Hidalgo Switching Station near Lordsburg, New Mexico. The Company states that the Wheeling Agreement is to become effective September 1, 1975. The Company states that copies of this filing were served upon the public utility's jurisdictional customers being served under this agreement.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 15, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.75-17720 Filed 7-8-75;8:45 am]

[Docket No. E-9510]

PUBLIC SERVICE COMPANY OF NEW MEXICO

Cancellation

JUNE 30, 1975.

Take notice that on June 23, 1975, Public Service Company of New Mexico (PNM) tendered for filing a Notice of Cancellation of PNM's Rate Schedule FPC No. 19 and Exhibit A thereto effective May 31, 1975.

PNM states that notice of the proposed cancellation has been served upon Plains Electric Generation and Transmission Cooperative, Inc. and the New Mexico Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 15, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing

are on file with the Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.75-17721 Filed 7-8-75;8:45 am]

[Docket No. E-9511]

PUBLIC SERVICE COMPANY OF NEW MEXICO

Agreement

JUNE 30, 1975.

Take notice that Public Service Company of New Mexico (the Company), on June 23, 1975, tendered for filing an agreement to provide for interchange of energy between itself and the United States Department of Interior, Bureau of Reclamation, Colorado River Storage Project (CRSP).

The Company states that this Interchange Agreement was initiated to allow the Company and CRSP to achieve an efficient utilization of their respective capacity. The Company states that CRSP will deliver energy to replace the Company's oil-fired or other high cost generation and it will return a like amount of energy, when available, and when produced by low cost generation. The Company states that the Interchange Agreement is to become effective June 13, 1975, and, therefore, request a waiver of the notice requirements. The Company states that copies of the filing were served upon the public utility's jurisdictional customers being served under this agreement.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 15, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.75-17722 Filed 7-8-75;8:45 am]

[Docket No. E-9509]

PUBLIC SERVICE COMPANY OF NEW MEXICO

Agreement and Cancellation

JUNE 30, 1975.

Take notice that Public Service Company of New Mexico (Company), on June 23, 1975, tendered for filing an agreement to provide power and energy transmission service for the Navajo Tribal Utility Authority to Window Rock and Church Rock, New Mexico.

The Company states that this wheeling agreement was initiated to provide the Navajo Tribal Utility Authority with wheeling service to receive Arizona Public Service Company power and energy. The Company states that the wheeling agreement is to become effective May 1, 1975, and, therefore, requests a waiver of the notice requirements.

The Company states that copies of the filing were served upon the public utility's jurisdictional customer being served under this agreement and the New Mexico Public Service Commission.

Take notice that Public Service Company of New Mexico (Company), on June 16, 1975, tendered for filing Cancellation of Public Service Company of New Mexico FPC Rate Schedule No. 3. Supplement No. 1.

The Company states that the Company and the Navajo Tribal Utility Authority, the Company's sole customer served under the above referenced rate schedule, have agreed that the electric service provided thereby is no longer required and request that the Company's FPC Rate Schedule No. 3, Supplement No. 1 be canceled effective May 1, 1975.

The Company states that copies of the filing were served upon the public utility's jurisdictional customer and the New Mexico Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 15, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.75-17723 Filed 7-8-75;8:45 am]

[Docket No. CI75-414]

TED R. STALDER

Order Providing for Hearing, Granting Intervention, Directing Action and Prescribing Procedures

JULY 1, 1975.

On January 10, 1975, Ted R. Stalder (Stalder) filed for permission to abandon a sale of gas made to Tennessee Gas Pipeline Company (Tennessee) which involves gas from the Coldspring Field, San Jacinto County, Texas. This sale was made pursuant to a contract executed between the parties on June 5, 1950, which is still in effect following subsequent amendment. Stalder originally requested abandonment of the sale from the instant acreage because the leases had become depleted and are incapable of producing gas. In response to the Commission's letter for further information of February 14, 1975, Stalder replied in his March 6, 1975, letter, that in his opinion there are no known reserves remaining, that Tennessee has discriminated against him by subjecting his operation to a higher pipeline pressure than other operators on the line, and that Tennessee would not adjust the contract price upwards pursuant to Commission Order No. 481 unless he was able to develop new reserves.

On February 27, 1975, Tennessee filed a petition to intervene in opposition to Stalder's proposed abandonment and requested a formal hearing. Tennessee states that to the extent that there are recoverable reserves that will justify additional costs necessary to continue service, it is willing to pay Stalder an increased price for this gas. Because Tennessee has opposed Stalder's application and because Tennessee's participation may be in the public interest we will grant its intervention since no other party can adequately represent its interest.

The application and petition to intervene raised factual and legal questions which should be resolved in an evidentiary proceeding.

Such presentation of evidence by Stalder should include, inter alia, cost evidence to substantiate any increase in the price of his natural gas production which is based on any claim of economic infeasibility of production at the current rate paid by Tennessee.

The Commission finds: (1) Good cause exists for setting for formal hearing the issues involved in the aforementioned pleadings and for establishing the procedures for that hearing all as hereinafter ordered.

(2) The participation of Tennessee may be in the public interest.

The Commission orders: (A) Pursuant to the authority of the Natural Gas Act, particularly sections 7 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act, (18 CFR, Chapter 1), a public hearing shall be held commencing August 11, 1975, at 10 a.m. (e.d.t.) in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, concerning the propriety of issuing a certificate of public convenience and necessity to the applicant for the proposed abandonment of the sale requested by its application of January 10, 1975.

(B) The direct case of Ted R. Stalder and that of Tennessee Gas Pipeline in regard to their respective positions on all issues in this proceeding, inclusive of those specified in this order, shall be filed and served on all parties of record including the Commission Staff on or before July 28, 1975. Following the conclusion of cross-examination thereon, the Presiding Law Judge shall set such dates as are reasonable for the submission of answering and rebuttal cases, if any.

(C) An Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose, (See Delegation of Authority, (18 CFR 3.5 (d)), shall preside at the hearings in this proceeding and shall prescribe relevant

procedural matters not herein provided.

(D) The petitioner hereinabove set forth is permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission: *Provided, however,* That the participation of such intervenor shall be limited to matters affecting asserted rights and interests specifically set forth in the petition to intervene, and *Provided, further,* That admission of said intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order of the Commission entered in this proceeding.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

[FR Doc.75-17724 Filed 7-8-75;8:45 am]

[Docket Nos. RP73-114, RP74-24; PGA 75-3]

TENNESSEE GAS PIPELINE CO.

Order Accepting for Filing and Permitting To Become Effective PGA Rate Change and Initiating Investigation

JUNE 30, 1975.

On May 16, 1975, Tennessee Gas Pipeline Company (Tennessee) filed herein a proposed PGA rate change reflecting (1) an increase of $15.2 million in Tennessee's cost of purchased gas, and (2) a reduction from 9.56 cents per Mcf to (0.29) cents per Mcf in the surcharge to recover deferred purchase gas costs. The new rates are proposed to become effective on July 1, 1975.

Notice of Tennessee's filing was issued on May 23, 1975, providing for protests or petitions to intervene to be filed on or before June 16, 1975. No protests or petitions have been received in response to the notice.

A review of Tennessee's filing discloses that the proposed new rates are predicated, in part, upon two small producer purchases at rates in excess of the level established in Opinion No. 699-H. Tennessee's proposed rates therefore may not be just and reasonable. Accordingly, we shall initiate an investigation under section 5 of the Natural Gas Act to determine the justness and reasonableness of the two small producer purchases involved. However, since the Supreme Court has remanded the small producer rulemaking proposal to the Commission for the purpose of enunciating standards, it would be premature to establish a procedural schedule for the investigation.

The Commission finds: It is necessary and proper in the public interest and in carrying out the provisions of the Natural Gas Act, that the Commission enter upon an investigation concerning the lawfulness of the small producer rates in excess of the levels established in Opinion No. 699-H.

The Commission orders: (A) Tennessee's proposed PGA rate change, as filed herein on May 16, 1975, and consisting of Eighth Revised Sheet Nos. 12A and 12B to its FPC Gas Tariff, Ninth Revised Volume No. 1, are accepted for filing and permitted to become effective on July 1, 1975.

(B) Pursuant to the authority of the Natural Gas Act, particularly section 5 thereof, and the Commission's rules and regulations, an investigation shall be held to determine the lawfulness of Tennessee's small producer purchases at rates in excess of the levels established in Opinion No. 699-H.

(C) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

[FR Doc.75-17725 Filed 7-8-75;8:45 am]

[Docket No. RP74-41; PGA 75-8]

TEXAS EASTERN TRANSMISSION CO.

Filing and Suspending Proposed PGA Rate Adjustment and Accepting Alternate Revised Tariff Sheets

JUNE 30, 1975.

On May 16, 1975, Texas Eastern Transmission Company (Texas Eastern) tendered for filing alternate revised tariff sheets to track a rate decrease of $30,936,652 in the cost of purchased gas and to recover the $1,379,520 balance in the deferred purchased gas cost account as of February 28, 1975. In addition, Texas Eastern filed a surcharge pursuant to section 12.4 of its FPC Gas tariff to recover $18,319,201 of demand charge adjustments. Protests and petitions to intervene were due by June 13, 1975. None have been received.

One set of revised tariff sheets reflects small producer and emergency purchases in excess of the rates allowed in Opinion No. 699-H.[1] The proposed rates have not therefore been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or otherwise unlawful. Accordingly, we shall accept the sheets identified in footnote one and suspend them for one day to become effective July 2, 1975, subject to refund.

With regard to the question of small producer purchases, we note that the Supreme Court has recently remanded the small independent producer rulemaking in order for the Commission to enunciate the standards in determining the justness and reasonableness for small producer purchases.[2] As to the emergency purchases, we note that the U.S. Circuit Court of Appeals for the D.C. Circuit has recently set aside Order No. 491, et al.[3] holding that the Commission exceeded its authority under the Natural Gas Act.[4] We shall, at an appropriate future time, set the issue of the justness and reasonableness of these costs for hearing.

The alternate set of revised tariff sheets[5] do not reflect costs in excess of those allowed in Opinion No. 699-H. We shall accept these tariff sheets to be effective July 1, 1975.

The underlying base tariff rates remain subject to refund in Docket No. RP74-41.

The Commission finds: (1) It is necessary and appropirate in the public interest and to aid in the enforcement of the Natural Gas Act that Texas Eastern's proposed revised tariff sheets identified in footnote one of this order be accepted for filing, suspended for one day and permitted to become effective July 2, 1975, subject to refund pending further Commission action in this docket and Docket No. RP74-41.

(2) The alternate set of revised tariff sheets as identified in footnote five of this order should be accepted and permitted to become effective July 1, 1975.

The Commission orders: (A) The Twelfth Revised Sheet Nos. 14, 14-A through 14-D to FPC Gas Tariff, Fourth Revised Volume No. 1 are hereby accepted for filing to become effective July 1, 1975. The underlying rates shall remain subject to refund in Docket No. RP74-41.

(B) The Revised Twelfth Revised Sheet Nos. 14, 14-A through 14-D to FPC Gas Tariff, Fourth Revised Volume No. 1 are hereby accepted for filing and suspended for one day to become effective July 2, 1975, subject to refund in this docket and Docket No. RP74-41.

(C) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

[FR Doc.75-17726 Filed 7-8-75;8:45 am]

[Docket Nos. RP74-48, RP75-3; AP75-1]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Order Rejecting Advance Payments Tracking Filing, and Granting Untimely Petition To Intervene

JUNE 30, 1975.

On May 16, 1975, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing seven revised tariff sheets to its FPC Gas Tariff, First Revised Volume No. 1 and Original Volume No. 2.[1] This filing is made, Transco states, purusant to section 6 of Article III of the "Agreement as to Rates of Transcon-

---

[1] Revised Twelfth Revised Sheet Nos. 14, 14-A through 14-D to FPC Gas Tariff, Fourth Revised Volume No. 1.

[2] "F.P.C. v. Texaco, Inc." 417 U.S. 380 (1974).

[3] Order No. 491, 50 FPC 742 (1973); Order No. 491-A, 50 FPC 848 (1973); Order No. 491-B, 50 FPC 1463 (1973); Order No. 491-C, 50 FPC 1634 (1973).

[4] "Consumer Federation of America, et al. v. F.P.C." (D.C. Cir., Docket No. 73-20009, issued March 13, 1975).

[5] Twelfth Revised Sheet Nos. 14, 14-A through 14-D to FPC Gas Tariff, Fourth Revised Volume No. 1.

[1] These seven revised sheets are designated Second Substitute Thirteenth Revised Sheet No. 5 and Second Substitute Ninth Revised Sheet No. 6 to First Revised Volume No. 1; and Fourth Substitute Fourteenth Revised Sheet No. 52, Third Substitute First Revised Sheet No. 121, Fourth Substitute Tenth Revised Sheet No. 321, Fourth Substitute Sixth Revised Sheet No. 416, and Fourth Substitute Fifth Revised Sheet No. 495 to Original Volume No. 2.

tinental Gas Pipe Line Corporation" (Agreement). Said Agreement, representing a settlement of all but three issues in Docket Nos. RP74–48 and RP75–3, was certified to the Commission for approval on May 16, 1975, by Presiding Administrative Law Judge Isaac D. Benkin.

According to Transco, the instant filing proposes to include in rate base advance payments in the amount of $32,287.081. None of this amount is reflected in Transco's currently-effective rates. Transco proposes that the instant filing be made effective July 1, 1975, "subject to Commission approval of the Agreement."

Notice of the subject filing was issued on May 22, 1975, with comments, protests and petitions to intervene due on or before June 6, 1975. No responses were timely received. However, on June 9, 1975, Sun Oil Company (Sun) petitioned to intervene in this proceeding. Good cause appearing, Sun's untimely petition shall be granted, as hereinafter ordered.

As noted above, the instant advance payment tracking filing is made pursuant to a provision in the settlement agreement in the captioned dockets. This provision would permit, subject to certain conditions, the tracking of advances from Transco to producers of natural gas. However, because we have not yet taken any action on said settlement agreement, Transco, as of this date, has no authority to track the advance payments here in question. Accordingly, the instant filing must be rejected as premature. This rejection is, however, without prejudice to Transco's right to make advance payment tracking filings in the event the tracking provision is approved at a later date.

The Commission finds: (1) Good cause exists to grant Sun Oil Company's untimely petition to intervene in this proceeding, as hereinafter ordered and conditioned.

(2) Good cause exists to reject the tariff sheets listed in footnote 1 of this order, without prejudice to Transco's right to make advance payment tracking filings in the event the aforementioned advance payment tracking provision is approved at a later date.

The Commission orders: (A) Sun Oil Company is hereby permitted to intervene in this proceeding, subject to the rules and regulations of the Commission; *Provided, however,* That participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to intervene; and *Provided, further,* That the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(B) The intervention granted herein shall not be the basis for delaying or deferring any procedural schedules heretofore established for the orderly and expeditious disposition of this proceeding.

(C) Transco's May 16, 1975, advance payment tracking filing is hereby rejected, without prejudice to Transco's right to make advance payment tracking filings in the event the tracking provision in question is approved by this Commission at a later date.

(D) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

[FR Doc.75–17727 Filed 7–8–75;8:45 am]

[Docket No. RP72–133; PGA75–3]

UNITED GAS PIPE LINE CO.

Order Accepting for Filing and Suspending Proposed PGA Rate Adjustment

JUNE 30, 1975.

On May 16, 1975, United Gas Pipe Line Company (United) tendered for filing with the Commission a proposed revised tariff sheet [1] pursuant to its PGA clause which reflects (1) an increase of 1.85¢ per Mcf designed to track $16,649,991 per year in the current cost of purchased gas and (2) a reduction in United's surcharge from 16.06¢ per Mcf to a negative surcharge credit of 0.2¢ per Mcf which was designed to recoup the balance in United's Unrecovered Purchased Gas Cost Account. United has requested a July 1, 1975 effective date for its filing.

Notice of United's filing was issued on May 28, 1975, with any comments, protests or petitions to intervene due on or before June 16, 1975. The Commission has received no comments, protests or petitions to intervene.

Our review of United's proposed PGA adjustment indicates that it is based in part upon small independent producer and emergency purchases at rates in excess of the rate levels established in Opinion No. 699–H.[2] United's proposed PGA adjustment additionally includes the costs associated with alleged non-jurisdictional purchases which are at issue in the rate proceeding pending in Docket No. RP74–83 and costs associated with purchases from affiliates which are the subject of proceedings in Docket No. RP70–13, et al. Moreover, United's proposed PGA adjustment includes the costs of anticipated increases by Pennzoil Producing Company and Sun Oil Company which have not been approved by Commission order.

The proposed rates have not therefore been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or otherwise unlawful. Accordingly, we shall accept United's May 16, 1975 PGA filing and suspend it for one day to become effective July 2, 1975, subject to refund.

With regard to the question of small producer purchases, we note that the Supreme Court has recently remanded the small independent producer rulemaking in order for the Commission to enunciate the standards in determining the justness and reasonableness for small producer purchases.[3] As to the emergency purchases, we note that the U.S. Circuit Court of Appeals for the D.C. Circuit has recently set aside Order No. 491, et al.[4] holding that the Commission exceeded its authority under the Natural Gas Act.[5] We shall, at an appropriate future time, set the issue of the justness and reasonableness of these costs for hearing.

With respect to the purchases of gas from affiliates and, from alleged non-jurisdictional producers, since the issues are the subjects of the pending proceedings in Docket Nos. RP70–13, et al. and RP74–83, we shall consolidate these issues with those respective dockets for their disposition.

Our review of United's proposed tariff sheet indicates that the claimed increased costs other than those associated with alleged non-jurisdictional purchases, affiliate purchases, and with that portion of small producers and emergency purchases in excess of Opinion No. 699–H complies with the standards set forth in Docket No. R–406. Accordingly, United may file a substitute tariff sheet to become effective July 1, 1975, reflecting increased costs other than that portion of claimed increased costs associated with small producer and emergency purchases in excess of the rate levels prescribed by Opinion No. 699–H. We shall further require United to modify its filing to eliminate the impact of all anticipated producer rate changes which do not become effective by July 1, 1975.

The Commission finds: (1) It is necessary and appropriate in the public interest and to aid in the enforcement of the Natural Gas Act that United's proposed PGA adjustment tendered on May 16, 1975 be accepted for filing, suspended for one day and permitted to become effective July 2, 1975, subject to refund pending further Commission action in this docket and in Docket Nos. RP70–13, et al. and RP74–83.

(2) The Commission's acceptance of United's May 16, 1975 filing should be conditioned on United's modification of Twenty-Fifth Revised Sheet No. 4 to eliminate all producer rate charges which do not become effective by July 1, 1975.

(3) The costs included in United's May 16, 1975 filing associated with affiliate purchases should be consolidated with Docket No. RP70–13, et al., for disposition.

(4) The costs included in United's May 16, 1975 filing associated with alleged non-jurisdictional producers should be consolidated with Docket No. RP74–83 for disposition.

---

[2] Docket No. R–389–B, issued June 21, 1974.

[1] Twenty-fifth Revised Sheet No. 4 of FPC Gas Tariff First Revised Volume No. 1.

[3] "F.P.C. v. Texaco, Inc.," 417 U.S. 380 (1974).

[4] Order No. 491, 50 FPC 742 (1973); Order No. 491–A, 50 FPC 848 (1973); Order No. 491–B, 50 FPC 1463 (1973); Order No. 491–C, 50 FPC 1634 (1973).

[5] "Consumer Federation of America, et al. v. F.P.C." (D.C. Cir., Docket No. 73–20009, issued March 13, 1975).

(5) The claimed increased costs, other than those associated with affiliate purchases, alleged non-jurisdictional purchases and with that portion of small producer and emergency purchases in excess of the rate levels prescribed in Opinion No. 699–H have been reviewed and found to be in compliance with the standards set forth in Docket No. R–406.

The Commission orders: (A) United's proposed Twenty-fifth Revised Sheet No. 4 to its First Revised Volume No. 1 of the FPC Gas Tariff is hereby accepted for filing, suspended for one day, and permitted to become effective July 2, 1975, subject to refund, pending further Commission order in this docket and in Docket Nos. RP74–83 and RP70–13, et al.

(B) This acceptance is conditioned on United's modifying its Twenty-fifth Revised Sheet No. 4 to eliminate all producer rate charges which do not become effective by July 1, 1975.

(C) United may file to become effective July 1, 1975, a substitute tariff sheet reflecting that portion of United's proposed rates which reflect costs other than those costs associated with that portion of small producer and emergency purchases in excess of the rate levels prescribed in Opinion No. 699–H.

(D) The inclusion of costs in the instant filing associated with alleged non-jurisdictional purchases which are at issue in Docket No. RP74–83 and the inclusion of costs associated with purchases from affiliates which are the subject of the proceeding in Docket Nos. RP70–13, et al., are hereby consolidated with the proceedings in those respective dockets for disposition.

(E) The Secretary shall cause prompt publication of this order to be issued in the FEDERAL REGISTER.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

[FR Doc.75–17728 Filed 7–8–75;8:45 am]

[Docket Nos. RP73–94; PGA75–2, PGA75–1, PGA74–2]

VALLEY GAS TRANSMISSION CORP.

Filing and Suspending Proposed PGA Rate Change and Consolidating Proceedings

JUNE 30, 1975.

On May 16, 1975, Valley Gas Transmission Corporation (Valley) tendered for filing proposed PGA rate reductions[1] for sales to its three pipeline customers, Tennessee Gas Transmission Company (Tennessee), United Gas Pipe Line Company (United) and National Fuel Supply Corporation (National). The reductions are primarily a result of reduced PGA surcharges and are proposed to become effective on July 1, 1975.

The filing was noticed with responses due on or before June 13, 1975. No responses have been received.

Our review of Valley's PGA filing indicates that it, like the previous filings in Docket Nos. RP73–94, PGA74–2 and PGA75–1, reflects a dispute over dedication of reserves from the Petronilla field between Tennessee and National (formerly Iroquois Gas Corporation). On December 27, 1974, the Commission set the dedication issue for hearing in Docket Nos. RP73–94, et al. By order issued June 17, 1975 in Docket No. G–19618, et al., the rate issue in Docket No. RP73–94 was severed from the proceedings and further procedures were prescribed in the remaining dockets of G–19618 et al. In light of the unresolved issues of the proper dedication of the Petronilla reserves, we shall accept for filing and suspend for one day Valley's May 16, 1975, filing until July 2, 1975, when it shall become effective, subject to refund.

Since certain issues of law and fact in the instant docket are similar to those in Docket No. RP73–94, which was severed from the proceedings in G–19618, et al., as well as in Docket Nos. RP73–94, PGA74–2, and PGA75–1, we shall consolidate Docket Nos. RP73–94, PGA74–2, PGA75–1 and PGA75–2 for purposes of hearing and decision. However, in light of the pendency of the Petronilla reserves dedication issue in Docket Nos. G–19618, et al., we shall prescribe no procedural dates, but shall make the outcome in the instant consolidated proceedings subject to the final determination of the Petronilla reserves issue in Docket Nos. G–19618, et al.

The Commission finds: (1) It is necessary and appropriate in the public interest to accept for filing and suspend for one day Valley's May 16, 1975, PGA filing and to permit such filing to become effective, subject to refund as of July 2, 1975, as hereinafter ordered and conditioned.

(2) Good cause exists to consolidate Docket Nos. RP73–94, PGA74–2, PGA75–1 and PGA75–2 for purposes of hearing and decision, as hereinafter ordered and conditioned.

The Commission orders: (A) Valley's May 16, 1975, proposed rate PGA change is accepted for filing and suspended for one day until July 2, 1975, when it shall become effective subject to refund, and subject to the provisions of Ordering Paragraph (B) below.

(B) Docket Nos. RP73–94, PGA74–2, PGA75–1 and PGA75–2 are hereby consolidated for purposes of hearing and decision and the outcome in these consolidated proceedings is hereby made subject to the final determination of the dedication of the Petronilla reserves issue in Docket Nos. G–19618, et al.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

[FR Doc.75–17729 Filed 7–8–75;8:45 am]

[Project No. 2197]

YADKIN, INC.

Application for Change in Land Rights

JULY 1, 1975.

Public notice is hereby given that an application was filed by Yadkin, Inc. on June 17, 1975 and amended on June 20, 1975, under the Federal Power Act (16 U.S.C. 791a–825r) (Correspondence to: LeBoeuf, Lamb, Leiby and MacRae, 140 Broadway, New York, New York 10005) for perpetual easement and two temporary construction easements to allow the North Carolina Board of Transportation to replace and maintain a highway bridge for North Carolina Route 8 (NC–8) crossing the Flat Swamp Creek arm of High Rock Reservoir at Yadkin Project No. 2197, located on the Yadkin-Pee Dee River in Stanley, Montgomery, Davidson, and Rowan Counties, North Carolina. The proposed easements would be located in Davidson County, North Carolina.

Route NC–8 currently crosses Flat Swamp Creek on a steel truss bridge built in 1927, utilizing a 60 foot right-of-way. The Board of Transportation has determined that the existing bridge is inadequate for current and future traffic volumes and is in poor physical condition.

The proposed bridge would utilize the existing right-of-way plus an additional 40 foot right-of-way to be acquired from Yadkin, Inc. The proposed bridge would be 140 feet long and have a 40 foot clear roadway.

The Board of Transportation hopes to enter into contracts in July so that it will not lose substantial Federal financial support. Because of this and the condition of the bridge, the time allowed for response to this notice has been shortened from normal procedures.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 16, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. The application is on file with the Commission and is available for public inspection.

Take further notice that, pursuant to the authority contained in and conferred upon the Federal Power Commission by sections 308 and 309 of the Federal Power Act (16 U.S.C. § 825g, § 825h) and the Commission's rules of practice and procedure, specifically § 1.32(b) (18 CFR § 1.32(b)), as amended by Order No. 518, a hearing may be held without further notice before the Commission on this application if no issue of substance is raised by any request to be heard, protest or petition filed subsequent to this notice within the time required herein and if the applicant or initial pleader requests that the shortened procedure of § 1.32(b) be used. If an issue of substance is so raised or applicant or initial pleader fails

[1] Fourth Revised Sheet No. 2A to FPC Gas Tariff, Original Volume No. 1.

to request the shortened procedure, further notice of hearing will be given.

Under the shortened procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant or initial pleader to appear or be represented at the hearing before the Commission.

MARY B. KIDD,
Acting Secretary.

[FR Doc.75-17730 Filed 7-8-75;8:45 am]

[Docket No. CP74-157]

MICHIGAN WISCONSIN PIPE LINE CO.

Petition To Amend Certificate of Public Convenience and Necessity

JULY 1, 1975.

Take notice that on June 19, 1975, Michigan Wisconsin Gas Pipe Line Company (Petitioner), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP74-157 a petition to amend the order issued by the Commission on September 6, 1974, as amended on December 12, 1974, in said docket, issuing a certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act, by authorizing a reduction in the annual gas purchase entitlements of its customers purchasing gas under Petitioners ACQ, MDQ and LVS rate schedules, all as more fully set forth in the appendix hereto and in the petition to amend on file with the Commission and open to public inspection.

Petitioner states that as a result of its continuing review of the available and prospective gas supplies, it has concluded that it will be necessary to reduce its aggregate annual delivery obligation during the contract year commencing September 7, 1975, by 60 million Mcf, or approximately 7 percent. Petitioner further states that Small General Service customers account for 1.2 percent of its annual sales, and that no reductions in sales volume is proposed for them because their loads are principally residential and small commercial and they lack the flexibility of larger customers in adjusting their operations to reduced sales volumes.

Petitioner states that effectuation of a reduced annual delivery obligation would be accomplished by revisions of Petitioner's FPC Gas Tariff, Second Revised Volume No. 1. Petitioner alleges that under its present tariff the Annual Contract Quantity is equal to 190 times the Maximum Daily Quantity (MDQ) sold under Rate Schedule ACQ-1; 120 times the MDQ sold under Rate Schedule ACQ-2; and 365 the MDQ sold under Rate Schedule MDQ-2. The proposed revised tariff would reduce the Annual Contract Quantities by 7.4 percent, and the resultant volume would equal 176 the MDQ sold under the Rate Schedule ACQ-1; 111 times the MDQ sold under Rate Schedule ACQ-2; and 338 times the MDQ sold under Rate Schedules MDQ-1 and MDQ-2. Petitioner further states that the proposed tariff would provide for a maximum annual volume under the LVS-1 rate schedule equal to 7.4 percent less than the actual purchases during the twelve months that ended August 31, 1974. Petitioner states further that the proposed tariff would also provide for a penalty of $10 per Mcf for annual purchases in excess of Petitioner's annual delivery obligation.

Petitioner alleges that these measures are necessary to reduce its annual sales obligations, because the supply of gas available to it has been steadily declining and that further curtailments are expected. Petitioner states that it anticipates some curtailment of supplies of Canadian gas and is experiencing declining deliverability from reserves from which it has purchased gas in Southwestern Oklahoma, Texas, and southern Louisiana.

The existing and proposed delivery obligations are set forth in the appendix hereto.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 24, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

MARY B. KIDD,
Acting Secretary.

APPENDIX

Comparative Statement of Delivery Obligations
Under Present and Proposed Tariff
(Volumes in Mcf at 14.73 psia)

Company (Col. 1)	Rate Schedule (Col. 2)	Maximum Delivery Obligations Under Present Tariff: Maximum Daily Quantity (Col. 3)	Present Tariff: Days Use (Col. 4)	Present Tariff: Annual Delivery Obligation (Col. 5)	Proposed Tariff: Maximum Daily Quantity (Col. 6)	Proposed Tariff: Days Use (Col. 7)	Proposed Tariff: Annual Delivery Obligation (Col. 8)
Associated Natural Gas Company	ACQ-1	4,865	190	924,350	4,865	176	856,240
	ACQ-2	6,877	120	825,240	6,877	111	763,347
		11,742		1,749,590	11,742		1,619,587
Central Indiana Gas Company Inc.	ACQ-1	700	190	133,000	700	176	123,200
City Gas Company	ACQ-1	5,209	190	989,710	5,209	176	916,784
	MDQ-1	91	365	33,215	91	338	30,758
		5,300		1,022,925	5,300		947,542
Illinois Power Company	ACQ-1	16,100	190	3,059,000	16,100	176	2,833,600
Iowa Electric Light and Power Company	ACQ-1	8,470	190	1,609,300	8,470	176	1,490,720
	MDQ-1	277	365	101,105	277	338	93,626
		8,474		1,710,405	8,747		1,584,346
Iowa Southern Utilities Company	ACQ-1	51,517	190	9,788,230	51,517	176	9,066,992
	ACQ-2	8,483	120	1,017,960	8,483	111	941,613
		60,000		10,806,190	60,000		10,008,605
Keokuk Gas Service Company	ACQ-1	13,321	190	2,530,990	13,321	176	2,344,496
	MDQ-1	679	365	247,835	679	338	229,502
		14,067		2,778,825	14,000		2,573,998
Madison Gas and Electric Company	ACQ-1	129,601	190	24,624,190	129,601	176	22,809,776
	MDQ-1	399	365	145,635	399	338	134,862
		130,000		24,769,825	130,000		22,944,638
Michigan Consolidated Gas Company	ACQ-1	543,627	190	103,289,130	543,627	176	95,678,352
	MDQ-2	830,624	365	303,177,760	830,624	338	280,750,912
		1,374,251		406,466,890	1,374,251		376,429,264
Michigan Gas Utilities Company	ACQ-1	2,263	190	429,970	2,263	176	398,288
	ACQ-2	133,737	120	16,048,440	133,737	111	14,844,807
	MDQ-2	20,000	365	7,300,000	20,000	338	6,760,000
		156,000		23,778,410	156,000		22,003,095
Michigan Power Company	ACQ-1	37,267	190	7,080,730	37,267	176	6,558,992
	ACQ-2	50,762	120	6,091,440	50,762	111	5,634,582
	MDQ-1	12,000	365	4,380,000	12,000	338	4,056,000
		100,029		17,552,170	100,029		16,249,574
North Central Public Service Co.	ACQ-1	13,003	190	2,470,570	13,003	176	2,288,528
	MDQ-1	2,589	365	944,985	2,589	338	875,082
(Chevron Chemical Company)	LVS-1	14,000	Note 1	3,834,685	14,000	Note 2	3,550,918
(FirstMiss, Inc.)	LVS-1	42,000	Note 1	12,323,057	42,000	Note 2	11,411,151
		71,592		19,573,297	71,592		18,125,679
Ohio Valley Gas Corporation	ACQ-1	7,529	190	1,430,510	7,529	176	1,325,104
	ACQ-2	6,471	120	776,520	6,471	111	718,281
		14,000		2,207,030	14,000		2,043,385
Paris-Henry County Public Utility District of Henry County, Tennessee	ACQ-1	8,614	190	1,636,660	8,614	176	1,516,064
	MDQ-1	86	365	31,390	86	338	29,068
		8,700		1,668,050	8,700		1,545,132
Wisconsin Fuel and Light Company	ACQ-1	30,508	190	5,796,520	30,508	176	5,369,408
	ACQ-2	27,492	120	3,299,040	27,492	111	3,051,612
	MDQ-1	10,000	365	3,650,000	10,000	338	3,380,000
(Wausau Paper Mills Company)	LVS-1	6,000	Note 1	1,956,960	6,000	Note 2	1,812,145
		74,000		14,702,520	74,000		13,613,165
Wisconsin Gas Company	ACQ-1	703,253	190	133,618,070	703,253	176	123,772,528
	MDQ-1	6,747	365	2,462,655	6,747	338	2,280,486
		710,000		136,080,725	710,000		126,053,014
Wisconsin Michigan Power Company	ACQ-1	78,755	190	14,963,450	78,755	176	13,860,880
	MDQ-1	245	365	89,425	245	338	82,810
		79,000		15,052,875	79,000		13,943,690
Wisconsin Natural Gas Company	ACQ-1	322,807	190	61,333,330	322,807	176	56,814,032
	ACQ-2	4,493	120	539,160	4,493	111	498,723
		327,300		61,872,490	327,300		57,312,755
Wisconsin Power and Light Company	ACQ-1	78,741	190	14,960,790	78,741	176	13,858,416
	ACQ-2	131,259	120	15,751,080	131,259	111	14,569,749
		210,000		30,711,870	210,000		28,428,165
Wisconsin Public Service Corporation	ACQ-1	264,768	190	50,305,920	264,768	176	46,599,168
	ACQ-2	48,232	120	5,787,840	48,232	111	5,353,752
(American Can Company)	LVS-1	13,250	Note 1	3,223,900	13,250	Note 2	2,985,331
		326,250		59,317,660	326,250		54,938,251
Total		3,697,711		835,013,747	3,697,711		773,320,685

Note 1 The LVS-1 volumes set forth in Column 5 are the actual 1973-74 contract year sales.

Note 2 The LVS-1 volumes set forth in Column 8 are the actual 1973-74 contract year sales reduced by 7.4%.

[FR Doc.75-17731 Filed 7-8-75;8:45 am]

[Docket No. RP75-108]

NATURAL GAS PIPELINE CO. OF AMERICA

Filing and Suspending Proposed Increase in Rates, Providing for Hearing, Granting Interventions, and Granting Waiver With Condition

JUNE 30, 1975.

On May 30, 1975, Natural Gas Pipeline Company of America (Natural) filed in Docket No. RP75-108 certain revised tariff sheets [1] incorporating a proposed increase in rates of $52.9 million annually for jurisdictional natural gas sales and services based on sales for the 12-month period ended February 28, 1975, as adjusted. The proposed tariff sheets as filed would become effective on July 1, 1975.

Natural states the principal reason for the requested increase in rates is the need to recover in its jurisdictional rates the substantial increases in costs which Natural has incurred above those costs included in its last rate increase application. Natural requests, inter alia an increase in both its depreciation rate and rate of return.

Notice of Natural's filing was issued on June 6, 1975, providing for protests for petitions to intervene to be filed on or before June 25, 1975. The parties listed on the Appendix have filed timely petitions to intervene. These petitions will be granted. Additional petitions to intervene which may be received will be considered by separate order.

Natural's proposed tariff sheets reflect the rate effect of including investment in plant under construction in rate base as proposed under the Commission's notice of proposed rulemaking in Docket No. RM75-13. The proposed rates further include certain costs associated with payments made by Natural to Exxon, U.S.A. under agreements relating to gas reserves located in the Prudhoe Bay Area of Alaska and in offshore Texas and Louisiana. Natural has submitted alternate tariff sheets [2] excluding the above two items in the event these costs are rejected by the Commission.

While the Commission has issued a notice of proposed rulemaking to consider the inclusion of construction work in progress in rate base, final action has not been taken by the Commission on the proposal. The Commission's presently effective policy and regulations require

[1] Twenty-fifth Revised Sheet No. 5, Original Sheet No. 5A, Fifth Revised Sheet No. 119, and Fourth Revised Sheet No. 120-A to Third Revised Tariff Volume No. 1; Eighth Revised Sheet No. 220 and Second Revised Sheet No. 270 to Second Revised Tariff Volume No. 2.

[2] Twenty-fifth Revised Sheet No. 5 and Original Sheet No. 5a.

that construction work be excluded from rate base. Until the Commission approves a change in its policy and regulations, construction work must be excluded from rate base. With respect to Natural's above-noted payments to Exxon, the Commission has previously determined that such payments are not consistent with the objectives of the Commission's approved advance payments program, and they were therefore disallowed. (See order issued on May 16, 1975 in Docket No. RP 75–90.) No facts or circumstances are disclosed which would justify a different result herein. For the above reasons, Natural's alternate tariff sheets will be accepted for filing in lieu of those which include construction work and the payments to Exxon. The alternate tariff sheets would result in a rate increase of $36.2 million annually as compared with the $52.9 million increase under the primary tariff sheets.

Based on our review of Natural's proposed rate increase, including the documents, information, and studies submitted therewith as required by the Commission's regulations, and the petitions to intervene, we find that Natural's proposed increase in rates may be excessive or otherwise unlawful under the Natural Gas Act, and that accordingly the proposed increase should be suspended and set for hearing.

We note that Natural has included in its cost of service upon which the proposed rates are based the costs associated with approximately $44 million of uncertificated facilities. Natural requests waiver of the Commission's applicable regulations to permit such costs to be included in the present filing. Natural anticipates that the subject facilities will be constructed and in operation by the time the proposed rates go into effect.

For good cause shown, we will grant waiver of § 154.63(e) (2) (ii) of the regulations and permit the costs associated with the uncertificated facilities to be included in the proposed rates; *Provided, however* That if such facilities are not certificated and in service on the date the proposed rates take effect subject to refund, Natural shall file substitute tariff sheets which exclude the costs associated with those facilities which have not been certificated and placed in service as of that date.

We further note that for purposes of its present filing Natural has utilized the unmodified Atlantic Seaboard method of cost classification and allocation. In Opinion No. 671 we expressed our concern over the worsening gas supply situation, particularly as it existed on the system of United Gas Pipe Line Company. Based on the record in that case we concluded that more weight should be given to annual use of United's pipeline system than would result under the Atlantic Seaboard method. Therefore we assigned 75 percent of United's fixed costs to the commodity component of its rates. Part of our rationale was that in view of the gas shortage, low priority uses should be discouraged and the price gap between natural gas and alternate fuels in the interruptible industrial market should, at a minimum, be narrowed.

In light of our policy of considering competitive fuel prices in setting commodity rate levels, and in view of the present supply and market conditions on Natural's system, all parties to this proceeding should direct their attention, and file any evidence they wish to submit, as to the propriety of the continued use of the Atlantic Seaboard method of cost classification and allocation, as well as to the propriety of Natural's rate design proposed herein. Further, we urge all parties to suggest alternative methods of cost classification, allocation, and rate design which they believe may more closely reflect or implement the Commission's objectives in these areas. In this connection we refer the parties to our notice of proposed rulemaking issued February 20, 1975, in Docket No. RM75–19.

Based on the foregoing, the use of the Atlantic Seaboard method of cost classification, cost allocation and rate design may be inadequate and contrary to the public interest under the present conditions of gas supply shortages and ever-increasing curtailments. Moreover, we note that because of successive pipeline rate filings which create "locked-in" periods, our efforts to adopt a just and reasonable cost classification, allocation and rate design differing from Seaboard may be frustrated. To the extent that the rate structure found just and reasonable for Natural after hearing and decision departs from the Seaboard methodology used by Natural in the instant filing by assigning additional fixed costs to the commodity component of the rates undercollections will occur. We believe it would be improper for us to insure Natural protection from undercollections by our failing to adopt the just and reasonable rate structure because rates have become "locked-in". Accordingly, we hereby place Natural on notice that it may be subject to undercollections if after hearing and decision we find its rate design improper.[3]

The Commission finds: It is necessary and proper and in the public interest and in carrying out the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the rates proposed in this docket by Natural, and that the proposed increased rates should be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders: (A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 8, and 15 thereof, and the Commission's rules and regulations, a hearing shall be held to determine the justness and reasonableness of the rates proposed herein by Natural Gas Pipeline Company of America.

(B) Pending hearing and decision thereon, Natural's proposed increased rates, as set forth on the alternate tariff sheets submitted as a part of its filing herein, are accepted for filing, suspended for five months, and permitted to become effective thereafter on December 1, 1975, in the manner prescribed by the Natural Gas Act, and subject to refund.

(C) On or before October 17, 1975, the Commission staff shall serve its prepared testimony and exhibits. Prepared testimony and exhibits of intervenors shall be served on or before October 31, 1975. Any rebuttal evidence of Natural shall be served on or before November 14, 1975. Cross-examination of the evidence shall commence on December 2, 1975, at 10:00 a.m., prevailing time, in a hearing room at the Federal Power Commission's offices in Washington, D.C. 20426.

(D) Waiver of § 154.63(e) (2) (ii) of the Commission's regulation is granted to permit Natural to include in its filing the costs associated with facilities for which certificates of public convenience and necessity have been applied for in Docket Nos. CP74–286, CP75–224, CP75–256, and CP75–269; *Provided, however,* That Natural shall file substitute tariff sheets to become effective on December 1, 1975, reflecting exclusion of the costs associated with any facilities which have not been certificated and placed in service as of the effective date.

(E) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose shall preside at the hearing convened pursuant to this order, shall prescribe necessary procedures not provided for by this order, and shall conduct the hearing in accordance with the Commission's rules and regulations and the terms of this order.

(F) The parties listed in the Appendix are permitted to intervene in this proceeding subject to the rules and regulations of the Commission.

(G) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

APPENDIX

PETITIONS TO INTERVENE

Iowa Southern Utilities Company
North Central Public Service Company
Mississippi River Transmission Corporation
Illinois Power Company
Interstate Power Company
Iowa-Illinois Gas and Electric Company
Central Illinois Public Service Company
Columbia Gas Transmission Corporation
Associated Natural Gas Company
Central Illinois Light Company
Peoples Gas Light and Coke Company
North Shore Gas Company
Northern Illinois Gas Company

[FR Doc.75–17732 Filed 7–8–75;8:45 am]

[3] See: "Florida Gas Transportation Company," Opinion 611, 47 FPC 341, (1972) modif. on reh. Opinion 611–A 49 FPC 261 (1973), affirmed, Per Curiam, — F. 2d. —, Case Nos. 73–1203 and 73–1613 issued September 11, 1974 (CADC); Florida Gas Transmission Company, — FPC —, Opinion 732, issued May 20, 1975, in Docket No. RP74–19, et al., "F.P.C. v. Tennessee Gas Transmission Company," 371 U.S. 145 (1962).

[Docket No. RP75-102]

PANHANDLE EASTERN PIPE LINE CO.

Filing and Suspending Rate Increase Rejecting Alternate Tariff Sheets, Establishing Hearing Procedures, and Granting Interventions

JUNE 30, 1975.

On May 15, 1975, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing proposed revised tariff sheets to its FPC Gas Tariff [1] which would result in increases in revenues from jurisdictional sales and service of $31,246,623 based upon sales for the 12 month period ended February 28, 1975, as adjusted for known and measurable changes for the nine months ended November 30, 1975. These rates reflect a 9.45 percent overall rate of return which would result in a return on common equity of 13.50 percent. Panhandle states that the increase is due to, inter alia., increased gas supply facilities, increased operating costs, increase capital costs, and decreased sales volumes. Panhandle proposed July 1, 1975, as the effective date for the instant filing.

Panhandle has also filed alternate tariff sheets [2] which would incorporate into Panhandle's tariff an advance payments tracking provision. Panhandle requests waiver of § 154.38(d)(3) of the regulations to permit the inclusion of the clause in its tariff. In addition Panhandle requests special permission pursuant to § 154.66(b) of the regulations in order to file a proposed rate adjustment under its currently effective demand charge adjustment (DCA) provision during the five-month suspension period.

Notice of the filing was issued on May 30, 1975, with all comments and petitions to intervene due on or before June 16, 1975. Petitions to Intervene were received from the parties listed in Appendix A to this order. Three of the petitioners; Missouri Utilities Company (Missouri), Ohio Gas Company (Ohio), and the Municipal Intervenors Group (MIG) protested the proposed rate levels and requested that Panhandle's filing be suspended for five months and set for hearing. In addition, MIG contends that Panhandle's proposal in the instant filing to switch from the United method (25-75) method of cost classification, cost allocation, and rate design to the "unmodified" Seaboard (50-50) method has not been supported and that any order issued in this proceeding should make it clear that Panhandle's adherence to the "unmodified" Seaboard method shall be "at its own risk".

Our review of the Panhandle's filing, as well as the pleadings filed in this proceeding, indicates that certain issues have been raised which may require development in an evidentiary proceeding. The proposed rates, charges, classifications and services have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential or otherwise unlawful. Accordingly, in light of our disposition below of the alternate tariff sheets containing the advance payments tracking provision, we shall accept for filing the tariff sheets listed in Footnote 1 and suspend them for five months until December 1, 1975, when they shall become effective, subject to refund and establish hearing procedures.

We note that Panhandle has proposed, in the instant fiilng, to change from the United [3] (25-75) method of cost classification cost allocation, and rate design underlying its present rates to the unmodified Seaboard method.

In Opinion No. 671 we expressed our concern over the worsening gas supply situation and particularly as it existed on United's system. Based upon the record in that case we concluded that more weight should be given to annual use of United's pipeline system than is characteristic of the unmodified Seaboard methodology. Therefore, we assigned 75 percent of fixed costs to the commodity component of two-part rates and to the straight-line rates. Part of our rationale was that in view of the gas supply shortage, low priority usage should be discouraged and the price gap between natural gas and alternative fuels in the interruptible industrial market should, at the minimum, be narrowed.

In light of our policy of considering competitive fuel prices in setting commodity rate levels and of the present supply and market conditions on the Panhandle system, all parties to this proceeding should direct their attention and file any evidence they wish to submit, as to the propriety of Panhandle's proposal to switch from the United method to the Seaboard method of cost classification and allocation, as well as to the propriety of Panhandle's rate design proposed herein. Further, we urge all parties to suggest alternative methods of cost classification, allocation and rate design which they believe may more closely reflect or implement the Commission's objectives in this area.[4] In this connection we refer the parties to our recent rule making Docket No. RM75-19 issued February 20, 1975.

Based on the foregoing, the use of the Atlantic Seaboard method of cost classification, cost allocation and rate design may be inadequate and contrary to the public interest under the present conditions of gas supply shortages and ever-increasing curtailments. Moreover, we note that because of successive pipeline rate filings which create "locked-in" periods, our efforts to adopt a just and reasonable cost classification, allocation and rate design differing from Seaboard may be frustrated. To the extent that the rate structure found just and reasonable for Panhandle after hearing and decision departs from the Seaboard methodology used by Panhandle in the instant filing by assigning additional fixed costs to the commodity component of the rates undercollections will occur. We believe it would be improper for us to insure Panhandle protection from undercollections by our failing to adopt the just and reasonable rate structure because rates have become "locked-in". Accordingly, we hereby place Panhandle on notice that it may be subject to undercollections if after hearing and decision we find its rate design improper.[5]

As previously noted, Panhandle's request for increased rates is based in part upon the fact that its deliverability of gas from connected sources is declining. The present gas shortage in this country, to which this Commission has often called attention, is a problem which is shared by most if not all major interstate transmission pipelines in varying degrees of magnitude. The effect upon the risk of capital invested in gas pipeline operations resulting from inadequate and declining gas supplies as well as the uncertainties and contingencies inherent in possible supplemental sources of supply are of direct and primary concern to us. Accordingly, we request that the evidence in this proceeding, including that to be filed by our Staff, give full and careful consideration to these factors in the development of recommendations on the issue of rate of return so as to enable this Commission to formulate sound regulatory policies in this area.

We note that Panhandle has included in the tariff sheets proposed herein costs associated with approximately $10 million of non-certificated facilities. Should these facilities not be constructed and in service by the end of the suspension period ordered herein, we shall require Panhandle to amend its filing to reflect exclusion of these costs.

For good cause shown, we shall grant waiver of § 154.63 (e)(2)(ii) of the regu-

---

[1] *Original Volume No. 1:*
Alternate Fourteenth Revised Sheet No. 3-A.
Third Revised Sheet No. 43-2.
Fourth Revised Sheet No. 43-3.
Fourth Revised Sheet No. 43-4.
Original Volume No. 2:
First Revised Sheet No. 93.
First Revised Sheet No. 135.
First Revised Sheet No. 211.

[2] *Original Volume No. 1:*
Fourteenth Revised Sheet No. 3-A.
Third Revised Sheet No. 43-2.
Fourth Revised Sheet No. 43-3.
Fourth Revised Sheet No. 43-4.
Original Sheet Nos. 43-5 and 43-6.
Original Volume No. 2:
First Revised Sheet No. 93.
First Revised Sheet No. 135.
First Revised Sheet No. 211.

[3] "United Gas Pipe Line Company," Opinion 671, 50 FPC 1348 (1973) reh. denied, Opinion 671-A — FPC — issued March 12, 1974, in Docket No. RP72-75.

[4] See: Footnote 3 in our order of May 31, 1974, in "Columbia Gas Transmission, et al.," Docket Nos. RP74-82 and RP74-81.

[5] See: "Florida Gas Transmission Company," 371 U.S. 145 (1962).
on reh. Opinion 611-A 49 FPC 261 (1973), affirmed, Per Curiam, — F.2d —, Case Nos. 73-1203 and 73-1613 issued September 11, 1974 (CADC); "Florida Gas Transmission Company," — FPC —, Opinion 732, issued May 20, 1975, in Docket No. RP74-19, et al., F.P.C. v. Tennessee Gas Transmission Com- "F.P.C. v. Tennessee Gas Transmission Com-

lations consistent with this condition. With respect to Panhandle's alternate tariff sheets containing the advance payment tracking provision, we note that § 154.38(d) (3), (4) and (5) of the regulations provide that no permanent automatic rate adjustment provisions shall be permitted for natural gas companies except for purchased gas and research and development expenditures. The Commission has also permitted certain pipelines, such as Panhandle, the right to include demand charge adjustment provisions in their tariffs. However, this Comsission has only permitted advance payment tracking provisions when they are part of an approved rate settlement agreement wherein the Commission has reviewed all of the pipeline's costs, including advance payments, and revenues and has determined that an advance payment tracking provision is proper for the period the settlement remains in effect; i.e., until the next section 4 rate increase becomes effective, subject to refund.[6] Under Panhandle's proposal, the Commission would not be able to review advance payments costs along with other costs associated with jurisdictional service. Moreover, the Commission found in Order No. 499,[7] that permitting the inclusion of permanent advance payment tracking provisions in a pipeline's tariff was not necessary to insure the recovery by the pipeline of costs associated with its advance payments program. We find that Panhandle has not shown good cause for waiver of § 154.38(d) (3) of the regulations and shall therefore reject the alternate tariff sheets containing the advance payments tracking provision.

We find that good cause exists to grant waiver of § 154.66(b) of the regulations to permit Panhandle to file a proposed rate adjustment under its DCA clause without prejudice to any action we may take with respect to the justness and reasonableness of such adjustment.

The Commission finds: (1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the rates and charges contained in Panhandle's FPC Gas Tariff, as proposed to be amended in this docket, and that the tendered tariff sheets listed in Footnote 1 above be accepted for filing and suspended as hereinafter ordered and conditioned.

(2) Good cause does not exist to grant Panhandle's request for waiver of § 154.38(d) (3) of the regulations and the tariff sheets containing the advance payment tracking provision should therefore be rejected.

(3) Good cause exists to grant Panhandle's request for waiver of § 154.66(b) of the regulations as hereinafter ordered and conditioned.

(4) Participation of the parties listed in Appendix A in this proceeding may be in the public interest.

(5) Good cause exists to grant Panhandle's request for waiver of § 154.63(e) (2) (ii) of the regulations as hereinafter ordered and conditioned.

The Commission orders: (A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 5 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Ch. I), a public hearing shall be held in a hearing room of the Federal Power Commission, Washington, D.C. 20426, concerning the lawfulness of the rates, charges, classifications, and services contained in Panhandle's FPC Gas Tariff, as proposed to be amended herein.

(B) On or before October 15, 1975, the Commission Staff shall serve its prepared testimony and exhibits. Prepared testimony and exhibits of intervenors shall be served on or before October 29, 1975. Company rebuttal shall be served on November 12, 1975. The hearing for purposes of cross-examination shall commence on December 2, 1975, at 10 a.m.

(C) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5 (d)), shall preside at the hearing in this proceeding, shall prescribe necessary procedures not provided for by this order, and shall otherwise conduct the hearing in accordance with the terms of this order and the Commission's rules and regulations.

(D) Pending hearing and a decision thereon Panhandle's tariff sheets listed in Footnote 1 above are accepted for filing, suspended for five months and the use thereof deferred until December 1, 1975, and until such further time as they are made effective in the manner provided in the Natural Gas Act, subject to the condition that before December 1, 1975, Panhandle shall file substitute tariff sheets reflecting exclusion of costs included in Panhandle's proposed rates which are associated with facilities which have not been certificated and placed in service as of December 1, 1975.

(E) Waiver of § 154.63(e) (2) (ii) of the regulations is hereby granted consistent with the provisions of Ordering Paragraph D above.

(F) Panhandle's request for waiver of § 154.38(d) (3) of the regulations is denied and the alternate tariff sheets containing such clause are rejected.

(G) Panhandle's request for waiver of § 154.66(b) of the regulations is granted to the extent that Panhandle is permitted to file a proposed DCA rate change during the five-month suspension period without prejudice to any action this Commission might take with respect to the justness and reasonableness of the proposed DCA rate change.

(H) The petitioners listed in Appendix A are hereby permitted to intervene in these proceedings, subject to the Rules and Regulations of the Commission: *Provided, however,* That the participation of such intervenors shall be limited to matters affecting rights and interests specifically set forth in the respective petitions to intervene and *Provided, further,* That the admission of such intervenors shall not be construed as recognition that they or any of them might be aggrieved because of any order or orders issued by the Commission in these proceedings.

(I) Pursuant to § 2.59 of the Commission's rules of practice and procedure, Panhandle shall promptly serve copies of its filing upon all of the above-mentioned intervenors, unless such service has already been effected pursuant to Part 154 of the regulations under the Natural Gas Act.

(J) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

APPENDIX A

Petitions to Intervene:
Missouri Utilities Company
Municipal Intervenors Group
Ohio Gas Company
Ohio Valley Gas Corporation
Columbia Gas of Ohio, Inc.
Illinois Power Company
The City of Columbus, Ohio
Columbia Gas Transmission Corporation
East Ohio Gas Company
Indiana Gas Company, Inc.
Central Indiana Gas Company, Inc.
Battle Creek Gas Company
The Toledo Edison Company
Michigan Consolidated Gas Company
The Gas Service Company
Central Illinois Public Service Company
The Dayton Power and Light Company
Central Illinois Light Company
Associated Natural Gas Company
Citizens Gas Fuel Company
Michigan Gas Utilities Company
Michigan Gas Storage Company
Kansas-Nebraska Natural Gas Company, Inc.
Michigan Public Service Commission

[FR Doc.75-17733 Filed 7-8-75;8:45 am]

[Docket No. RP75-51]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Order Amending Prior Order and Broadening Scope of Investigation

JULY 1, 1975.

On January 8, 1975, we issued an order instituting investigation and order to show cause, setting hearing and establishing procedures in investigation of revised curtailment level on the system of Transcontinental Gas Pipe Line Corporation, Docket No. RP75-51. Hearings have been held in this proceeding and

---

[6] "North Penn Gas Company," — FPC —, issued June 28, 1974, in Docket No. RP74-88; "Southern Natural Gas Company," — FPC —, issued April 13, 1973, in Docket No. RP72-91, et al., rehearing denied, — FPC —, issued June 8, 1973; "Northern Natural Gas Company," — FPC —, issued May 20, 1974, in Docket No. RP74-80; "Florida Gas Transmission Company," — FPC —, issued May 29, 1974, in Docket No. RP74-78; "Trunkline Gas Company," — FPC —, issued June 28, 1974, in Docket No. RP74-89; "Northern Natural Gas Company," — FPC — issued February 26, 1975, in Docket Nos. RP71-107, et al.

[7] — FPC —, issued December 28, 1973, in Docket No. RP74-4.

further hearings are scheduled to resume on July 8, 1975.

This investigation was initiated because Transcontinental Gas Pipe Line Corporation (Transco) was experiencing a gas supply shortage during the winter far in excess of the curtailment projections made by Transco at the end of September of 1974. On January 8, 1975, we ordered an investigation to determine the causes for the increased curtailment beyond the levels projected in Transco's Form 16 filing of September 30, 1974. Subsequent to the issuance of our January 8, 1975, order, Transco returned to its system 18 Bcf of gas that Transco had previously declared was unavailable to its system.

Recent events have convinced us that the scope of the present investigation should be enlarged. Accordingly, the Commission has concluded that an investigation by its Staff should be undertaken to determine the extent of the alleged necessity for any curtailment on the system of Transco. This investigation shall encompass all facts bearing upon the alleged need for any curtailment by Transco to its customers and also to Transco's efforts to improve deliverability upon its system consistent with its obligations to provide adequate and reliable service to its customers. The investigation initiated herein will encompass any activities of all parties, except Mitchell Energy and Development Corporation and Cities Service Oil Corporation,[1] who, are, or should be, certificated by this Commission to deliver gas to Transco. The investigation shall encompass all facts bearing upon (1) the enforcement of the provisions of the Natural Gas Act or any rule, regulation, or order thereunder; and (2) remedial measures to be directed by this Commission.

By order issued February 20, 1975, in the proceeding entitled, Certain Producer and Pipeline Respondents, Docket No. RI75–112, we initiated an investigation and required the respondents "to show cause why certain natural gas reservoirs in the Federal Domain are presently in nonproducing status and could not or should not be produced." Facts presented in that proceeding may be relevant to determine what immediate actions should be taken in this proceeding. Our staff, in its review of the record in that proceeding and any other proceeding as a part of its investigation, may incorporate relevant facts taken therefrom in recommendations which it may present to the Commission as a part of this investigation for any immediate Commission action which staff deems appropriate and for which it may seek a Commission order herein.

The Commission finds: It is necessary and proper to amend our prior order in this proceeding as set forth in this order and to institute the procedures hereinafter ordered.

The Commission orders: (A) Pursuant to the authority contained in the Natural Gas Act, particularly sections 4, 5, 7, 8, 10, 14, 15, 16, 20, 21, and 22, the Commission's prior investigatory order of January 8, 1975, is hereby amended as set forth in this order.

(B) Pursuant to section 14(c) of the Natural Gas Act, Commission Attorneys, William D. Braun, Sheila Hollis, and Kim M. Clark, are each hereby designated an officer of this Commission and are empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers correspondence, memoranda, contracts, agreements or other records which either Mr. Braun, Ms. Hollis or Mr. Clark, as an official of this Commission, find relevant or material to this investigation.

(C) The Commission Staff is directed to conduct a full and complete investigation as detailed in this order as expeditiously as circumstances permit to obtain the necessary facts and information, from whatever source including the records of other proceedings, as to the causes for any curtailment on the Transco system so as to enable the Commission to take such action as may be appropriate.

(D) The provisions of Order No. 509, issued May 2, 1974, and Order No. 509–B, issued August 23, 1974, in Docket No. RM 74–24, are expressly made and shall be applicable in this investigatory proceeding.

(E) Transco and all parties who, are, or should be, certificated by this Commission to deliver gas to Transco are hereby directed to assist staff, when requested, in staff's investigation.

(F) The hearing scheduled for July 8, 1975, herein is hereby postponed until further order of the Commission. Further procedures, if required, shall also be set by further order of this Commission.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

[FR Doc.75–17734 Filed 7–8–75;8:45 am]

---

[1] By letter of June 17, 1975, to the Chairman of this Commission, the Chairman of the Investigations Subcommittee of the Committee on Interstate and Foreign Commerce of the House of Representatives requested as follows:

Pending the conclusion of the present series of Subcommittee hearings on June 26—at which you have been invited to testify—and pending your agency's coordination with the Justice Department, I do not consider it appropriate for the Commission or its staff to contact Mitchell Energy and Development Corporation and Cities Service Oil Corporation or any persons associated therewith.

The Commission honoring that request has determined that pending further order of the Commission the scope of the investigation as directed by this order shall not include Mitchell Energy and Development Corporation and Cities Service Oil Corporation or any other person associated with either company.

[Docket No. G-6288, et al.]

J. M. HUBER CORP. ET AL.

Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

JUNE 25, 1975.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before July 21, 1975, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commssion on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

MARY B. KIDD,
Acting Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
G-6288 D 6-9-75	J. M. Huber Corp., 2000 West Loop South, Houston, Tex. 77027.	Cities Service Gas Co., Lemon No. 1 Well, Morton County, Kans.	Well plugged and abandoned.	----
G-6311 C 6-9-75	Amerada Hess Corp., P.O. Box 2040, Tulsa, Okla. 74102.	Northern Natural Gas Co., Eunice and Monument Fields, Lea County, N. Mex.	[1] 59.14	14.65
G-7214 D 6-16-75	The California Co., a division of Chevron Oil Co., 1111 Tulane Ave., New Orleans, La. 70112.	Texas Eastern Transmission Corp., Gist Field, Newton and Jasper Counties, Tex.	Leases expired, acreage ceased production or never was productive.	----
G-11810 C 6-18-75	Marathon Oil Co., 539 South Main St., Findlay, Ohio 45840.	El Paso Natural Gas Co., Muncy et al. (Blinebry-Tubb-Drinkard Gas Pool), Lea County, N. Mex.	[2] 54.9981	14.65
G-16139 D 6-9-75	Gulf Oil Corp., P.O. Box 1589, Tulsa, Okla. 74102.	Transwestern Pipeline Co., Mathers Ranch (Hunton) Field, Hemphill County, Tex.	[3]	----
CI72-677 C 6-16-75	Texaco, Inc., P.O. Box 430, Bellaire, Tex. 77401.	Natural Gas Pipeline Co. of America, Block 88, High Island Area, offshore Tex.	[4] 52.491	14.65
CI74-184 C 6-11-75	Pan Eastern Exploration Co., P.O. Box 1642, Houston, Tex. 77001.	Panhandle Eastern Pipe Line Co., Reydon Field, Roger Mills County, Okla.	[1] 53.3935	14.65
CI75-116 (CI68-957) B 8-19-74 [5]	Petroleum Management, Inc. (Operator), 1912 The 600 Bldg., Corpus Christi, Tex. 78401.	Florida Gas Transmission Co., East Aransas Pass Field, Aransas County, Tex.	Depleted	----
CI75-219 C 4-28-75	Union Oil Co. of California, P.O. Box 7600, Los Angeles, Calif. 90051.	Texas Gas Transmission Corp., East Angelita Area, Sau Patricio County, Tex.	[1] 51.0	14.73
CI75-526 C 6-16-75	Exxon Corp., P.O. Box 2180, Houston, Tex. 77001.	Columbia Gas Transmission Corp., Eugene Island Block 332 Field, offshore Louisiana.	[6][7] 75.0	15.025
CI75-615 C 6-16-75	do	Northern Natural Gas Co., Eugene Island Block 332 Field, offshore Louisiana.	[6][7] 75.0	15.025
CI75-729 A 6-6-75	Union Texas Petroleum, a division of Allied Chemical Corp., P.O. Box 2120, Houston, Tex. 77001.	El Paso Natural Gas Co., South Carlsbad and Russell Fields, Eddy County, N. Mex.	[1] 54.4679	14.73
CI75-730 (CI62-1290) B 6-9-75	Eastern Interior Oil Co. (Sold to: Roy G. Hildreth, Jr.), P.O. Box 96, Spencer, W. Va. 25276.	Columbia Gas Transmission Corp., Wallback Field, Roane County, W. Va.	Nonproductive	----
CI75-731 (CS72-162) F 6-11-75	Gulf Oil Corp. (successor to Murphy Oil Co. of Oklahoma, Inc.), P.O. Box 1589, Tulsa, Okla. 74102.	Cities Service Gas Co., Rhodes Field, Barber County, Kans.	[8] 15.0	14.65

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.
See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
CI75-732..... A 6-9-75	Northwest Exploration Co., 315 East Second South, Salt Lake City, Utah 84111.	Northwest Pipeline Corp., Martin Draw Area, Daggett County, Utah.	[7] [9] 62.363	15.025
CI75-734..... A 6-12-75	Diamond Shamrock Corp., P.O. Box 631, Amarillo, Tex. 79173.	Natural Gas Pipeline Co. of America, Block 23-L Field, High Island area, offshore Texas.	[1] 51.0	14.73
CI75-735..... (CI61-974) B 6-12-75	Amoco Production Co., P.O. Box 50879, New Orleans, La. 70150.	United Gas Pipe Line Co., Gibson Field, Terrebonne Parish, La.	Gas deliveries under subject contract ceased.	.....
CI75-736..... (CI70-429) B 6-12-75	Amoco Production Co.....	United Gas Pipe Line Co., Pointe Au Chien Field, Lafourche and Terrebonne Parishes, La.	Well plugged and abandoned.	.....
CI75-737..... (CS72-855) B 6-12-75	Jones Creek Gas Gathering Corp. (Operator) et al., 502 Petroleum Tower, Corpus Christi, Tex. 60201.	Transcontinental Gas Pipe Line Corp., Jones Creek Field, Wharton County, Tex.	Depleted	.....
CI75-738..... A 6-12-75	Kewanee Oil Co., P.O. Box 2239, Tulsa, Okla. 74101.	El Paso Natural Gas Co., South Carlshad Field, Eddy County, N. Mex.	[1] [7] 82.757	14.73
CI75-739..... A 6-13-75	Transwestern Gas Supply Co., P.O. Box 2521, Houston, Tex. 77001.	Transwestern Pipeline Co., Clark (G.W.) Field, Roberts County, Tex.	[1] [7] 80.0	14.65
CI75-740..... A 6-16-75	Continental Oil Co., P.O. Box 2197, Houston, Tex. 77001.	Cities Service Gas Co., East Niles Field, Canadian County, Okla.	[10] 54.590881	14.65
CI75-741..... A 6-16-75	Felmont Oil Corp., P.O. Box 2266, Midland, Tex. 79701.	Transwestern Pipeline Co., Bluitt Area, Roosevelt County, N. Mex.	[11] 19.7091	14.65
CI75-742..... A 6-16-75	Marathon Oil Co., 539 South Main St., Findlay, Ohio 45840.	Colorado Interstate Gas Co., a division of Colorado Interstate Corp., Wamsutter Area, Sweetwater County, Wyo.	[1] [7] 76.5	14.65
CI75-743..... A 6-17-75	Gulf Oil Corp., P.O. Box 1589, Tulsa, Okla. 74102.	Michigan Wisconsin Pipe Line Co., West Camphell Field, Major County, Okla.	[12] 54.8925	14.65
CI75-745..... A 6-16-75	Sun Oil Co., P.O. Box 2880, Dallas, Tex. 75221.	United Gas Pipe Line Co., East Dykesville Field, Claiborne Parish, La.	[13] 61.5214	15.025
CI75-748..... A 6-16-75	Tenneco Exploration, Ltd., P.O. Box 2511, Houston, Tex. 77001.	Tenneco Oil Co., Eugene Island Blocks 342 and 343, offshore Louisiana.	[14] 52.5314	15.025

[1] Subject to upward and downward British thermal unit adjustment.
[2] Including tax and subject to British thermal unit adjustment.
[3] Acreage released in order that Gulf may make other arrangements to sell the small volume of low pressure production presently available from this formation and well.
[4] Includes 1.370 ¢/M f³ upward British thermal unit adjustment and 0.398 ¢/M f³ gathering allowance.
[5] By letter filed June 9, 1975, Skelly Oil Co., a non-operating co-owner and certificate holder in docket No. CI72-207, concurs in the application in docket No. CI75-116 and requests permission and approval to abandon the sale under its FPC Gas Rate Schedule No. 252.
[6] Subject to upward British thermal adjustmeut; estimated adjustment is 10.05 ¢/M f³.
[7] Applicant is willing to accept a certificate in accordance with section 2.56a of the Commission's general policy and interpretations.
[8] Subject to a 1.5 ¢/M f³ compression charge.
[9] Includes 6.270 ¢/M f³ upward British thermal unit adjustment and 0.093 ¢/M f³ tax reimhursement.
[10] Subject to upward and downward British thermal unit adjustment; includes 3.867862 ¢/M f³ tax reimhursement.
[11] Includes 0.7091 ¢/M f³ tax reimhursement and is suhject to downward British thermal unit adjustment.
[12] Includes 3.8925 ¢/M f³ tax reimbursement and is subject to upward and downward British thermal unit adjustment.
[13] Includes 1.02 ¢/M f³ gathering allowance and 1.48 ¢/M f³ upward British thermal unit adjustment.
[14] Includes 0.51 ¢/M f³ gathering allewance and is suhject to upward and downward British thermal unit adjustment.

[FR Doc.75-17606 Filed 7-8-75;8:45 am]

OFFICE OF THE FEDERAL REGISTER

FREEDOM OF INFORMATION INDEX REQUIREMENTS

Guide to Agency Material; January–June, 1975

5 U.S.C. 552 (commonly called the Freedom of Information Act) requires agencies to maintain and make available for public inspection and copying current indexes providing identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967, and required to be made available or published (5 U.S.C. 552(a)(2)). Recent amendments (Pub. L. 93–502, November 21, 1974, 88 Stat. 1561) require the publication (with some exceptions) and distribution of these indexes at least quarterly. This guide has been compiled by the Office of the Federal Register from information submitted by agencies for the first six months of 1975 in order to notify the public of the availability of these indexes for sale and/or public inspection.

Agency and subagency name	Index title; period covered, brief description of contents	Order from; price; make checks payable to	For inspection, copying, or additional information contact
Department of Agriculture, Agricultural Stabilization and Conservation Service.	ASCS handbooks: Current listing of all administrative staff manuals.	Director, Data Systems Division, ASCS, USDA, 14th and Independence Ave. SW., Washington, D.C. 20250. No charge.	Director, Data Systems Division, ASCS, USDA, 14th and Independence Ave. SW., Washington, D.C. 20250.
Do	Marketing quota. Review committee determinations; 1969–1974; listing by crop-year of all decisions made on marketing quota appeals.	do	Do.
Do	Board of contract appeals decisions; 1969–1974; listing of all decisions on appeals affecting ASCS and or CCC.	do	Do.
Do	CCC Board dockets; 1969–1974; listing of all Commodity Credit Corporation dockets approved by the Secretary of Agriculture.	do	Do.
Rural Electrification Administration.	Index of current REA publications—electric program as of Feb. 25, 1975. An alphabetic and numerical index of REA electric program bulletins, contract forms, and specifications.	Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Room 4043–S, Washington, D.C. 20250. No charge.	Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Room 4043–S, Washington, D.C. 20250.
Do	Index of current REA publications-telephone as of Mar. 18, 1975. An alphabetic and numerical index of REA telephone program bulletins, contract forms, specifications, sections of the telephone engineering and construction and telephone operations manuals, and the rules and regulations of the Rural Telephone Bank.	do	Do.
Department of Defense, Department of the Air Force.	Numerical index of departmental forms (AFR 0–9). Dec. 6, 1974. Lists forms numerically within each category, including accountable forms, forms requiring storage safeguards, and obsolete forms.	DADF at nearest Air Force installation Shelf stock, $2.81 per copy; reproduced copies, $5.75 per copy; shelf stock will be used while it lasts. Treasurer of the United States.	DADF at nearest Air Force installation.
Do	Guide to indexes, catalogs, and lists of departmental publications (AFR 0-1). Sept. 1, 1974. Describes the indexes, catalogs, and lists of departmental publications; explains their use, tells how often they are revised, shows their distribution and gives the office of primary responsibility.	DADF at nearest Air Force installation. Shelf stock, $2.05 per copy; reproduced copies $2 per copy; shelf stock will be used while supply lasts. Treasurer of the United States.	Do.
Do	Numerical index of standard publications and recurring periodicals (AFR 0–2). Feb. 7, 1975. Lists regulations, manuals, and pamphlets together under each subject series; lists visual aids and recurring periodicals separately.	DADF at nearest Air Force installation. Shelf stock, $2.79; reproduced copies $5.65; shelf stock will be used while supply lasts. Treasurer of the United States.	Do.
Do	Miscellaneous Air Force and other Government agency publications (AFR 0–16). Oct. 1, 1974. Lists a wide range of subjects of interest to the Air Force.	DADF at nearest Air Force installation. Shelf stock, $2.09 per copy; reproduced copies, $2.15 per copy; shelf stock will be used while supply lasts. Treasurer of the United States.	Do.
Department of the Army, TAGCEN, Army Publications Directorate.	DA Pamphlet 310–1, Index of Administrative Publications. Regulations, circulars, pamphlets, posters, general orders, Joint Chiefs of Staff publications and DOD publications. Basic dated November 1973 with change 3, Aug. 30, 1974.	Director, Army Publications Directorate, Forrestal Bldg., Washington, D.C. 20314. Price: $4.30. Payable to: Treasurer of United States.	Director, Army Publications Directorate, Forrestal Bldg., Washington, D.C. 20314.
Do	DA Pamphlet 310–2, Index of Blank Forms. Basic dated May 1974 with change 1, December 1974.	Director, Army Publications Directorate, Forrestal Bldg., Washington, D.C. 20314. Price: $3.50. Payable to: Treasurer of United States.	Do.
Do	DA Pamphlet 310–3, Index of Doctrinal, Training, and Organizational Publications. Field manuals, reserve officers' training corps manuals, training circulars, Army training programs, Army subject schedules, Army training tests, firing tables, and trajectory charts, tables of organization and equipment, distribution and allowances. Basic dated August 1973 with change 4, August 1974.	Director, Army Publications Directorate, Forrestal Bldg., Washington, D.C. 20314. Price: $3.55. Payable to: Treasurer of United States.	Do.
Do	DA Pamphlet 310–4, Index of Technical Manuals, Technical Bulletins, Supply Manuals (types 7, 8, and 9), Supply Bulletins, and Lubrication Orders. Basic dated November 1974 with change 1, February 1975.	Director, Army Publications Directorate, Forrestal Bldg., Washington, D.C. 20314. Price: $8.50. Payable to: Treasurer of United States.	Do.
Do	DA Pamphlet 310–6, Index of Supply Catalogs and Supply Manuals. Basic dated July 1974 with change 1, January 1975.	Director, Army Publications Directorate, Forrestal Bldg., Washington, D.C. 20314. Price: $3.50. Payable to: Treasurer of United States.	Do.
Do	DA Pamphlet 310–7, Index of Equipment Modification Work Orders, December 1974.	do	Do.

Agency and subagency name	Index title; period covered, brief description of contents	Order from; price; make checks payable to	For inspection, copying, or additional information contact
Defense Nuclear Agency (DNA).	Index to administrative publications; Feb. 28, 1974 with changes. Description: Administrative instructions covering manpower, personnel, international programs, planning and readiness, research and development, logistics, maintenance, transportation, general administration, organization and function, security, administrative services, public information, legal and legislative policies, comptrollership, budgeting, appropriations accounting and control, auditing, and reports control.	Defense Nuclear Agency, attention: PAO, Washington, D.C. 20305. $1 by Xeroxing, $0.35 by printing run. Checks payable to: Treasurer of the United States.	
Do	Government reports index; biweekly annual cumulation. Description: Indexes DNA and other Government sponsored research and development reports prepared by Federal agencies or their contractors.	National Technical Information Service, Springfield, Va. 22161. $125 annual subscription rate. Payable to National Technical Information Service.	Director, Defense Nuclear Agency, Technical Library, Washington, D.C. 20305.
Defense Nuclear Agency, Armed Forces Radiobiology Research Institute.	Index of Armed Forces Radiobiology Research Institute (AFRRI), Instructions; Mar. 27, 1974, with changes. Description: Listing of all AFRRI instructions in force.	Director, Armed Forces Radiobiology Research Institute, attention of: Administrative Officer, Defense Nuclear Agency, National Naval Medical Center, Bethesda, Md. 20014. 9 pp. at $0.05 per page ($0.45). Payable to Treasurer of the United States.	
Defense Nuclear Agency Field Command.	FCDNA instruction 5025.8; Oct. 1, 1974 with changes. Description: Current index to Field Command instructions.	Field Command, Defense Nuclear Agency, attention of Security Specialist, Support Directorate, Kirtland AFB, N. Mex. 87115. No charge.	
Defense Supply Agency, Defense General Supply Center.	Index of publications: Current listing of policy statements, regulations, handbook, manuals, directives, procurement circulars, letters, supplements, procedures, and clause manual.	Commander, Defense General Supply Center, attention of DGSC-B, Richmond, Va. Reproduced copies $2. Treasurer of the United States.	Public Affairs Officer, Defense General Supply Center, Richmond, Va.
Department of Health, Education, and Welfare, Food and Drug Administration (DHEW/FDA).	Administrative Guidelines Manual. Jan. 1, 1973. Provides guidance to personnel responsible for regulatory decisions. Contains regulatory tolerances and guidance, and authorization for direct action by the field in areas of seizure, citation, and prosecution.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $50. Checks payable to Food and Drug Administration; mail to DFM, Accounting Branch, HFA-120, 5600 Fishers Lane, Rockville, Md. 20852.	Supervisor, Public Records and Documents Center (HFC-18), Room 4-62, FDA, 5600 Fishers Lane, Rockville, Md. 20852.
Do	Bureau of Foods Staff Manual Guide. Primarily concerned with the preparation of and review of documents within the Bureau of Foods.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $10. Checks payable to Food and Drug Administration; mail to DFM, Accounting Branch, HFA-120, 5600 Fishers Lane, Rockville, Md. 20852.	Do.
Do	Compliance Policy Guides. Provides a system for the issuing, filing, and retrieval of all official statements of FDA compliance policy.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. No charge.	Do.
Do	Compliance Program Guidance Manual. Provides general guidance to the field as to how certain industries will be inspected, sampled, etc., during a fiscal year. Programs within this manual assign the number of inspections or samples to be done within a specific industry.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. 10 cents per page. Checks payable to Food and Drug Administration; mail to DFM, Accounting Branch, HFA-120, 5600 Fishers Lane, Rockville, Md. 20852.	Do.
Do	Drug autoanalysis manual. Provides content uniformity test specifications in USP XVII and NFX II. Provides assurance of homogeneity within a siugle lot for a safe and effective drug supply. Specifications are for all tablet monographs where the active ingredient is present in low quantities (usually 50 mg or less).	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. No charge.	Do.
Do	ERDO data code manual. Lists computer code information for programs management system project (PMS) which is used for reporting project information into the program oriented data system (PODS).	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $15. Checks payable to Food and Drug Administration; mail to DFM, Accounting Branch, HFA-120, 5600 Fishers Lane, Rockville, Md. 20852.	Do.
Do	Field management directives. Used by the field staff to transmit FDA field policy in the areas of operations management, planning and budget guidance, program management, and State program management which gives policy information.	do	Do.
Do	Food additives analytical manual. Presents a compilation of analytical methodology for additives authorized for use. Compilation consists of methods for additives which can be used only as permitted in foods for human consumption and in feeds and drinking water of animals or treatment of food-producing animals.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. No charge.	Do.
Do	Hazard Analysis and Critical Control Point—A System for Inspection of Food Processors. Explains the hazard analysis and critical control point procedure. Used for overseeing industry's processing practices in order to provide the consumer with the best assurances possible of quality control in processing foods.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $131.95. Checks payable to Food and Drug Administration; mail to DFM, Accounting Branch, HFA-120, 5600 Fishers Lane, Rockville, Md. 20852.	Do.
Do	Inspector Operations Manual. Provides FDA personnel with standard operating inspectional and investigational procedures. Contains instructions needed by operating inspectors and investigators. Contains authorities, objectives, responsibilities, policies, and guides.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $25. Checks payable to Food and Drug Administration; mail to DFM, Accounting Branch, HFA-120, 5600 Fishers Lane, Rockville, Md. 20852.	Do.
Do	Inspector Training Manual. Basic training manual for food and drug inspectors and inspection technicians to provide the field with uniform approach to the administration of basic training.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $15. Checks payable to Food and Drug Administration; mail to DFM, Accounting Branch, HFA-120, 5600 Fishers Lane, Rockville, Md. 20852.	Do.

Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to	For inspection, copying, or additional information contact
Do	Inspector's Manual for State Food and Drug Officials. Divided into 2 parts: (1) Operations manual with information applicable to sample collection, inspections, and investigations in all fields of food and drug work; (2) commodities manual divided into specific types of food commodities. Manual for official use of State and local food and drug enforcement officers only.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $65. Checks payable to Food and Drug Administration; mail to DFM, Accounting Branch, HFA-120, 5600 Fishers Lane, Rockville, Md. 20852.	Do.
Do	Inspector's Technical Guide. To provide a medium for making all FDA inspectors aware of selected technical information not previously available on a broad scale.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. No charge.	Do.
Do	Instrument Operations Manual. Provides guidelines for analysis by instrumentation using the gas chromatograph, atomic absorption, nuclear magnetic resonance, and mass spectrograph. Provides brief, concise, operating instructions augmenting manufacturers' manuals.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $25. Checks payable to Food and Drug Administration; mail to DFM, Accounting Branch, HFA-120, 5600 Fishers Lane, Rockville, Md. 20852.	Do.
Do	Laboratory Operations Manual. Provides day-to-day guide for laboratory directors and supervisors. Reflects the science advisor program and district laboratory relationships with BDAC field offices and disposition of consumer complaint samples.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $17.50. Checks payable to Food and Drug Administration; mail to DFM, Accounting Branch, HFA-120, 5600 Fishers Lane, Rockville, Md. 20852.	Do.
Do	Pesticide Analytical Manual. Brings together the procedures and methods used in the FDA laboratories for surveillance of the extent and significance of contamination of man and his environment by pesticides and their metabolites.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. No charge.	Do.
Do	Quantity of contents compendium. Used to measure acceptable levels of shrinkage in food containers. Manual divided into 2 parts: (1) Contains procedures for measuring fill-of-container, statistical evaluation acceptable common or usual declaration of quantity of contents; (2) contains information on sampling where special techniques are required.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $25. Checks payable to Food and Drug Administration; mail to DFM, Accounting Branch, HFA-120, 5600 Fishers Lane, Rockville, Md. 20852.	Do.
Do	Regulatory Procedures Manual. Provides guidance on regulatory policy and supporting processing procedures.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $85. Checks payable to Food and Drug Administration; mail to DFM, Accounting Branch, HFA-120, 5600 Fishers Lane, Rockville, Md. 20852.	Do.
Do	Staff Manual Guides—Organization and Delegations. Contains directives issued by the Food and Drug Administration to establish policy, organization, procedures or responsibilities in the administrative area. Used to issue continuing instructions or information and remains in effect until rescinded or superseded.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. Vol. I, $60; Vol. II, $60; Vol. III, $30. Checks payable to Food and Drug Administration; mail to DFM, Accounting Branch, HFA-120, 5600 Fishers Lane, Rockville, Md. 20852.	Do.
Do	Supervisory Inspectors Guide. Designed to furnish supervisory inspectors with guidelines to assist them in performing their duties.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $28.50. Checks payable to Food and Drug Administration; mail to DFM, Accounting Branch, HFA-120, 5600 Fishers Lane, Rockville, Md. 20852.	Do.
Do	Vitamin Analytical Manual. For use and guidance of analytical chemists who are assigned to assay vitamin products offered for human and for animal use.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. No charge.	Do.
Do	Index to Administrative Staff Manuals. Current listing of all staff manuals with indexes and/or table of contents and costs.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $20. Checks payable to Food and Drug Administration; mail to DFM, Accounting Branch, HFA-120, 5600 Fishers Lane, Rockville, Md. 20852.	Do.
Do	Statements of policy and interpretations adopted by FDA and not published in the FEDERAL REGISTER.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. No charge.	Do.
Do	Extracts from annual subject indexes published by the FEDERAL REGISTER relating to food and drugs from 1967 to date.	do	Do.
U.S. Government Printing Office (GPO).	Bacteriological Analytical Manual. Prepared to establish and maintain in FDA laboratories uniform analytical procedures for qualitative and quantitative determination of micro-organisms in foods, drugs, cosmetics, etc. Provides mechanism for informing other government agencies, industry, etc. of bacteriological methods commonly used in FDA district laboratories.	Superintendent of Documents, U.S. Government Printing Office, $2,80. Checks to GPO, Washington, D.C. 20402. (Stock No. 1712-00162.)	Superintendent of Documents, GPO, Washington, D.C. 20402.
Department of Health, Education, and Welfare, National Institutes of Health (NIH).	NIH Freedom of Information Act (FOIA) Index; July 4, 1967, to June 30, 1975; The NIH FOIA index is composed of 12 sections plus an additional section of FOIA indexes for component organizations of NIH. The 12 sections are: Index of NIH manual releases; NIH supplements to HEW staff manuals, division of personnel management instructions and circulars; index of instruction and information memoranda issued by NIH/OD components; Office of Director central files classification guide; index of NIH guide for grants and contracts; index of decisions by the NIH Grants Appeals Board; index of permits and licenses for shipment of etiologic agents and vectors (NIAID); index of rhesus monkeys certificates (DRR); NIH Division of Engineering Services instruction manual index; index of NIH publications; reference set of PHS grants and awards, current awards report; and index of active and inactive correspondence (ES/NIH).	In addition to copies of the NIH FOIA index maintained by HEW, NIH will make photocopies available if requests are forwarded to: Associate Director for Communications, NIH, Building 1, Room 309, 9000 Rockville Pike, Betbesda, Md. 20014. Fees, as prescribed in 45 CFR 5.61, are 10 cents per page with the charge being made if the total amount exceeds 5 dollars. Checks payable to: DHEW—National Institutes of Health.	Associate Director for Communications, NIH, Building 1, Room 309, 9000 Rockville Pike, Bethesda, Md. 20014. (301)496-4461.

Agency and subagency name	Index title; period covered, brief description of contents	Order from; price; make checks payable to	For inspection, copying, or additional information contact
Department of the Interior, Bonneville Power Administration.	Bonneville Power Administration information index.	The public may review the index, obtain a copy of the index without charge, or secure further information concerning the contents of the records listed by contacting: Bonneville Power Administration's Public Information Office, 1002 NE., Holladay St., Portland, Oreg. 97208, or the Washington, D.C., office, 5600 Interior Bldg., Washington, D.C. 20240.	Bonneville Power Administration offices listed in previous column or BPA area offices at the following: 919 Northeast 19th Ave., Portland, Oreg. 97208; 415 1st Ave. N., Seattle, Wash. 98109; U.S. Courthouse, Spokane, Wash. 99201; West 101 Poplar St., Walla Walla, Wash. 99362; U.S. Federal Bldg., 211 East 7th St., Eugene, Oreg. 97401; Highway 2 E., Kalispell, Mont. 59901; U.S. Federal Office Bldg., Wenatchee, Wash. 98801; and 531 Lomax St., Idaho Falls, Idaho 83101.
U.S. Civil Service Commission (CSC).	Index to Civil Service Commission information. CSC document No. 1. Period covered: February to May, 1975. A listing of policy and nonpolicy publications and information systems arranged alphabetically by title and subject.	Mail and Distribution Unit, U.S. Civil Service Commission, 1900 E Street NW., Washington, D.C. 20415. Free.	Commission Library or any Commission office, including regional and area offices.
Federal Power Commission	Supplement to index of Commission actions, Jan. 1 through Mar. 31, 1975.	Office of Public Information, Federal Power Commission, Washington, D.C. 20426. No charge.	Office of Public Information, Federal Power Commission, Room 1000, 825 North Capitol St. NE., Washington, D.C. 20426.
Federal Trade Commission (FTC).	Final orders and opinions: [1] Bound volumes of decisions July 1967, to June 1973.	Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Checks: Superintendent of Documents. $5–12 each.	Legal and Public Records, Federal Trade Commission, Room 130, 6th and Pennsylvania Ave. NW., Washington, D.C. 20580.
Do	Advisory opinions: [1] Bound volume, July 1967 to December 1968. Index of advisory opinions subsequent to above date is in bound volumes of decisions.	Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Checks: Superintendent of Documents. $2.25 each.	Do.
Do	Final orders and opinions: Supplemental index, July 1973 to June 1975.	Legal and Public Records FTC, Room 130, 6th and Pennsylvania Ave. NW., Washington, D.C. 20580. $0.10 per page.	Do.
Do	Enforcement statement, July 1967 to June 1975.	do	Do.
Do	Trade regulation rules, July 1967 to June 1975	do	Do.
Do	Manuals—operating administrative	do	Do.
General Services Administration (GSA).	GSA Freedom of Information Act index; July 4, 1967 through June 30, 1975. Category A information which is final opinions, including concurring and dissenting opinions and orders, made in the adjudication of cases. Category B information which is those statements of policy and interpretations which have been adopted by GSA and are not published in the FEDERAL REGISTER. Category C information which is administrative staff manuals and instructions to staff that affect a member of the public.	GSA, Director of Information (ALVP), Washington, D.C. 20405. Price: $4.75. Make checks payable to: General Services Administration.	GSA Central Office Library and the business service centers located in each regional office listed below: Central Office Library, 18 and F Sts. NW., Room 1033, Washington, D.C. 20405. Business service centers: Region 1: John W. McCormack Post Office and Courthouse, Boston, Mass. 02109. Region 2: 26 Federal Plaza, New York, N.Y. 10007. Region 3: 7 and D Sts. SW., Washington, D.C. 20407. Region 4: 1776 Peachtree St. NW., Atlanta, Ga. 30309. Region 5: 230 South Dearborn St., Chicago, Ill. 60604. Region 6: 1500 East Bannister Rd., Kansas City, Mo. 64131. Region 7: 819 Taylor St., Fort Worth, Tex. 76102. Region 8: Building 41, Denver Federal Center, Denver, Colo. 80225. Region 9: 525 Market St., San Francisco, Calif. 94105. Region 10: GSA Center, Auburn, Wash. 98002.
National Science Foundation (NSF).	Index of NSF circulars, manuals, and bulletins in effect as of Mar. 31, 1975. A numerical and classification index of agency-wide issuances, encompassing: (a) NSF circulars—convey agency policies, regulations, and procedures of a continuing nature; (b) NSF manuals—provide detailed instructions for implementing operating procedures, requirements, and criteria; and (c) NSF bulletins—used to communicate urgent information concerning changes in policy or procedure prior to its incorporation into a circular or manual, and to communicate other information that is pertinent for a specific period.	NSF Public Information Office, Room 531, 1800 G St. NW., Washington, D.C. 20550. $0.10 per page, per copy. Payable to: National Science Foundation.	NSF Library, Room 219, 1800 G St. NW., Washington, D.C. 20550.
Do	Index of Office of the Director staff memoranda (O/D) in effect, as of Mar. 31, 1975. A numerical index, by calendar year, of issuances used by the Director and Deputy Director of the National Science Foundation to implement policy and to communicate with the staff on subjects of their choice.	do	Do.
Do	Numerical index of NSF important notices in effect as of Sept. 12, 1974. An index of notices serving as the primary means of general communication by the Director, NSF, with organizations receiving or eligible for NSF support. The notices convey important announcements of NSF policies and procedures or concerning other subjects determined to be of interest to the academic community and to other selected audiences.		
Do	Index of current internal directorate issuances. A listing, by NSF directorate, of pertinent internal issuances of major NSF organizational components conveying policies, criteria, instructions or procedures amplified at a level below the Office of the Director and to communicate information of specific scope.	do	Do.
Do	Index of NSF regulations promulgated in the Code of Federal Regulations under title 41, public contracts, property management; and title 45, public welfare. A listing, by subject title, of current Foundation regulations with a brief description of the content of each.	do	Do.

Agency and subageney name	Index title; period covered, brief deseription of eontents	Order from; price; make checks payable to	For inspection, copying, or additional information contact
Do	Publications of the National Science Foundation. An index by topical classification, as of February 1975, of current NSF publications issued and available to the public. Listings include annual reports, specific program announcements and brochures, science resources studies pamphlets, special publications and NSF periodicals. In addition to titles, provides NSF publication numbers and copy prices. (NSF publication 75–13.)	NSF Central Processing Section, 1800 G St. NW., Washington, D.C. 20550. One copy gratis.	For inspection or copying: NSF Library, Room 219, 1800 G St. NW., Washington, D.C. 20550. For additional information: NSF Publications Resource Office, Room 531, 1800 G St. NW., Washington, D.C. 20550.
Do	NSF guide to programs. A composite listing of summary information about NSF assistance support programs, as of October 1974. Provides general guidance and information describing the principal characteristics and basic purposes of each activity; eligibility requirements; closing dates (where applicable); and the address where more detailed information or applications may be obtained. (NSF publication 75–42.)	NSF Central Processing Section, 1800 G St. NW., Washington, D.C. 20550. One copy gratis; Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Stock No. 3800–00195. Unit price: $1.70.	Do.
National Transportation Safety Board (NTSB).	Initial decisions of administrative law judges, Apr. 4, 1967 to June 30, 1975. Chronological listing (by date of service) of initial decisions after hearings on appeal involving airman/air safety certificates. Safety enforcement decisions, May 18, 1967 to June 30, 1975. Alphabetical and numerical listings (by EA and EM order No.) of final opinions/orders of the Board on appeal from initial decisions of NTSB administrative law judges and Commandant, U.S. Coast Guard. NTSB directives checklist as of Jan. 9, 1975. Numerical listing (by NTSB order No.) of staff operational directives.	Copies of indexes and checklist may be obtained by writing to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. (Fees for duplication and instructions for payment will be included in letter of acknowledgment to requester.)	Chief, Public Inquiries Section, Room 806–B, National Transportation Safety Board, 800 Independence Ave. SW., Washington, D.C. 20594. Public Reference Room 806–B.
Office of Management and Budget (OMB).	Index to BOB/OMB bulletins, July 4, 1967 to June 30, 1975. Keyword index of OMB bulletins.	Office of Management and Budget. No fee. Velma N. Baldwin, Assistant to the Director for Administration.	Velma N. Baldwin Assistant to the Director for Administration.
Do	Office of Management and Budget circulars index, 1948 to June 30, 1975. Arranges current OMB circulars by keywords in the titles of the directives and by a limited number of broader captions.	do	Do.
Do	Index to Office of Management and Budget manual. All those sections currently in effect through June 30, 1975. Arranged by keywords in the titles.	do	Do.
Do	Rescinded Office of Management and Budget circulars, through June 30, 1975. Arranged by number, date, subject, rescission date, and circular replacement (if any).	do	Do.
Postal Rate Commission	Postal Rate Commission index	Secretary of the Commission, Postal Rate Commission, Washington, D.C. 20268. No charge.	Commission's Reading Room, Suite 500, 2000 L St. NW., Washington, D.C.
Selective Service System	1. Index to Selective Service regulations and directives, 1948 to 1972. 2. Index to Selective Service regulations and registrants processing manual, 1972 to present. 3. General index to reconciliation service manual. 4. Registrant information bank guide index, 1972 to present.	National Headquarters, Selective Service System, 1724 F St. NW., Washington, D.C. 20435. Prices: 1. $2, 2. $2, 3. $0.10, 4. $0.10. Make checks payable to: Selective Service System	Records Manager, National Headquarters, Selective Service System, 1724 F St. NW., Room 105, Washington, D.C. 40305. Telephone (202) 343–7117
Tennessee Valley Authority	Index to general administrative releases; covers period through June 1975; index to TVA organization bulletins, TVA codes, and TVA instructions.	John Van Mol, Director of Information, Tennessee Valley Authority, Knoxville, Tenn. 37902. Price: $2.00. Checks payable to: Tennessee Valley Authority.	John Van Mol, Director of Information, Tennessee Valley Authority, Knoxville, Tenn. 37902.

[1] Duplicated pages of index.

JULY 9, 1975.

FRED J. EMERY,
Director, Office of the Federal Register.

[FR Doc.75–17691 Filed 7–8–75;8:45 am]

FEDERAL RESERVE SYSTEM

ALABAMA BANCORPORATION

Acquisition of Bank

Alabama Bancorporation, Birmingham, Alabama, has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent (less directors' qualifying shares) of the voting shares of the successor by merger to Muscle Shoals National Bank, Muscle Shoals, Alabama. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any persons wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than July 31, 1975.

Board of Governors of the Federal Reserve System, June 30, 1975.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.75-17735 Filed 7-8-75;8:45 am]

CITIZENS STATE BANCORP, INC.

Order Approving Formation of Bank Holding Company and Engaging in Insurance Agency Activities

Citizens State Bancorp, Inc., Manhattan, Kansas, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through acquisition of 80 percent or more of the voting shares of Citizens State Bank & Trust Co., Manhattan, Kansas ("Bank"). Applicant has also applied, pursuant to § 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to engage in the sale of credit life and credit accident and health insurance in Manhattan, Kansas. Such activities have been determined by the Board to be closely related to banking (12 CFR 225.4(a)(9)(ii)(a)).

Notice of the applications, affording opportunity for interested persons to submit comments and views, has been given in accordance with §§ 3 and 4 of the Act (40 FR 16884). The time for filing comments and views has expired, and the applications and all comments received have been considered in light of the factors set forth in § 3(c) of the Act, and the considerations specified in § 4(c)(8) of the Act.

Applicant is a nonoperating corporation organized for the purposes of becoming a bank holding company through acquisition of Bank and operating an insurance agency business. Bank, with deposits of approximately $21 million, representing .3 of one per cent of the total commercial bank deposits in Kansas,[1] is the fourth largest of 13 banks located in the Manhattan banking market.[2] Inasmuch as Applicant has no existing subsidiary banks and the proposal represents merely a restructuring of Bank's ownership, the acquisition of Bank by Applicant would have no adverse effects on competition within the area served by Bank. Accordingly, it is concluded that competitive considerations are consistent with approval of the application.

The financial condition, managerial resources, and prospects of Bank are regarded as satisfactory and consistent with approval of the application. The management of Applicant is satisfactory, and Applicant's financial condition and prospects, which are dependent upon profitable operations of both Bank and the insurance agency, appear favorable. Although Applicant will incur debt in connection with the proposal, the projected income from Bank and the insurance agency activities should provide sufficient revenue to service the debt without impairing the financial condition of Bank. Accordingly, considerations relating to banking factors are consistent with approval of the application. Considerations relating to convenience and needs are also regarded as being consistent with approval of the application to acquire Bank. It is the Board's judgment that cosummation of the proposal to form a bank holding company would be consistent with the public interest and the application should be approved.

Also incident to the reorganization of Bank's ownership, Applicant proposes to operate an insurance agency business pursuant to § 225.4(a)(9)(ii)(a) of Regulation Y. The agency would engage in the sale of credit life and credit accident and health insurance directly related to extensions of credit by Bank. The agency is presently operated by officers of Bank. It does not appear that the acquisition of the insurance agency business would have any significant effect on existing or future competition. On the other hand, approval of the application would assure residents of the area a convenient source of insurance services, which factor the Board regards as being in the public interest. There is no evidence in the record indicating that consummation of the proposal would result in any undue concentration of resources, unfair competition, conflicts of interest, unsound banking practices or other adverse effects on the public interest.

Based on the foregoing and other considerations reflected in the record,* the Board has determined that the considerations affecting the competitive factors under § 3(c) of the Act and the balance of the public interest factors the Board must consider under § 4(c)(8) both favor approval of Applicant's proposals.

Accordingly, the applications are approved for the reasons summarized above. The acquisition of Bank shall not be made before the thirtieth calendar day following the effective date of this Order; and neither the acquisition of Bank nor commencement of insurance agency activities shall be made later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Kansas City pursuant to delegated authority. The determination as to Applicant's insurance activities is subject to the conditions set forth in section 225.4(c) of Regulation Y and to the Board's authority to require reports by, and make examinations of, holding companies and their subsidiaries and to require such modification or termination of the activities of a bank holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

By order of the Board of Governors,[3] effective June 27, 1975.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.75-17736 Filed 7-8-75;8:45 am]

FIRST COMMUNITY BANCORPORATION

Proposed Acquisition of Armstrong Insurance Agency, Inc.

First Community Bancorporation, Joplin, Missouri, has applied, pursuant to § 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire voting shares of Armstrong Insurance Agency, Inc., Pineville, Missouri. Notice of the application was published on May 28, 1975 in the McDonald County News-Gazette, a newspaper circulated in Pineville, Missouri.

Applicant states that the proposed subsidiary would engage in general insurance agency activities including the sale of fire, marine, and casualty insurance. Such activities will be conducted at offices in Pineville, Missouri, a community with a population of less than 5,000 persons. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proopsals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on

[1] All banking data are as of October 15, 1974.

[2] The market is approximated by northern Geary County, Riley County, and southwestern Pottawatomie County.

[3] Voting for this action: Governors Bucher, Holland, and Coldwell. Voting against this action: Vice Chairman Mitchell. Absent and not voting: Chairman Burns and Governor Wallich. Dissenting Statement of Governor Mitchell filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Kansas City.

this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than July 22, 1975.

Board of Governors of the Federal Reserve System, June 30, 1975.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.75-17737 Filed 7-8-75;8:45 am]

FOREST PARK NATIONAL CORPORATION

Order Denying Formation of Bank Holding Company

Forest Park National Corporation, Forest Park, Illinois, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of all of the voting shares (less directors' qualifying shares) of the successor by merger to Forest Park National Bank, Forest Park, Illinois ("Bank"). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with § 3(c) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, a non-operating corporation with no subsidiaries, was organized for the purpose of becoming a bank holding company through acquisition of Bank (deposits of $37.3 million). Bank, located approximately 10 miles west of downtown Chicago, is the 131st largest bank in the Chicago banking market[1] and holds .09 percent of the total deposits in the market. (All banking data are as of June 30, 1974.) Inasmuch as the proposed transaction represents a restructuring of the ownership of Bank from individuals (who acquired control of Bank in 1974) to a corporation owned by the same individuals, and since Applicant has no present subsidiaries, consummation of the proposal would not eliminate existing or future competition, nor have an adverse effect on any bank in the relevant area.

A principal of Applicant is also a principal of First National Corporation of Oak Brook, Oak Brook, Illinois, a one-bank holding company (in formation)[2] which proposes to acquire 100 percent of First National Bank and Trust Company of Oak Brook, Oak Brook, Illinois ("First National"). First National (deposits of $16.8 million) ranks as the 227th largest bank in the relevant banking market with .04 percent of total deposits therein. In view of the relatively small size of the two banks and the large number of competitors in the market, it appears that there is no significant competition between First National and Bank. Accordingly, based on the foregoing and other facts of record, the Board concludes that competitive considerations are consistent with approval of the application.

Under the Bank Holding Company Act, the Board is required to take into consideration the financial and managerial resources and future prospects of the proposed bank holding company and the bank to be acquired. In the exercise of that responsibility, the Board finds that such considerations warrant denial of the application.

In regard to such considerations, it appears that Bank's presently marginal capital position may be further weakened as a result of Applicant's intention to take out substantial dividends from Bank during the coming years. Such a dividend policy flows from the substantial debt in excess of $1 million which has been incurred by the principals of Applicant as a result of their purchase of Bank's stock. The dividend policy currently in effect as well as that proposed involves levels of pay-out which are inconsistent with the earnings retention needed to maintain acceptable capital funds in Bank. Accordingly, in the Board's view, the above factors reflect adversely on financial and managerial considerations as they relate to Applicant and Bank and warrant denial of the application.

The proposed formation represents merely a restructuring of the ownership of Bank with no changes in Bank's operations or the services offered to customers. Accordingly, considerations relating to the convenience and needs of the community to be served lend no weight toward approval of the application.

On the basis of all the circumstances concerning this application, the Board concludes that the banking considerations involved in the proposal are adverse with respect to financial and managerial considerations. Such adverse factors are not outweighed by any procompetitive effects or by benefits which would result in serving the convenience and needs of the community. Accordingly, it is the Board's judgment that approval of the application would not be in the public interest, and the application should be, and hereby is, denied for the reasons summarized above.

By order of the Board of Governors,[3] effective July 2, 1975.

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

[FR Doc.75-17738 Filed 7-8-75;8:45 am]

[1] The Chicago banking market is approximated by Cook County, Du Page County, and portions of Lake County.

[2] By Order dated April 24, 1975, the Board approved the application of First National Corporation of Oak Brook to become a bank holding company.

[3] Voting for this action: Governors Bucher, Holland, Wallich and Coldwell. Absent and not voting: Chairman Burns and Governor Mitchell.

INSURED BANKS

Joint Call for Report of Condition

Cross reference: For a document regarding joint call for report of condition of insured banks, see FR Doc. 75-17747, Federal Deposit Insurance Corporation, supra.

KLEIN BANCORPORATION, INC.

Order Approving Formation of Bank Holding Company

Klein Bancorporation, Inc., Chaska, Minnesota ("Applicant"), has applied for the System's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through the acquisition of majority interest in the voting shares of the following seven banks located in Minnesota:

(1) The First National Bank of Chaska, Chaska ("Chaska Bank"—95.2% or more).
(2) State Bank of Cologne, Cologne ("Cologne Bank"—93.0% or more).
(3) The Klein National Bank of Madison, Madison ("Madison Bank"—93.0% or more).
(4) First National Bank in Montevideo, Montevideo ("Montevideo Bank"—96.4% or more).
(5) Victoria State Bank, Victoria ("Victoria Bank"—84.0% or more).
(6) The First National Bank of Waconia, Waconia ("Waconia Bank"—91.5% or more).
(7) State Bank of Young America, Young America ("Young America Bank"—87.0% or more).

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act (40 FR 22316, May 22, 1975). The time for filing comments and views has expired, and none has been received. The Federal Reserve Bank of Minneapolis has considered the application in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, a newly formed company with no operating history, was organized by the majority shareholder of the seven banks which are the subjects of this application for the purpose of bringing them within a holding company structure. The seven proposed subsidiary banks have aggregate deposits of $95.7 million, representing 0.7% of total com-

mercial bank deposits in Minnesota.[1] Upon consummation of the proposal, Applicant would become the eighth largest banking organization and the smallest of seven multi-bank holding companies operating in Minnesota. The six multi-bank holding companies currently active in Minnesota collectively control $7.8 billion in deposits, representing 58.5% of commercial bank deposits in the state.

The seven proposed subsidiary banks are located in three distinct banking markets in Minnesota: Montevideo, Madison, and Minneapolis-St. Paul.

Montevideo Bank (deposits of $33.1 million), located in the city of Montevideo (population of 5,661), is the largest of nine banking organizations in the Montevideo banking market[2] and controls 32.2% of market deposits. None of the other proposed subsidiary banks serves a significant portion of this market, although Montevideo Bank derives approximately 1.5% of its deposit base and 1.1% of its loan portfolio from the Madison banking market.[3]

Madison Bank (deposits of $13.8 million), located in the city of Madison (population of 2,442), is the second largest of six banking organizations within the Madison banking market[4] and holds 30.1% of market deposits. None of the other proposed subsidiary banks serves a significant portion of this market, although Madison Bank derives approximately 1.1% and 7.7% of its loan portfolio from the Montevideo and Minneapolis-St. Paul banking markets, respectively (none of its deposit base is derived from these markets). Although the Montevideo and Madison banking markets are located adjacently, they are relatively self-contained areas and an insignificant amount of commuting occurs between them. As a result, there is no significant competition between Montevideo and Madison Banks.

The Minneapolis-St. Paul banking market is approximated by the Minneapolis-St. Paul RMA,[5] which spans portions of two Wisconsin counties and ten Minnesota counties located in eastern Minnesota and extreme western Wisconsin. Applicant proposes to acquire five banks in this market: Waconia Bank (deposits of $16.6 million), Chaska Bank deposits of $15.2 million), Young America Bank (deposits of $10.2 million), Cologne Bank (deposits of $4.1 million), and Victoria Bank (deposits of $2.6 million), respectively the 33rd, 38th, 58th, 96th, and 107th largest of 113 banking organizations. These five banks are located in Carver County in close proximity to each other with substantial service area overlap among them. None of these five banks individually controls more than 0.2% of total market deposits. Upon consummation of the proposal, Applicant would become the 11th largest banking organization and the smallest of seven multi-bank holding companies in the market, with 0.7% of total market deposits. No significant competition exists between the Minneapolis-St. Paul banking market, a highly developed urban area, and either Montevideo or Madison, which are predominantly agriculturally oriented areas, due to the distance (150 miles) separating them and the large number of intervening banks.

The proposal is essentially a reorganization of ownersihp interests whereby members of the same family, who have directly controlled the proposed subsidiary banks for several decades, would now control the banks indirectly through Applicant. As indicated in the record, there is no significant existing competition between any of the seven proposed subsidiary banks due, in part, to the common shareholder control. Although there is substantial overlap of service area among the proposed subsidiary banks in the Minneapolis-St. Paul banking market, the effects of consummation of this proposal on existing and potential competition would not be significant since the proposed subsidiary banks do not hold a significant competitive position in the market, in view of the numerous convenient alternative banking sources, and the fact that the locale of the banks is attractive to additional bank expansion. Competitive effects are further minimized by the long standing common control of the banks and the likelihood that such control would continue absent approval of this application. Further, it appears that the proposal would not result in a concentration of banking resources in any relevant area. On the basis of the record, it is concluded that consummation of the proposed transaction would not have an adverse effect on competition in any relevant area. Therefore, competitive considerations are consistent with approval of the application.

The financial and managerial resources and future prospects of Applicant, which are dependent upon those of the proposed subsidiary banks, are considered generally satisfactory, particularly in view of Applicant's commitment to inject additional equity capital of $300,000 into Young America Bank, $175,000 into Madison Bank, $175,000 into Montevideo Bank, $75,000 into Waconia Bank, and $50,000 into Victoria Bank. Although Applicant will incur debt in connection with the proposal, reasonable projections of the earnings of the proposed subsidiary banks would provide sufficient revenue to service the debt without impairing the financial condition of any bank. Accordingly, banking factors are regarded as being consistent with approval of the application.

The proposal represents merely a change in the form of ownership of the proposed subsidiary banks and does not contemplate any changes in the operation or services to the public. However, considerations relating to the convenience and needs of the communities to be served are regarded as being consistent with approval of the application. It is the judgment of the Federal Reserve Bank of Minneapolis that consummation of the proposed acquisition would be in the public interest and that the application should be approved.

Pursuant to the provisions of 12 CFR 265.2(f)(22) of the Rules Regarding Delegation of Authority, and on the basis of the record of the application, the Federal Reserve Bank of Minneapolis hereby approves the application. The transaction shall not be consummated (a) before the thirtieth calendar day following the effective date of this Order, or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board of Governors or by the Federal Reserve Bank of Minneapolis pursuant to delegated authority. Further, the transaction shall not be consummated until there has been compliance with section 3(e) of the Act (12 U.S.C. 1842(e)) which requires that every bank that is a holding company and every bank that is a subsidiary of such a company shall become and remain an insured bank as such term is defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h)).

By order of the Federal Reserve Bank of Minneapolis, effective June 24, 1975.

[SEAL] L. G. GABLE,
Vice President.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.75-17739 Filed 7-8-75;8:45 am]

LANDMANDS CORPORATION

Order Approving Formation of Bank Holding Company

The Landmands Corporation, Kimballton, Iowa, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through acquisition of 80 per cent or more of the voting shares of The Landmands National Bank of Kimballton, Kimballton, Iowa ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with § 3(b) of the Act. The time for filing comments and views has expired, and the application and all comments received have been considered in light of the factors set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, a non-operating corporation with no subsidiaries, was recently organized for the purpose of becoming a bank holding company through acquisition of Bank (deposits of $7.6 million).[1] Bank is the smallest of three banks operating in

[1] All banking data, unless otherwise noted, are as of October 1974 and reflect holding company formations and acquisitions approved by the Board through May 1975.

[2] Approximated by Chippewa County and portions of Renville, Yellow Medicine and Lac Qui Parle Counties.

[3] All market share data as of December 1974.

[4] Approximated by Lac Qui Parle County except for the extreme eastern portion.

[5] Minneapolis-St. Paul RMA has been adjusted to include all of Carver County.

[1] All banking data are as of June 30, 1974.

the relevant banking market (approximated by Audubon County, Iowa) and controls approximately 23 per cent of the total deposits in commercial banks in the market. Upon acquisition of Bank, Applicant would control the 373rd largest banking organization in Iowa, holding .08 per cent of the total commercial bank deposits in the State. Since the subject proposal represents the restructuring of existing ownership interests of Bank and since Applicant has no present subsidiaries, it is concluded that consummation of the proposal would not eliminate existing or potential competition, nor have an adverse effect on other area banks.

Principals of Applicant are also principals in another registered one-bank holding company with its banking subsidiary in Sibley, Iowa, approximately 140 miles north of Kimballton. In addition, a principal of Applicant and his family[2] are principals in a registered one-bank holding company with its banking subsidiary in Omaha, Nebraska. However, since these banks are located in separate banking markets and at great distances from Bank, it appears that no existing competition would be eliminated, nor potential competition foreclosed, as a result of the consummation of this proposal. Accordingly, it is concluded that competitive considerations are consistent with approval of the application.

The financial and managerial resources and future prospects of Applicant, which are dependent upon those same factors in Bank, are considered to be satisfactory. Bank's projected income should provide sufficient revenue to service the debt incurred by Applicant incident to this transaction without impairing the financial condition of Bank. Therefore, considerations relating to banking factors are consistent with approval of the application. Although consummation of the proposal would have no immediate effect on the banking services offered by Bank, considerations relating to the convenience and needs of the community to be served are consistent with approval of the application. It has been determined that the proposed transaction would be consistent with the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order, or (b) later than three Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Secretary of the Board, acting pursuant to delegated authority from the Board of Governors, effective July 1, 1975.

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

[FR Doc.75-17740 Filed 7-8-75;8:45 am]

[2] The Lauritzen family also owns or controls, directly or indirectly, several other banking institutions in Iowa and Nebraska.

SOUTHERN BANCORPORATION, INC.

Order Approving Acquisition of Additional Shares of Bank

Southern Bancorporation, Inc., Greenville, South Carolina, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under § 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire an additional 14.9 percent of the voting shares of Bank of North Charleston ("Bank"), North Charleston, South Carolina.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with § 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

By Order dated April 10, 1974, the Board approved Applicant's acquisition of 10 percent of the voting shares of Bank, which was a proposed new bank at that time. In connection with that proposal, Applicant set forth facts which raised a presumption that upon, and immediately following, consummation of the proposed acquisition of shares of Bank, Applicant would, in fact, control Bank. Accordingly, the Board regarded that proposal as one for the acquisition of a subsidiary bank. In the instant proposal, Applicant seeks approval to acquire an additional 14.9 percent of the voting shares of Bank.

Applicant presently controls two subsidiary banks with aggregate deposits of approximately $162 million, representing about 4.3 per cent of the total commercial bank deposits in South Carolina.[1] In view of the nature of this proposal, which involves the acquisition of additional shares of a bank which is already regarded as a subsidiary of Applicant, consummation of the acquisition would not affect the concentration of banking resources in the State.

Bank (deposits of $0.4 million) is located in the city of North Charleston, which is in the Charleston SMSA banking market, and was opened for business on June 19, 1974. The office of Applicant's other banking subsidiary which is closest to Bank is located 11 miles away, in Charleston. Since Applicant's proposal involves the acquisition of additional shares of a bank which it already controls, consummation of the proposal would not have any effect on Applicant's share of commercial bank deposits in the Charleston SMSA banking market, nor would it have any adverse effects on existing or potential competition with respect to the Charleston SMSA banking market.

The financial and managerial resources and future prospects of Bank and of Applicant and of its other subsidiary bank are regarded as satisfactory and consistent with approval of the application. The subject proposal would not result in a change in the control of Bank, and no immediate changes in services or facilities are proposed other than those already instituted when Bank was opened for business. However, considerations relating to the convenience and needs of the community to be served are consistent with approval of the application. It is the Board's judgment that the proposed transaction would be consistent with the public interest, and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Richmond pursuant to delegated authority.

By order of the Board of Governors,[2] effective June 27, 1975.

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

[FR Doc.75-17741 Filed 7-8-75;8:45 am]

AMES NATIONAL CORP.

Order Approving Formation of Bank Holding Company

Ames National Corporation, Ames, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through the acquisition of 100 percent of the voting shares (less directors' qualifying shares) of First National Bank, Ames, Iowa, Ames, Ioaw ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Federal Reserve Bank of Chicago has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant was recently formed by shareholders of Bank for the purpose of becoming a bank holding company with respect to Bank. Bank has aggregate deposits of $31.2 million[1] and is the 52nd largest bank in Iowa, holding 0.32 percent of the commercial bank deposits in the State. Bank is the largest of three banks located in Ames, holding about 44 percent of the total deposits of the banks in the city.

Since Applicant engages in no other business activities and has no subsidiaries, it is concluded that consummation of the proposal would have no adverse effects on existing or potential competition.

The financial condition of Applicant and its future prospects are dependent

[2] Voting for this action: Vice Chairman Mitchell and Governors Bucher, Wallich and Coldwell. Absent and not voting: Chairman Burns and Governor Holland.

[1] Banking data are as of June 30, 1974.

[1] Banking data as of June 30, 1974.

upon those same factors in Bank. The future prospects of Applicant and Bank are favorable, and the financial and managerial considerations are consistent with approval.

Consummation of the proposed transaction is not expected to produce any immediate benefits to the public. However, the flexibility afforded by the holding company form of organization will enable Applicant to provide varied financial services to the community in the future. Convenience and needs considerations, therefore, are consistent with approval.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the thirtieth calendar day following the effective date of this Order, or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Federal Reserve Bank of Chicago, acting pursuant to delegated authority for the Board of Governors of the Federal Reserve System, effective June 27, 1975.

[SEAL] ROBERT P. MAYO,
President.

[FR Doc.75-17772 Filed 7-8-75;8:45 am]

INTERNATIONAL TRADE COMMISSION

[AA1921-146]

LOCK-IN AMPLIFIERS AND PARTS THEREOF FROM THE UNITED KINGDOM

Determination of No Injury or Likelihood Thereof or Prevention of Establishment

JULY 2, 1975.

On April 2, 1975, the United States International Trade Commission received advice from the Department of the Treasury that lock-in amplifiers and parts thereof from the United Kingdom are being, or are likely to be, sold in the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 (a)). Accordingly, on April 9, 1975, the Commission instituted investigation No. AA1921-146 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such lock-in amplifiers and parts thereof into the United States.

Notice of the institution of the investigation and of the public hearing to be held in connection therewith was published in the FEDERAL REGISTER of April 15, 1975 (40 FR 16886). The hearing was held on May 20, 1975.

In arriving at its determination, the Commission gave due consideration to all written submissions from interested parties, evidence adduced at the hearing, and all factual information obtained from questionnaires, personal interviews, and other sources.

On the basis of the investigation, the Commission has unanimously determined that an industry in the United States is not being injured or is not likely to be injured, or is not prevented from being established, by reason of the importation of lock-in amplifiers and parts thereof from the United Kingdom that are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

STATEMENT OF REASONS FOR NEGATIVE DETERMINATION OF COMMISSIONERS LEONARD, MINCHEW, BEDELL, AND ABLONDI[1]

The Antidumping Act, 1921, as amended, requires that the United States International Trade Commission find two conditions satisfied before an affirmative determination can be made.

First, there must be injury, or likelihood of injury, to an industry in the United States, or an industry in the United States must be prevented from being established. Second, such injury or likelihood of injury or prevention of establishment must be "by reason of" the importation into the United States of the class or kind of foreign merchandise the Department of the Treasury determined is being, or is likely to be, sold at less than fair value (LTFV).

For the reasons set forth below, we unanimously determine that an industry in the United States is not being or is not likely to be injured, or is not prevented from being established,[2] by reason of imports of lock-in amplifiers and parts thereof from the United Kingdom sold at LTFV.

THE PRODUCT

Lock-in amplifiers (commonly called lock-ins) are electronic instruments which normally contain an AC voltmeter. They are used to amplify and then accurately measure weak signals which may otherwise be obscured by noise. Such instruments have a wide range of applications in physics and chemistry, e.g., surface analysis of metals, laser research, optical measurements, spectroscopy, etc. Primary markets for such lock-ins are university, government, and industry research laboratories. Lock-ins are currently produced in the United States by several firms. Princeton Applied Research Corp. (PARC) has a substantial percentage of the market.

Commonly, producers purchase basic components (e.g., switches, wire, transistors, integrated circuits, etc.) for assembly into the finished product. The Department of the Treasury found that similar component parts of lock-ins were imported in kit form by an importer, Ortec, Inc., at LTFV.

AN INDUSTRY[3]

The Antidumping Act states that there must be injury to, or likelihood of injury to, or the prevention of the establishment of, "an industry" in the United States in order for relief to be forthcoming. The use of the indefinite article "an," rather than the definite article "the," allows the Commission to examine the impact of the LTFV sales on more than one industry, if it deems such course of action is appropriate. If any industry is injured by LTFV imports, the statute is satisfied. Out of practical considerations and in its sound discretion, the Commission has usually looked at the industry in the United States that would most likely be impacted by LTFV imports to assess injury. If no injury were found to such an industry, and no evidence of injury to another possible industry has been obtained, the Commission has usually concluded that there was no injury to an industry. The industry most likely to be impacted has usually been defined in terms of the domestic facilities devoted to the production of the article most comparable to the LTFV article. In the instant case, it is more difficult than usual to define the industry most likely to be affected by LTFV imports because the importer assembles in the United States complete units from kits of parts imported at LTFV.

The Commission is presented with various possible industry definitions in this investigation, including, at least, the following:

(1) The industry consists of all the U.S. facilities producing lock-in amplifiers (including the Ortec, Inc., facility in Oak Ridge, Tenn.).

(2) The industry consists of all U.S. facilities producing lock-in amplifiers from components not sold at LTFV as found by the Treasury Department.

(3) The industry consists of the U.S. manufacturers of component parts of the class or kind that the Treasury Department found to be sold at LTFV.

(4) Any combination of the foregoing.

From the evidence obtained during the course of the Commission's investigation, we find that, regardless of the definition of industry use, an industry is not being injured or is not likely to be injured by reason of imports found by the Department of the Treasury to be sold at LTFV.

NO INJURY

The only current importer of lock-in amplifiers and parts thereof (Ortec, Inc.) began importing a small number of completely assembled units in 1972 and continued such importation during 1973. However, during this two-year period, none of these completely assembled lock-ins imported by Ortec was sold for U.S. consumption; rather, they were reexported to the United Kingdom. In 1974, during the period of the Treasury investigation, Ortec began importing kits (i.e., component parts) of lock-ins which were subsequently assembled in its Oak Ridge, Tennessee, facility.[4] Although the Treasury Department found that 100 percent of the articles imported by Ortec were sold at LTFV, the total number of lock-in units assembled from such imported kits and sold has been of little consequence. Indeed, the ratio of LTFV sales to U.S. consumption of all lock-in amplifiers was also small in 1974.

The Commission examined the contention of injury from the perspective of sales lost to imports by those U.S. producers of lock-ins who are not assembling such units from parts found by Treasury to be imported at LTFV. Total U.S. shipments of such lock-ins were at their peak, in terms of value, and near their peak, in terms of quantity, in 1974. Between the years 1970-74, there was a continuous upward trend in the value of

[1] Commissioners Moore and Parker concur in the result.

[2] Prevention of the establishment of an industry is not an issue in the instant case and will not be discussed further.

[3] Commissioner Ablondi does not concur with the definition of industry hereinafter set forth.

[4] The kits imported by Ortec consisted of a number of electronic components, such as transistors, switches, relays, and integrated circuits, and, and when combined with some U.S.-purchased or U.S.-produced components, constituted a complete lock-in unit.

shipments, and net operating profits were healthy throughout this period, including 1974, the year in which the U.S. market received the greatest penetration of LTFV imports. Increased competition between domestic producers not purchasing LTFV kits for lock-ins has characterized the market, which has declined in part as the result of a slowing down of Federal expenditures for funding research in science and technology by universities, and such decline has been amplified in part by reason of the economic recession of 1974–75.

Moreover, there is no evidence of price depression or suppression by reason of the LTFV imports. Although there was evidence presented by PARC indicating price depression, such depression occurred subsequent to the period of the Treasury investigation, which covered the period January 1, 1973–August 31, 1974. We cannot conclude that such depressed prices resulted from the minimal sales of the LTFV imports entered during the period of the Treasury investigation but sold thereafter. It is further noted that during the course of the Commission's investigation, the price on the domestic lock-in amplifier most comparable to that sold at LTFV was increased by the major U.S. producer.

Also, we are unable to conclude that the decline in employment in the facilities producing lock-ins is by reason of the LTFV imports. The Commission's data collected during the course of the investigation reveal that the decline in employment occurred during a period of technological advance permitting productivity to double. Therefore, we conclude that such decline was not attributable to LTFV imports.

NO LIKELIHOOD OF INJURY

Many of the same reasons for concluding that there is no injury to an industry in the United States are applicable to the question of likelihood of injury. There is no indication that the negligible number of LTFV imports will sharply increase in the foreseeable future. Ortec, Inc., ceased importing the LTFV kits subsequent to the Treasury determination, and the inventories of unassembled kits on hand are small. Prices of both the LTFV unit and the most comparable domestic unit have been increased; the former by 23 percent, effective January 1975. Moreover, Ortec, Inc., provided the Commission written assurances that it would not continue importing and selling lock-ins or parts thereof at LTFV.

CONCLUSION

In light of the aforementioned reasons, which fail to indicate that an industry in the United States, however defined, is being or is likely to be injured by reason of the importation of lock-in amplifiers and parts thereof from the United Kingdom at less than fair value, we have made a negative determination.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.75–17830 Filed 7–8–75;8:45 am]

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

MEETING

JULY 3, 1975.

The agenda for NACOA's July 14–15, 1975 meeting previously announced in the FEDERAL REGISTER of Thursday, June 12, 1975, will consist of the following general topics:

Monday, July 14, beginning at 9 a.m. Morning—Committee review of the draft report of the NACOA panel studying the International Decade of Ocean Exploration (IDOE). Committee discussion of its workplan for the coming year. Afternoon—Briefings on the recent World Meteorological Organization (WMO) Congress and the report of the interagency taskforce on Inadvertent Modification of the Stratosphere (IMOS). Continuation of Committee discussion of its workplan.

Tuesday, July 15, beginning at 9 a.m. Morning until adjournment at about 1 p.m. Committee discussion of pending legislation affecting its activities. Continuation of Committee discussion of its workplan.

Additional information concerning this meeting may be obtained through the Committee's Executive Director, Dr. Douglas L. Brooks, whose mailing address is: National Advisory Committee on Oceans and Atmosphere, Department of Commerce Building, Room 5225, Washington, D.C. 20230. The telephone is: (202) 967–3343.

DOUGLAS L. BROOKS,
Executive Director.

[FR Doc.75–17831 Filed 7–8–75;8:45 am]

NATIONAL SCIENCE FOUNDATION

AD HOC ADVISORY GROUP ON SCIENCE PROGRAMS (AGOSP) STUDY COMMITTEE

Meeting

The AGOSP Study Committee will hold a meeting on July 25, 1975, from 9 a.m. to 5 p.m. at the Space and Missiles System Organization, Los Angeles California.

The AGOSP was established to provide the President's Science Adviser (Director, National Science Foundation) with an independent source of advice concerning selected basic and applied science programs. The AGOSP charter provides for the establishment of committees as required to deal with specific areas within the Group's purview. The AGOSP and the Study Committee function in accordance with the Federal Advisory Committee Act, Pub. L. 92–463.

This meeting will not be open to the public because the Study Committee will be receiving classified briefings relevant to future space program planning. This matter falls within exemption (1) of Title 5, U.S.C. 552(b) which concerns national defense or foreign policy. The closing of this meeting is in accordance with the determination made by the Director, National Science Foundation, dated July 2, 1975, pursuant to provisions of section 10(d) of Pub. L. 92–463.

For further information, contact Mr. William C. Bartley, Executive Director, AGOSP, at 202/632–6871.

FRED K. MURAKAMI,
Management Analysis Officer.

JULY 3, 1975.

[FR Doc.75–17706 Filed 7–8–75;8:45 am]

[Docket No. P–556–A]

NUCLEAR REGULATORY COMMISSION

OMAHA PUBLIC POWER DISTRICT

Receipt of Attorney General's Advice and Time for Filing of Petitions To Intervene on Antitrust Matters

The Commission has received, pursuant to section 105c of the Atomic Energy Act of 1954, as amended, a letter of advice from the Attorney General of the United States, dated June 23, 1975 a copy of which is attached as Appendix A.

Any person whose interest may be affected by this proceeding may, pursuant to § 2.714 of the Commission's rules of practice, 10 CFR Part 2, file a petition for leave to intervene and request a hearing on the antitrust aspects of the application. Petitions for leave to intervene and requests for hearing shall be filed by August 8, 1975 either (1) by delivery to the NRC Public Docketing and Service Section at 1717 H Street, NW., Washington, D.C., or (2) by mail or telegram addressed to the Secretary, Nuclear Regulatory Commission, Washington, D.C. 20555, ATTN: Docketing and Service Section.

For the Nuclear Regulatory Commission.

ABRAHAM BRAITMAN,
Chief, Office of Antitrust and Indemnity, Nuclear Reactor Regulation.

APPENDIX "A"

OMAHA PUBLIC POWER DISTRICT, FORT CALHOUN STATION, UNIT NO. 2, DEPARTMENT OF JUSTICE FILE NO. 60–415–117, NUCLEAR REGULATORY COMMISSION DOCKET NO. P–556–A

JUNE 23, 1975.

You have requested our advice pursuant to the provisions of Section 105 of the Atomic Energy Act, as amended, in regard to the above-cited application.

Introduction. This is an application to construct an 1150 megawatt nuclear power plant to be located at a site near Blair, Washington County, Nebraska. Since the filing of the application, applicant, Omaha Public Power District (OPPD), and Nebraska Public Power District (NPPD) have entered into an ownership agreement whereby each party will own as tenants in common 50% of the nuclear unit. OPPD and NPPD have agreed to offer ownership shares in the unit to entities within the State of Nebraska which operate electric generating or distribution systems, the aggregate amount of such shares not to exceed 20% of the total capacity of the unit. It is anticipated that the municipally-owned Lincoln Electric System will participate in the unit by owning a minimum share of 150 megawatts, a figure which will be larger if other, smaller entities to whom participation has been offered, decline to participate. The most recent session of the Nebraska Legislature passed legislation specifically authorizing public power districts and municipalities to engage in joint ownership of power plants such as Fort Calhoun, Unit No. 2.

NPPD has not been included in the antitrust review which is the subject of this

advice because the necessary information has not yet been received by the Department.

Omaha Public Power District. Omaha Public Power District is an agency of the State of Nebraska.[1] OPPD's most recent peak demand, 1,117 megawatts occurred on July 18, 1974, at which time it had 1,334 megawatts of dependable generating capacity. Peak demand on OPPD's system over the next ten years is expected to nearly double. The bulk of this load growth will be met by the addition of a 575 megawatt fossil-fired unit in 1979 and Unit 2 of the Fort Calhoun Station in 1983.

OPPD serves in extreme Eastern Nebraska in a ten-county area extending north and south along the Missouri River. OPPD's load centers, wholesale and retail, and its generation are tied together by a system of high voltage and extra high voltage transmission lines. A 345 kv transmission line running the length of OPPD's system forms a significant segment of the major transmission line which reaches from Minneapolis, Minnesota to Omaha to Kansas City, Missouri. OPPD and Northern States Power Co., Interstate Power Co., Iowa Public Service Co., St. Joseph Light & Power Co., and Kansas City Power & Light Co. are parties to an interconnection agreement by which the parties engage in coordinated system planning and operations. The agreement provides for the use of this 345 kv interconnection for the sale and exchange of various types of power and energy including emergency energy, scheduled outage power, participation power, diversity interchange, and excess energy.

In addition to the above agreement, OPPD is a participant in the Mid-Continent Area Power Pool Agreement (MAPP), a regional power pool which includes membership by nearly all major electric utilities in a vast area of the Northcentral United States. Through its participation in the MAPP Pool, 345 kv Interconnection Agreement, and other interconnection agreements,[2] OPPD is accorded access to the full range of bulk power supply coordinating services and arrangements.

OPPD is also a member of a regional reliability organization, the Mid-Continent Area Reliability Coordination Agreement (MARCA).

Small generating municipalities operating within OPPD's service area, including the cities of Fremont, Blair, Falls City, Tecumseh, and Nebraska City, Nebraska are assisted by interconnection agreements with OPPD. These agreements generally provide the municipalities with partial-requirements service to supplement their own generation, and coordinating services such as emergency service, economy energy, and interchange energy. OPPD has offered ownership shares of the subject nuclear plant to these municipalities, individually and collectively, but at this time it is thought unlikely that such municipalities will elect to participate.

With respect to the matter of wheeling services, there is no recent evidence that OPPD has refused to permit third parties to transmit power over OPPD's transmission facilities. OPPD currently wheels power from the U.S. Bureau of Reclamation to two municipalities in OPPD's area. Moreover, OPPD has assured this Department that OPPD will wheel power, under appropriate terms and conditions, for any utilities in OPPD's area, specifically including Bureau of Reclamation power, power to participants in Fort Calhoun, Unit 2, and power between and among utilities that may themselves install jointly owned power plants.

Regulation of Electric Power in Nebraska. Electricity in Nebraska is generated, transmitted and distributed by public power districts, municipalities, and cooperatives. Unlike most states, there are no privately-owned electric utilities operating in Nebraska. Thus, the typical patterns of competitive conflict found in many states are not present here.

The Nebraska Power Review Board has regulatory jurisdiction over the installation of new generation and transmission facilities in that state, but has only advisory responsibilities over retail and wholesale rates, which are set by the suppliers.

Interconnection and coordination of facilities, including compulsory wheeling over surplus transmission capacity, is also encouraged and declared by statute to be state policy.

Results of Antitrust Review. After investigation of OPPD's conduct in light of the existing market structure in Nebraska, the Department has found no basis upon which to recommend an antitrust hearing.

[FR Doc.75-17567 Filed 7-8-75;8:45 am]

[1] See generally Neb. Rev. Stat. §§ 70-601 to -680, 70-1001 to -1020, 70-1101 to -1106 (1971).

[2] OPPD is also interconnected with or has contracts with the Nebraska Public Power District, Iowa Power & Light Co., Kansas Gas & Electric Co., Kansas Power & Light Co., and the United States Bureau of Reclamation.

SECURITIES AND EXCHANGE COMMISSION

[70-5702]

OHIO POWER CO.

Proposed Amendments to Amended Articles of Incorporation

JULY 1, 1975.

Notice is hereby given that Ohio Power Company ("Ohio") 301 Cleveland Avenue SW., Canton, Ohio 44701, an electric utility subsidiary company of American Electric Power Company, Inc. ("AEP"), a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a) (2) and 7 of the Act as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

Ohio proposes to amend its Amended Articles of Incorporation to modify the terms of the Company's Cumulative Preferred Stock. The amendments provide that so long as any shares of the Cumulative Preferred Stock are outstanding, the Company shall not:

(a) Without the consent (given by vote at a meeting called for that purpose) of the holders of a majority of the total number of shares of the Cumulative Preferred Stock then outstanding, sell or otherwise dispose of all or substantially all of its properties unless such sale or disposition shall have been ordered, approved, or permitted by the Commission under the Act, (b) Redeem (whether through operation of a sinking fund or otherwise), purchase or otherwise acquire any shares of the Cumulative Preferred Stock during any period when dividends payable on the Cumulative Preferred Stock shall be in default unless all shares of the Cumulative Preferred Stock shall be so redeemed, purchased or otherwise acquired, or unless such redemption, purchase or acquisition shall have been ordered, approved or permitted by the Commission under the Act; and (c) Declare any dividend on, or acquire for value, any shares of Common Stock or any other shares of capital stock of the Company ranking junior to the Cumulative Preferred Stock as to dividends or the distribution of assets, during any period when the Company shall be in default of any obligation of the Company under any sinking fund for Cumulative Preferred Stock, unless all shares of Cumulative Preferred Stock are concurrently redeemed, purchased or otherwise acquired, or unless such dividend, purchase or acquisition shall have been ordered, approved or permitted by the Commission, under the Act.

Ohio intends to submit the proposed amendments to the Company's shareholders for their approval at the Annual Meeting of shareholders to be held on July 14, 1975. It is stated that because the proposed amendments do not change the express terms of the Cumulative Preferred Stock of the Company in any manner substantially prejudicial to the holders of such stock, no vote of the holders of Ohio's Cumulative Preferred Stock, as a class, is required. Since AEP, holder of all the outstanding shares of Ohio's common stock, has indicated that all such shares will be voted in favor of the proposed amendments, and such shares will constitute 90.3 percent of the voting power of the capital stock of Ohio entitled to vote at the meeting, Ohio is not soliciting the votes of the holders of the Cumulative Preferred Stock.

The fees and expenses to be incurred in connection with the proposed transaction are estimated not to exceed $10,000. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than July 24, 1975, request in writing that a hearing be held with respect to the proposed transaction, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the declarant 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 declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it

may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

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

[FR Doc.75-17805 Filed 7-8-75;8:45 am]

[70-5701]

MASSACHUSETTS ELECTRIC CO.

Proposed Increase of Authorized Short-Term Borrowing and Order Authorizing Solicitation of Proxies in Connection Therewith

JULY 2, 1975.

Notice is hereby given that Massachusetts Electric Company ("Mass Electric"), 20 Turnpike Road, Westborough, Massachusetts 01581: an electric utility subsidiary company of New England Electric System ("NEES"), a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 7(e), and 12(e) of the Act and Rules 62 and 65 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

Mass Electric seeks to increase, for a period of five years, the maximum amount of unsecured short-term indebtedness which it is authorized to incur from 10 percent to 20 percent of total capitalization. The short-term indebtedness is to be incurred within five years from the date of the Order of the Commission making effective the instant declaration; and said indebtedness is to have a maturity of not more than six years from the date of said Order. At March 31, 1975, the 10 percent limitation restricted Mass Electric to $38,600,000 of short-term indebtedness; a 20 percent limitation would have restricted it to $77,200,000. At May 31, 1975, Mass Electric had $22,400,000 in unsecured short-term indebtedness outstanding. Authorization from the Commission for such an increase in the permissible amount of short-term debt is requested. The actual issue and sale of securities related to such proposed increase in short-term debt will be subject to further authorization by the Commission. It is stated that the increased authorization is necessary to retire $20,000,000 of Series L First Mortgage Bonds, which mature October 1, 1975 and/or to finance Mass Electric's construction program. The cost of the Company's construction program is presently estimated to total approximately $200,000,000 for the years 1975 through 1979.

It is stated that the Articles of Organization and the By-Laws of Mass Electric require approval of its Cumulative Preferred stockholders to increase unsecured short-term debt beyond 10 percent. Mass Electric intends to submit the proposal to increase the short-term debt for five years to a maximum of 20 percent of total capitalization to its Cumulative Preferred stockholders for their approval at a special meeting of shareholders to be held on August 1, 1975. In connection therewith, Mass Electric proposes to solicit proxies from the holders of its Cumulative Preferred stock through the use of solicitation material which sets forth the proposals in detail. Additionally, it is stated that Massachusetts State law requires stockholder approval for authorization of the issue and sale by Mass Electric of an additional series of the First Mortgage Bonds in an aggregate principal amount not exceeding $50,000,000. Mass Electric intends to submit the proposal to issue and sell said Bonds to all of its stockholders for their approval at the August 1, 1975 meeting. The outstanding Common Stock of Mass Electric, representing more than a majority in interest of the securities entitled to vote at the August 1, 1975 meeting, is owned by NEES. It is anticipated that NEES will vote its shares affirmatively on the approval and authorization of the additional First Mortgage Bonds; accordingly, there will be no solicitation of proxies with respect to this matter. The actual issue and sale of the additional First Mortgage Bonds will be subject to further authorization by the Commission.

The fees and expenses to be paid by Mass Electric are estimated at $9,000, including service fees, at cost, of New England Power Service Company, a wholly-owned subsidiary of NEES, of $3,000. No state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than July 25, 1975, request in writing that a hearing be held with respect to the proposed transaction, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the declarant 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 declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

It appearing to the Commission that the declaration, insofar as it proposes the solicitation of the consents of Mass Electric's Cumulative Preferred stockholders, should be permitted to become effective forthwith pursuant to Rule 62:

It is ordered, That the declaration regarding the proposed solicitation of the consents of Mass Electric's Cumulative Preferred stockholders be, and it hereby is, permitted to become effective forthwith pursuant to Rule 62 and subject to the terms and conditions prescribed in Rule 24 under the Act.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

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

[FR Doc.75-17806 Filed 7-8-75;8:45 am]

WATER RESOURCES COUNCIL

STANDARDS FOR PLANNING WATER AND RELATED LAND RESOURCES

Change in Baseline Projections

1. Notice is hereby given that the baseline projections established by the U.S. Water Resources Council, September 10, 1973, in Chapter IV, A., "Standards for Planning Water and Related Land Resources" are superseded.

2. The "Principles and Standards for Planning Water and Related Land Resources," established by the U.S. Water Resources Council pursuant to Section 103 of the Water Resources Planning Act (Pub. L. 89-80), were published in the FEDERAL REGISTER on September 10, 1973 (38 FR 24778) and became effective October 25, 1973.

3. Pursuant to the authority delegated in section 2 of Executive Order 11747, November 7, 1973, Chapter IV, A., "General Setting" in the "Standards" is hereby amended to read as follows:

Plan formulation and evaluation shall be based upon national and regional projections of employment, output, and population and the amounts of goods and services that are likely to be demanded. The Water Resources Council has arranged for preparation and periodic revision of a set of national, regional and area economic projections as a guide to project, State, regional and river basin planning. These projections are used by the Council as a base for its current views as to probable rates of growth in population, the gross national product, employment, productivity, and other factors. Other projections, utilizing different assumptions as to future trends in such variables as population or agricultural exports, can be used as alternative futures. The baseline projections provided by the Council also include expected rates of regional growth in relation to the level of projected national growth.

While a relatively high rate of employment has been assumed in national projections, it is recognized that chronic unemployment and underemployment are problems in many

regions. The assumption of a high rate of employment nationally does not preclude consideration of the occurrence of short run or cyclical fluctuations in the national economy or special analyses of regions with relatively low economic activity and high rates of unemployment.

Planning will also take account of national and State environmental and social standards such as water quality standards, air quality standards, or minimum health standards.

Dated: June 27, 1975.

ROGERS C. B. MORTON,
Chairman.

[FR Doc.75-17749 Filed 7-8-75;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

GUAM DEVELOPMENTAL PLAN

Safety and Health Standards; Enforcement; Submission of Plan and Availability for Public Comment

1. *Submission and description of plan.* Pursuant to section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) and § 1902.11 of Title 29, Code of Federal Regulations, notice is hereby given that an occupational safety and health plan for the territory of Guam has been submitted to the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary). The Assistant Secretary has preliminarily reviewed the plan and hereby gives notice that the question of the approval of the plan is in issue before him.

The plan identifies the Guam Department of Labor as the agency responsible for the administration of the plan throughout the territory. It proposes to define the covered occupational safety and health issues as defined by the Secretary of Labor in 29 CFR 1902.2(c). All occupational safety and health standards promulgated by the U.S. Department of Labor will be adopted under the plan. These standards will be promulgated within 30 days of the approval of the Guam plan and will become effective 30 days following promulgation.

The plan includes legislation, Guam Pub. L. 11-117 and 12-185, enacted by the Guam legislature during its 1972 and 1974 sessions amending Title XIVI of the Government Code to provide for the implementation of the occupational safety and health program in Guam and to bring it into conformity with the requirements of Part 1902. The legislation gives the Department of Labor the statutory authority to implement an occupational safety and health program modeled on the Federal Act. There are provisions in it granting the Director of the Department of Labor the authority to inspect workplaces and to issue citations for violations, including abatement requirements and there is also a prohibition against advance notice of inspections. The legislation is also intended to ensure employer and employee representatives an opportunity to accompany inspectors and to call attention to violations; notification of employees and their representatives when no compliance action is taken as a result of alleged violations; protection of employees against discrimination in terms and conditions of employment and safeguards to protect trade secrets. There is provision made for the prompt restraint of imminent danger situations and a system of penalties for violations of the law.

The laws set forth the general authority and scope for implementing the Guam plan, but at the same time, the plan is developmental within 29 CFR 1902.2(b) in that specific rules and regulations must be adopted to carry out the plan and make it fully operational. Timetables for the accomplishment of developmental goals under the Guam plan are set forth in the proposed plan. The timetables cover such general areas as the promulgation of state standards, the promulgation of regulations and training of personnel. The plan also contains a comprehensive description of personnel to be employed under the territory's program as well as its proposed budget and resources.

2. *Location of plan for inspection and copying.* A copy of the plan may be inspected and copied during normal business hours at the following locations: Office of the Associate Assistant Secretary for Regional Programs, Occupational Safety and Health Administration, Room N-3608, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210, Assistant Regional Director, Occupational Safety and Health Administration, Room 9470, Federal Office Building, 450 Golden Gate Avenue, San Francisco, California 94102; and the Department of Labor, Government of Guam, P.O. Box 884, Agana, Guam 96910.

3. *Public participation.* Interested persons are given until August 8, 1975, to submit to the Assistant Secretary written data, views, and arguments concerning the plan. The submissions are to be addressed to the Associate Assistant Secretary for Regional Programs, Occupational Safety and Health Administration, Room N-3608, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. The written comments will be available for public inspection and copying at the above address.

Any interested person(s) may request an informal hearing concerning the proposed plan, or any portion thereof, whenever particularized written objections thereto are filed by August 8, 1975. If the Assistant Secretary finds that substantial objections are filed, he shall hold a formal or informal hearing on the subjects and issues involved.

The Assistant Secretary shall thereafter consider all relevant comments and arguments presented and issue his decision as to approval or disapproval of the plan.

Signed at Washington, D.C. this 1st day of July 1975.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.75-17763 Filed 7-8-75;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice 808]

ASSIGNMENT OF HEARINGS

JULY 3, 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 130286, Northern Transportation Services, Inc., now assigned July 8, 1975, at Montpelier, Vermont, is postponed indefinitely.

MC-C-8320 Fidelity Storage & Van Co., Inc.—Revocation of Certificate—now assigned July 16, 1975, at Lincoln, Nebr., is postponed to October 15, 1975, at Lincoln, Nebr.

MC 106674 Sub 142, Schilli Motor Lines, Inc., now assigned July 28, 1975, at Memphis, Tennessee, is postponed to September 17, 1975, at Chicago, Illinois; in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-17842 Filed 7-8-75;8:45 am]

[Notice 807]

ASSIGNMENT OF HEARINGS

JULY 3, 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.

Correction: MC 139853 Sub 1, Marten Transport, LTD., now assigned October 15, 1975 (1 day), at St. Paul, Minnesota; in a hearing room to be designated later, instead of now assigned October 10, 1975.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-17843 Filed 7-8-75;8:45 am]

[AB 6 (Sub-No. 27); Finance Docket No. 27790]

BURLINGTON NORTHERN, INC.

Trackage Rights and Abandonment of Line

JUNE 30, 1975.

The Interstate Commerce Commission hereby gives notice that:

1. By order served Tuesday, May 6, 1975, applicant was required to publish a notice in Lancaster County, Nebr., that an environmental threshold assessment survey was made in the above-entitled proceedings and based on that assessment it was determined that these proceedings do not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. sec. 4321, et seq.

2. No comments in opposition, of an environmental nature, were received by the Commission in response to the May 6, 1975, order and subsequent notice.

3. These proceedings are now ready for further disposition within the Office of Hearings or the Office of Proceedings as appropriate.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.75-17848 Filed 7-8-75;8:45 am]

FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

JULY 3, 1975.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by Special Rule 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

California Docket No. (unassigned), filed June 12, 1975. Applicant: BRAKE DELIVERY SERVICE-MEIER, TRANSFER SERVICE, 2626 East 26th Street, Los Angeles, Calif. 90058. Applicant's representative: Carl H. Fritze, 1545 Wilshire Boulevard, Los Angeles, Calif. 90017. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation as a highway common carrier of *General Commodities*, between, A. All points and places in the Los Angeles Basin Area as said area is described in part II below. B. Points in said Los Angeles Basin Area, on the one hand, and the San Diego Territory as also described in said part II below, including intermediate points on and along U.S. Highways No. 101 and 101-A. C. Between Los Angeles and Goleta, California via (1) U.S. Highway 101 and State Highway 1, (2) Interstate Highway 5 to Newhall Ranch, California, thence via State Highway No. 126 to U.S. Highway 101 near Ventura, California. Service is authorized to all intermediate points north of the Los Angeles Basin Area. Restriction: The service described in paragraph C. is restricted against the handling of freight-forwarder traffic and traffic having a prior movement by motor vehicle when moving on joint through rates; and D. Through routes and joint rates may be established between any and all points described above and between the said points, on the one hand, and points served by other carriers, on the other hand, at the most convenient point of interchange. Applicant shall not transport any shipments of:

1. Used household goods and personal effects not packed in accordance with the crated property requirements set forth in paragraph (d) of Item No. 10-C of Minimum Rate Tariff No. 4-A. 2. Automobiles, trucks and buses, viz.: new and used finished or unfinished passenger automobiles (including jeeps), ambulances, hearses and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis. 3. Livestock, viz.: bucks, bulls, calves, cattle, cows, dairy cattle, ewes, goats, hogs, horses, kids, lambs, oxen, pigs, sheep, sheep camp outfits, sows, steers, stags or swine. 4. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerated equipment. 5. Liquids, compressed gases, commodities in semi-plastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles. 6. Commodities when transported in bulk, in dump trucks or in hopper-type trucks. 7. Commodities when transported in motor vehicles equipped for mechanical mixing in transit; and 8. Logs. PART II LOS ANGELES BASIN AREA: Beginning at the intersection of the westerly boundary of the City of Los Angeles and the Pacific Ocean, thence along the westerly and northerly boundaries of said city to its point of first intersection with the southerly boundary of Angeles National Forest, thence along the southerly boundary of Angeles and San Bernardino National Forests to the county road known as Mill Creek Road; westerly along Mill Creek Road to the county road 3.8 miles north of Yucaipa; southerly along said county road and to and including the unincorporated community of Yucaipa; westerly along Redlands Boulevard to U.S. Highway No. 99; northwesterly along U.S. Highway No. 99 to and including the City of Redlands; westerly along U.S. Highway No. 99 to U.S. Highway No. 395; southerly along U.S. Highway 395 to State Highway No. 18; southwesterly along State Highway No. 18 to U.S. Highway No. 91; westerly along U.S. Highway 91 to State Highway No. 55; southerly on State Highway No. 55 and the prolongation thereof to the Pacific Ocean; westerly and northerly along the shoreline of the Pacific Ocean to a point of beginning.

SAN DIEGO TERRITORY: Includes that area embraced by the following imaginary line starting at the northerly junction of U.S. Highways No. 101-E and 101-W (four miles north of La Jolla); thence easterly to Miramar on State Highway 395; thence southeasterly to Lakeside on the El Cajon-Ramona Highway; thence southerly to Bostonia on U.S. Highway No. 80; thence southeasterly to Jamul on State Highway No. 94; thence due south to the International Boundary Line; west to the Pacific Ocean and north along the coast to point of beginning. Intrastate, interstate, and foreign commerce authority sought.

HEARING: Date, time, and place not yet fixed. Requests for procedural information should be addressed to the Public Utilities Commission, State of California, State Bldg., Civic Center, San Francisco, Calif. 94102, and should not be directed to the Interstate Commerce Commission.

California Docket No. 55755, filed June 20, 1975. Applicant: MINORITY DEVELOPMENT, INC., 2101 Prune Avenue, Fremont, Calif. 94538. Applicant's representative: E. H. Griffiths, 1182 Market Street, Suite 207, San Francisco, Calif. 94538. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: *General commodities* (except as hereinafter provided), Between all points and places in the *San Francisco Territory* which is described as follows: San Francisco Territory includes all the City of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County Boundary line meets the Pacific Ocean; thence easterly along said boundary line to a point 1 mile west of U.S. Highway 101; southerly along an imaginary line 1 mile west of and paralleling U.S. Highway 101 to its intersection with Southern Pacific Company right of way at Arastradero Road; southeasterly along the Southern Pacific Company right of way to Pollard Road, including industries served by the Southern Pacific Company spur line extending approximately 2 miles southwest from Simla to Permanente; easterly along Pollard Road to W. Parr Avenue; easterly along W. Parr Avenue to Capri Drive; southerly along Capri Drive to E. Parr Avenue; easterly along E. Parr Avenue to the Southern Pacific Company right of way; southerly along the Southern Pacific Company right of way to the Cambell-Los Gatos City limits; easterly along said limits and the prolongation thereof to the San Jose-Los Gatos Road; northeasterly along San Jose-Los Gatos Road; northeasterly along San Jose-Los Gatos Road to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to

Hillsdale Avenue; easterly along Hillsdale Avenue to U.S. Highway 101; northwesterly along U.S. Highway 101 to Tully Road; northeasterly along Tully Road to White Road; northwesterly along White Road to McKee Road; southwesterly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 17 (Oakland Road).

Northerly along State Highway 17 to Warm Springs; northerly along the unnumbered highway via Mission San Jose and Niles to Hayward; northerly along Foothill Boulevard to Seminary Avenue; easterly along Seminary Avenue to Mountain Boulevard; northerly along Mountain Boulevard and Moraga Avenue to Estates Drive; westerly along Estates Drive, Harbord Drive and Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to Berkeley-Oakland boundary line; northerly along said boundary line to the campus boundary of the University of California; northerly and westerly along the campus boundary of the University of California to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue, northerly along Arlington Avenue to U.S. Highway 40 (San Pablo Avenue); northerly along U.S. Highway 40 to and including the City of Richmond; southwesterly along the highway extending from the City of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco Waterfront at the foot of Market Street; westerly along said waterfront and shore line to the Pacific Ocean; southerly along the shore line of the Pacific Ocean to point of beginning. Except that applicant shall not transport any shipments of: 1. Used household goods and personal effects not packed in accordance with the crated property requirements set forth in paragraph (d) of Item No. 10–C of Minimum Rate Tariff No. 4–A. 2. Automobiles, trucks, and buses, viz.: new and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses, and taxis; freight automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, busses, and bus chassis.

3. Livestock, viz.: bucks, bulls, calves, cattle, cows, dairy cattle, ewes, goats, hogs, horses, kids, lambs, oxen, pigs, sheep, sheep camp outfits, sows, steers, stags, or swine. 4. Liquids, compressed gases, commodities in semi-plastic form, and commodities in suspension in liquid, in bulk, in tank trucks, tank trailers, tank semi-trailers, or a combination of such highway vehicles. 5. Commodities when transported in bulk in dump trucks or in hopper-type trucks. 6. Commodities when transported in motor vehicles equipped for mechanical mixing in transit. 7. Cement. 8. Logs. 9. Commodities of unusual or extraordinary value; and 10. Fresh fruits and vegetables. Intrastate, interstate and foreign commerce authority sought.

HEARING: Date, time, and place not yet fixed. Requests for procedural information should be addressed to the Public Utilities Commission, State of California, State Bldg., Civic Center, 455 Golden Gate Avenue, San Francisco, Calif. 94102, and should *not* be directed to the Interstate Commerce Commission.

California Docket No. 55758, filed June 20, 1975. Applicant: VERONICA TURRI, doing business as TIGNE DRAYAGE COMPANY, 2075 Third Street, San Francisco, Calif. 94107. Applicant's representative: Raymond A. Greene, Jr., 100 Pine Street, Suite 2550, San Francisco, Calif. 94111. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: *General commodities* as follows: Between all points and places in the San Francisco Territory as described below: The San Francisco Territory includes all points and places within the following area: SAN FRANCISCO TERRITORY includes all the City of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County Boundary line meets the Pacific Ocean; thence easterly along said boundary line to a point 1 mile west of U.S. Highway 101; southerly along an imaginary line 1 mile west of and paralleling U.S. Highway 101 to its intersection with Southern Pacific Company right of way at Arastradero Road; southeasterly along the Southern Pacific Company right of way to Pollard Road, including industries served by the Southern Pacific Company spur line extending approximately 2 miles southwest from Simla to Permanente; easterly along Pollard Road to W. Parr Avenue; easterly along W. Parr Avenue to Capri Drive; southerly along Capri Drive to E. Parr Avenue; easterly along E. Parr Avenue to the Southern Pacific Company right of way; southerly along the Southern Pacific Company right of way to the Campbell-Los Gatos city limits; easterly along said limits and the prolongation thereof to the San Jose-Los Gatos Road; northeasterly along San Jose-Los Gatos Road to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hillside Avenue; easterly along Hillsdale Avenue to U.S. Highway 101; northwesterly along U.S. Highway 101 to Tully Road; northeasterly along Tully Road to White Road; northwesterly along White Road to McKee Road.

Southwesterly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 17 (Oakland Road), northerly along State Highway 17 to Warm Springs; northerly along the unnumbered highway via Mission San Jose and Niles to Hayward; northerly along Foothill Boulevard to Seminary Avenue; easterly along Seminary Avenue to Mountain Boulevard; northerly along Mountain Boulevard and Moraga Avenue to Estates Drive; westerly along Estate Drive, Harbord Drive and Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland boundary line; northerly along said boundary line to the campus boundary of the University of California; northerly and westerly along the campus boundary of the University of California to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to U.S. Highway 40 (San Pablo Avenue); northerly along U.S. Highway 40 to and including the City of Richmond; southwesterly along the highway extending from the City of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco Waterfront at the foot of Market Street; westerly along said waterfront and shore line to the Pacific Ocean; southerly along the shore line of the Pacific Ocean to point of beginning. EXCEPT THAT applicant shall not transport any shipments of: 1. Used household goods and personal effects not packed in accordance with the crated property requirements set forth in paragraph (d) of Item No. 10–C of Minimum Rate Tariff No. 4–A. 2. Automobiles, trucks and buses, viz.: new and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis. 3. Livestock, viz.: bucks, bulls, calves, cattle, cows, dairy cattle, ewes, goats, hogs, horses, kids, lambs, oxen, pigs, sheep, sheep camp outfits, sows, steers, stags, or swine. 4. Liquids, compressed gases, commodities in semi-plastic form, and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers, or a combination of such highway vehicles. 5. Commodities when transported in bulk in dump trucks or in hopper-type trucks. 6. Commodities when transported in motor vehicles equipped for mechanical mixing in transit. 7. Cement. 8. Logs, and 9. Commodities of unusual or extraordinary value. Intrastate, interstate, and foreign commerce authority sought.

HEARING: Date, time, and place not yet fixed. Requests for procedural information should be addressed to California Public Utilities Commission, State Building, Civic Center, 455 Golden Gate Avenue, San Francisco, Calif. 94102, and should not be directed to the Interstate Commerce Commission.

Colorado Docket No. 28401—Extension filed June 6, 1975. Applicant: WEICKER TRANSFER & STORAGE COMPANY, doing business as REYHER TRUCKING CO., 2900 Brighton Boulevard, Denver, Colo. 80216. Applicant's representative: Joseph F. Nigro, 400 Hilton Off. Bldg., 1515 Cleveland Pl., Denver, Colo. 80202. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: a. Transportation of *general commodities*, between points in Pueblo, Huerfano and Las Animas Counties, and between points in said counties on the one hand, and, on the other hand, points in Colorado; b. Transportation of *household goods*, between points in Colorado. Restriction: The term "household goods" as used in this paragraph means personal effects and property used or to be

used in a dwelling when part of the equipment or supply of such dwelling; furniture, fixtures, equipment, and property of stores, offices, museums, institutions, hospitals, or other establishments; and articles which because of their unusual nature or value require specialized handling and equipment usually employed in moving household goods, including objects of art, displays and exhibits; and c. Transportation of *commodities* which require the use of special equipment in the transportation, loading, or unloading thereof, between points in Colorado. Restriction: Transportation of commodities which require the use of special equipment is restricted against the transportation of liquid commodities in bulk, livestock, and bulk cement. Restriction: This entire certificate is subject to the restriction that the operator of this certificate shall not be permitted, without further authority from this Commission to establish a branch office, or to have an agent employed for the purpose of developing business at any point outside the counties of Pueblo, Huerfano, and Las Animas, State of Colorado. Intrastate, interstate, and foreign commerce authority sought.

HEARING: Date, time, and place scheduled for September 8, 1975, 10 a.m., 500 Columbine Bldg., 1845 Sherman St., Denver, Colo. Requests for procedural information should be addressed to the Public Utilities Commission of the State of Colorado, Department of Regulatory Agencies, 500 Columbine Building, 1845 Sherman Street, Denver, Colo. 80203, and should not be directed to the Interstate Commerce Commission.

Colorado Docket No. 28402—Extension filed June 4, 1975. Applicant: BEKINS VAN & STORAGE CO., 1955 So. Valley Highway, Denver, Colo. 80222. Applicant's representative: Joseph F. Nigro, 400 Hilton Office Bldg., 1515 Cleveland Pl., Denver, Colo. 80202. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: a. Transportation of *general commodities*, between points in Denver, Adams, Arapahoe, and Jefferson Counties, Colorado, and between points in said Counties on the one hand, and, on the other hand, points in Colorado; and b. Transportation of *household goods*, between points in Colorado. Restriction: The term "household goods" as used in this paragraph means personal effects and property used or to be used in a dwelling when part of the equipment or supply of such dwelling; furniture, fixtures, equipment, and the property of stores, offices, museums, institutions, hospitals, or other establishments; and articles which because of their unusual nature or value require specialized handling and equipment usually employed in moving household goods, including objects of art, displays, and exhibits. Restriction: This entire certificate is subject to the restriction that the operator of this certificate shall not be permitted, without further authority from this Commission, to establish a branch office or to have an agent employed for the purpose of developing business at any point outside the Counties of Denver, Adams, Arapahoe, and Jefferson, State of Colorado. Intrastate, interstate, and foreign commerce authority sought.

Hearing: Date, time, and place scheduled for September 8, 1975, 10 a.m., 500 Columbine Bldg., 1845 Sherman St., Denver, Colo. Requests for procedural information should be addressed to the Public Utilities Commission of the State of Colorado, Department of Regulatory Agencies, 500 Columbine Building, 1845 Sherman Street, Denver, Colo. 80203, and should not be directed to the Interstate Commerce Commission.

Colorado Docket No. 28403—Extension filed June 3, 1975. Applicant: DUFFY STORAGE AND MOVING CO., 389 So. Lipan St., Denver, Colo. 80223. Applicant's representative: Joseph F. Nigro, 400 Hilton Off. Bldg., 1515 Cleveland Pl., Denver, Colo. 80202. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: a. Transportation of *general commodities*, between points in Adams, Arapahoe, Jefferson, and Denver Counties, and between points in said counties on the one hand, and, on the other hand, points in Colorado; b. Transportation of *household goods*; between points in Colorado. Restriction: The term "household goods" as used in this paragraph means personal effects and property used or to be used in a dwelling when part of the equipment or supply of such dwelling; furniture, fixtures, equipment, and the property of stores, offices, museums, institutions, hospitals, or other establishments; and articles which because of their unusual nature or value require specialized handling and equipment usually employed in moving household goods, including objects of art, displays, and exhibits; and c. Transportation of *commodities* which require the use of special equipment in the transportation, loading, or unloading thereof, between points in Colorado. Restriction: Paragraph concerning commodities which require use of special equipment is restricted against the transportation of liquid commodities in bulk, livestock, and bulk cement. Restriction: This entire certificate is subject to the restriction that the operator of this certificate shall not be permitted, without further authority from this Commission, to establish a branch office or have an agent employed for the purpose of developing business at any point outside the counties of Adams, Arapahoe, Jefferson, and Denver, State of Colorado. Intrastate, interstate, or foreign commerce authority sought.

HEARING: Date, time, and place scheduled for September 8, 1975, 10 a.m., 500 Columbine Bldg., 1845 Sherman St., Denver, Colo. Requests for procedural information should be addressed to the Public Utilities Commission of the State of Colorado, Department of Regulatory Agencies, 500 Columbine Building, 1845 Sherman Street, Denver, Colo. 80203, and should not be directed to the Interstate Commerce Commission.

Colorado Docket No. 28404—Extension filed June 6, 1975. Applicant: WEICKER TRANSFER & STORAGE COMPANY, 2900 Brighton Blvd., Denver, Colo. 80202. Applicant's representative: Joseph F. Nigro, 400 Hilton Off. Bldg., 1515 Cleveland Pl., Denver, Colo. 80202. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of (a) *General commodities*, between points in Adams, Arapahoe, Jefferson, and Denver Counties, and between points in said counties on the one hand, and on the other hand, points in Colorado; and (b) *Household goods*, between points in Colorado. Restriction: The term "household goods" as used in this paragraph means personal effects and property used or to be used in a dwelling when part of the equipment or supply of such dwelling; furniture, fixtures, equipment, and the property of stores, offices, museums, institutions, hospitals, or other establishments; and articles which because of their unusual nature or value require specialized handling and equipment usually employed in moving household goods, including objects of art, displays, and exhibits; and (c) *Commodities* which require the use of special equipment in the transportation, loading, or unloading thereof, between points in Colorado. Restriction: Paragraph c hereof is restricted against the transportation of liquid commodities in bulk, livestock, and bulk cement. Restriction: This entire certificate is subject to the restriction that the operator of this certificate shall not be permitted, without further authority from this Commission, to establish a branch office or to have an agent employed for the purpose of developing business at any point outside the counties of Adams, Arapahoe, Jefferson, and Denver, State of Colorado. Intrastate, interstate and foreign commerce authority sought.

HEARING: Date, time, and place scheduled for September 8, 1975, 10 a.m., 500 Columbine Bldg., 1845 Sherman Street, Denver, Colo. 80203. Requests for procedural information should be addressed to the Public Utilities Commission of the State of Colorado, Department of Regulatory Agencies, 500 Columbine Building, 1845 Sherman Street, Denver, Colo. 80203, and should not be directed to the Interstate Commerce Commission.

Colorado Docket No. 28405—Extension filed June 5, 1975. Applicant: G. I. EXPRESS COMPANY, doing business as G. I. MOVING & STORAGE CO., 1140 West 5th Avenue, Denver, Colo. 80204. Applicant's representative: Joseph F. Nigro, 400 Hilton Off. Bldg., 1515 Cleveland Pl., Denver, Colo. 80202. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of (a) *Furniture, fixtures and household goods*, between points in the Counties of Denver, Adams, Arapahoe, and Jefferson, State of Colorado, and between points in said

counties on the one hand, and, on the other hand, points in Colorado; and (b) *Household goods,* between points in Colorado. Restriction: The term "household goods" as used in this paragraph means personal effects and property used or to be used in a dwelling when part of the equipment or supply of such dwelling; furniture, fixtures, equipment, and the property of stores, offices, museums, institutions, hospitals, or other establishments; and articles which because of their unusual nature or value require specialized handling and equipment usually employed in moving household goods, including objects of art, displays, and exhibits; and (c) *General commodities,* between all points within the City and County of Denver, Colorado. Restriction: The entire certificate is subject to the restriction that the operator of this certificate shall not be permitted, without further authority from this Commission, to establish a branch office or to have any agent employed for the purpose of developing business at any point outside the counties of Denver, Adams, Arapahoe, and Jefferson, State of Colorado. Intrastate, interstate, and foreign commerce authority sought.

HEARING: Date, time, and place scheduled for September 8, 1975, 10 a.m., 500 Columbine Bldg., 1845 Sherman St., Denver, Colo. 80203. Requests for procedural information should be addressed to the Public Utilities Commission of the State of Colorado, Department of Regulatory Agencies, 500 Columbine Building, 1845 Sherman Street, Denver, Colo. 80203, and should not be directed to the Interstate Commerce Commission.

Colorado Docket No. 28425—Extension filed June 13, 1975. Applicant: ACME DELIVERY SERVICE, INC., 4250 Oneida Street, Denver, Colo. 80216. Applicant's representative: Joseph F. Nigro, 400 Hilton Off. Bldg., 1515 Cleveland Pl., Denver, Colo. 80202. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of (a). *General commodities* which included household goods and commodities requiring special equipment, between points in the counties of Morgan, Adams, Arapahoe, Jefferson (except Broomfield), and Denver, State of Colorado, and between points in said counties, on the one hand, and points in Colorado on the other. Restriction: On service to and from points in Jefferson County, the service is restricted to traffic stored at a warehouse facility now or hereafter operated by the holder or operator herein, which traffic shall originate or terminate at said warehouse facility.

(b). *Household goods,* between points in Colorado. Restriction: The term "household goods" as used in this paragraph means personal effects and property used or to be used in a dwelling when part of the equipment or supply of such dwelling, furniture, fixtures, equipment, and the property of stores, offices, museums, institutions, hospitals, or other establishments; and articles which because of their unusual nature or value require specialized handling and equipment usually employed in moving household goods, including objects of art, displays, and exhibits; and (c) *Commodities* which require the use of special equipment in the transportation, loading, or unloading thereof, between points in Colorado. Restriction: Paragraph c hereof is restricted against the transportation of liquid commodities in bulk, livestock, and bulk cement. Restriction: This entire certificate is subject to the restriction that the operator of this certificate shall not be permitted, without further authority from this Commission, to establish a branch office or to have an agent employed for the purpose of developing business at any point outside the counties of Morgan, Adams, Arapahoe, Jefferson (except Broomfield), and Denver, State of Colorado. Intrastate, interstate, and foreign commerce authority sought.

HEARING: Date, time, and place scheduled for September 8, 1975, 10 a.m., 500 Columbine Bldg., 1845 Sherman St., Denver, Colo. 80203. Requests for procedural information should be addressed to the Public Utilities Commission of the State of Colorado, Department of Regulatory Agencies, 500 Columbine Building, 1845 Sherman Street, Denver, Colo. 80203, and should not be directed to the Interstate Commerce Commission.

Colorado Docket No. 28426—Extension filed June 13, 1975. Applicant: ACME DELIVERY SERVICE, INC., 4250 Oneida Street, Denver, Colo. 80216. Applicant's representative: Joseph F. Nigro, 400 Hilton Off. Bldg., 1515 Cleveland Pl., Denver, Colo. 80202. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of (a) *General commodities,* which includes household goods and commodities requiring special equipment, between points in the County of Boulder, State of Colorado, and between points in said county on the one hand, and points in Colorado on the other hand. (b) *Household goods,* between points in Colorado. Restriction: The term "household goods" as used in this paragraph means personal effects and property used or to be used in a dwelling when part of the equipment or supply of such dwelling; furniture, fixtures, equipment, and the property of stores, offices, museums, institutions, hospitals, or other establishments; and articles which because of their unusual nature or value require specialized handling and equipment usually employed in moving household goods, including objects of art, displays, and exhibits; and (c) Commodities which require the use of special equipment in the transportation, loading, or unloading thereof, between points in Colorado. Restriction: Paragraph (c) hereof is restricted against the transportation of liquid commodities in bulk, livestock, and bulk cement. Restriction: This entire certificate is subject to the restriction that the operator of this certificate shall not be permitted, without further authority from this Commission, to establish a branch office or to have an agent employed for the purpose of developing business at any point outside the City of Longmont, State of Colorado. Instrastate, interstate, and foreign commerce authority sought.

HEARING: Date, time, and place scheduled for September 8, 1975, 10 a.m., 500 Columbine Bldg., 1845 Sherman St., Denver, Colo. Requests for procedural information should be addressed to the Public Utilities Commission of the State of Colorado, Department of Regulatory Agencies, 500 Columbine Building, 1845 Sherman Street, Denver, Colo. 80203, and should not be directed to the Interstate Commerce Commission.

Colorado Docket No. 28427-Extension, filed June 11, 1975. Applicant: JOHNSON STORAGE & MOVING CO., 221 Broadway, Denver, Colo. 80209. Applicant's representative: Joseph F. Nigro, 400 Hilton Off. Bldg., 1515 Cleveland Pl., Denver, Colo. 80202. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: (a) Transportation of *general commodities,* between points in Denver, Adams, Arapahoe, and Jefferson Counties, State of Colorado, and between points in said counties on the one hand, and, on the other hand, points in Colorado; and (b) Transportation of *household goods,* between points in Colorado. Restriction: The term "household goods" as used in this paragraph means personal effects and property used or to be used in a dwelling when part of the equipment or supply of such dwelling; furniture, fixtures, equipment, and the property of stores, offices, museums, institutions, hospitals, or other establishments; and articles which because of their unusual nature or value require specialized handling and equipment usually employed in moving household goods, including objects of art, displays, and exhibits. Restriction: This entire certificate is subject to the restriction that the operator of this certificate shall not be permitted, without further authority from this Commission to establish a branch office, or to have an agent employed for the purpose of developing business at any point outside the counties of Denver, Adams, Arapahoe, and Jefferson, State of Colorado. Intrastate, interstate, and foreign commerce authority sought.

HEARING: Date, time, and place scheduled on September 8, 1975, 10 a.m., 500 Columbine Bldg., 1845 Sherman St., Denver, Colo. Requests for procedural information should be addressed to the Public Utilities Commission of the State of Colorado, Department of Regulatory Agencies, 500 Columbine Building, 1845 Sherman Street, Denver, Colo. 80203, and should *not* be directed to the Interstate Commerce Commission.

Colorado Docket No. 28428-Extension, filed June 11, 1975. Applicant: WANDELL & LOWE TRANSFER & STORAGE CO., 4225 Sinton Road, Colorado Springs, Colo. 80909. Applicant's representative: Joseph F. Nigro, 400 Hilton Off. Bldg., 1515 Cleveland Pl., Denver, Colo. 80202. Certificate of Public Con-

venience and Necessity sought to operate a freight service as follows: Transportation of a. *General commodities,* between points in Counties of El Paso, Teller, Fremont, and Douglas, and between points in said counties on the one hand, and, on the other, points in Colorado; b. *Household goods,* between points in Colorado. Restriction: The term "household goods" as used in this paragraph means personal effects and property used or to be used in a dwelling when part of the equipment or supply of such dwelling; furniture, fixtures, equipment, and the property of stores, offices, museums, institutions, hospitals, or other establishments; and articles which because of their unusual nature or value require specialized handling and equipment usually employed in moving household goods, including objects or art, displays and exhibits; and c. *Commodities* which require the use of special equipment in the transportation, loading or unloading thereof, between points in Colorado. Restriction: Paragraph c hereof is restricted against the transportation of liquid commodities in bulk, livestock and bulk cement. Restriction: This entire certificate is subject to the restriction that the operator of this certificate shall not be permitted, without further authority from this Commission to establish a branch office, or to have an agent employ for the purpose of developing business at any point outside the counties of El Paso, Teller, Fremont, and Douglas, State of Colorado. Intrastate, interstate, and foreign commerce authority sought.

HEARING: Date, time and place scheduled for September 8, 1975, 10 a.m., 500 Columbine Bldg., 1845 Sherman St., Denver, Colo. 80203. Requests for procedural information should be addressed to the Public Utilities Commission of the State of Colorado, Department of Regulatory Agencies, 500 Columbine Building, 1845 Sherman Street, Denver, Colo. 80203, and should *not* be directed to the Interstate Commerce Commission.

Colorado Docket No. 28429—Extension, filed June 11, 1975. Applicant: BUEHLER TRANSFER CO., doing business as BOLDER MOVING & STORAGE, INC., 3899 Jackson Street, Denver, Colo. 80205. Applicant's representative: Joseph F. Nigro, 400 Hilton Off. Bldg., 1515 Cleveland Pl., Denver, Colo. 80202. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of (a). *General commodities,* between points in the following Counties: Boulder, Larimer, and Weld, State of Colorado, and between points in said Counties on the one hand, and on the other hand, points in Colorado; and (b) *Household goods,* between points in Colorado. Restriction: The term "household goods" as used in this paragraph means personal effects and property used or to be used in a dwelling when part of the equipment or supply of such dwelling; furniture, fixtures, equipment, and the property of stores, offices, museums, institutions, hospitals, or other establishments; and articles which because of their unusual nature or value require specialized handling and equipment usually employed in moving household goods, including objects of art, displays and exhibits. Restriction: This entire certificate is subject to the restriction that the operator of this certificate shall not be permited, without further authority from this Commission to establish a branch office, or to have an agent employed for the purpose of developing business at any point outside the Counties of Boulder, Larimer, and Weld, State of Colorado. Intrastate and foreign commerce authority sought.

HEARING: Date, time, and place scheduled for September 8, 1975, 10 a.m., 500 Columbine Bldg., 1845 Sherman St., Denver, Colo. 80203. Requests for procedural information should be addressed to the Public Utilities Commission of the State of Colorado, Department of Regulatory Agencies, 500 Columbine Building, 1845 Sherman Street, Denver, Colo. 80203, and should *not* be directed to the Interstate Commerce Commission.

Michigan Docket No. C-160, Case No. 5, filed June 2, 1975. Applicant: ALVAN MOTOR FREIGHT, INC., 3600 Alvan Road, Kalamazoo, Mich. 49001. Applicant's representative: Henry J. Mittelstaedt III, 900 Guardian Building, Detroit, Mich. 48226. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: *General commodities,* serving all points in White Pigeon Township, St. Joseph County, Mich. (except the City of White Pigeon, Mich., and its Commercial Zone) as off-route points. Intrastate, interstate, and foreign commerce authority sought.

HEARING: Date, time and place scheduled for July 23, 1975, 9:30 a.m. Suite 15, 1000 Long Commerce Park, Lansing, Mich. Requests for procedural information should be addressed to the State of Michigan, Department of Commerce, Public Service Commission, Lansing, Mich. 48913, and should *not* be directed to the Interstate Commerce Commission.

New York Docket No. T-5510, filed June 19, 1975. Applicant: SYRACUSE CARTAGE & STORAGE CORP., 360 West Jefferson Street, Syracuse, N.Y. 13202. Applicant's representative: Herbert M. Canter, 315 Seitz Bldg., 201 E. Jefferson St., Syracuse, N.Y. 13202. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: *General commodities* as defined in Section 800.1 of Title 17 of the Official Compilation of Codes, Rules, and Regulations of the State of New York, from Carrier's warehouse facilities in the City of Syracuse, N.Y., to all points in the County of Onondaga, N.Y. Returned, rejected, and refused shipments in the reverse direction. Intrastate, interstate, and foreign commerce authority sought.

HEARING: Date, time, and place not yet fixed. Requests for procedural information should be addressed to the New York State Department of Transportation, 1220 Washington Avenue, State Campus, Albany, N.Y. 12226, and should *not* be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.75-17845 Filed 7-8-75;8:45 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

JULY 3, 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. 43012—*Joint Water-Rail Container Rates—Kawasaki Kisen Kaisha Ltd.* Filed by Kawasaki Kisen Kaisha, Ltd., (No. 14), for itself and interested rail carriers. Rates on general commodities, between ports in Thailand, Republic of Singapore, Federation of Malaysia, Japan, Korea, Hong Kong, Taiwan, The Philippines and The Peoples Republic of China, and rail stations on the U.S. Atlantic and Gulf Seaboard.

Grounds for relief—Water competition.

FSA No. 43013—*Joint Water-Rail Container Rates—Phoenix Container Liners Ltd.* Filed by Phoenix Container Liners Ltd., (No. 10), for itself and interested rail carriers. Rates on general commodities, between ports in Republic of Singapore, Federation of Malaysia, Japan, Korea, Hong Kong, Taiwan and The Philippines, and rail stations on the U.S. Atlantic and Gulf Seaboard.

Grounds for relief—Water competition.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.75-17844 Filed 7-8-75;8:45 am]

[AB 26 (Sub-No. 2)]

GEORGIA NORTHERN RAILWAY CO.

Abandonment of Line

JUNE 30, 1975.

The Interstate Commerce Commission hereby gives notice that:

1. By order served Tuesday, May 6, 1975, applicant was required to publish a notice in Thomas and Brooks Counties, Ga., that an environmental threshold assessment survey was made in the above-entitled proceeding and based on that assessment it was determined that the proceeding does not constitute a major Federal action significantly affecting the

quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. sec. 4321, et seq.

2. No comments in opposition, of an environmental nature, were received by the Commission in response to the May 6, 1975, order and subsequent notice.

3. This proceeding is now ready for further disposition within the Office of Hearings or the Office of Proceedings as appropriate.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-17847 Filed 7-8-75;8:45 am]

[NO. 35220]

GRAIN AND GRAIN PRODUCTS

Practices and Policies in the Settlement of Loss and Damage Claims

JULY 1, 1975.

The Interstate Commerce Commission, Division 2, will hold an informal conference in order to provide interested parties the opportunity of presenting their views as to problems arising under the present rules governing the handling of loss and damage claims on bulk grain and grain products (49 CFR Part 1037).

Numerous grain shippers have informally appealed to the Commission for relief from certain of the rules which allegedly act to the detriment of both shippers and carriers. These shippers represent generally that the present rules do not reflect the realities of rail operations and grain loading practices throughout the Midwest and have resulted in hardships and inequities not contemplated in the underlying Docket No. 35220 proceeding (34€ I.C.C. 33). These shippers also suggest that a consensus may now exist among carriers and shippers as to the resolution of these problems. Adlitionally, the Secretary of Agriculture has petitioned the Commission for clarification of the Commission's order insofar as the effective date is concerned (i.e., do the rules apply to all claims for loss and damage after March 5, 1975, or only those claims involving shipments which moved after March 5, 1975).

In order to focus upon the particular rules which have proven to be problem areas under actual operations, the parties should limit their presentation to the following issues:

1. Should cars with open-top interior linings continue to be designated as defective equipment, not in suitable condition for the transportation of bulk grain and grain products?

2. Upon a shipper's written complaint of defective equipment, how long does the carrier have (a) to investigate the complaint and (b) to remedy the defect by repair or replacement?

3. Where a carrier is unable to provide equipment free of the defects contemplated in Paragraph 1 of Section 1037.2 [49 CFR 1037.2(a)], may that carrier condition the performance of its transportation obligation upon the shipper's waiver of loss and damage claim rights arising from defective equipment?

4. Where loss or damage is occasioned by a defect other than those contemplated by Paragraph 1 of Section 1037.2 [49 CFR 1037.2 (a)], can a shipper be deemed to have waived its loss and damage claim rights for failing to file a written complaint?

5. Where a shipper chooses to complain of the tender of defective equipment, should the rules be relaxed to provide for a means of communication other than the written complaint presently required by Paragraph 3 of Section 1037.3 [49 CFR 1037.3(c)]?

6. Should the rules be modified to require forwarding of the detailed records contemplated by Paragraph 3 of Section 1037.1 [49 CFR 1037.1(c)] only where a claim is filed with the carrier?

7. Are the present rules applicable in settlement of claims filed on shipments moving prior to March 5, 1975?

The informal conference will convene at 9:30 A.M. on July 15, 1975, at the Offices of the Interstate Commerce Commission, Washington, D.C. Parties interested in this matter, including carriers, the shipping public and concerned Federal, State, or local officials, should notify the Commission of their intention to participate by filing a letter with the Secretary of the Commission to that effect on or before July 11, 1975.

Notice of this informal conference shall be given to the general public by depositing a copy of this notice in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. for public inspection and by delivering a copy of the notice to the Director, Office of the Federal Register for publication therein as notice to interested persons. Any interested party may submit written representations at the time of the conference.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-17849 Filed 7-8-75;8:45 am]

[No. 36188]

IDAHO RAIL FREIGHT RATES AND CHARGES—1975

At a session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D.C., on the 27th day of June, 1975.

By a joint petition filed pursuant to section 13(3) of the Interstate Commerce Act, on May 30, 1975, petitioners Burlington Northern Inc., The Camas Prairie Railroad Company, The Chicago, Milwaukee, St. Paul and Pacific Railroad Company, The Spokane International Railroad Company, Union Pacific Railroad Company and Washington, Idaho and Montana Railway, common carriers by railroad, subject to Part I of the Interstate Commerce Act, and also operating in intrastate commerce in the State of Idaho, request that this Commission institute an investigation of their Idaho intrastate freight rates and charges, under sections 3, 13, and 15a of the Interstate Commerce Act, wherein petitioners seek an order authorizing increases in those intrastate rates and charges, in the same amounts approved for interstate application by this Commission in Ex Parte No. 267, Increased Freight Rates and Charges, 1971, Ex Parte No. 303, Increased Freight Rates and Charges, 1974, Nationwide, Ex Parte No. 305, Nationwide Increases of Ten Percent in Freight Rates and Charges, 1974, and Ex Parte No. 310, Increased Freight Rates and Charges, 1975, Nationwide, to the extent that the Idaho Public Utilities Commission has not authorized those increases for intrastate application and, on one commodity[1] only to the extent that the carriers have not negotiated a separate adjustment; and

It appearing, that the current general level of intrastate freight rates and charges maintained by petitioners generally reflects the increases authorized by this Commission through Ex Parte No. 301-D,[2] except that in connection with the 12 percent increase authorized by Ex Parte No. 267, the Idaho Public Utilities Commission, by its Order No. 10503, Case No. R-2000-225, dated December 13, 1971, authorized a 6 percent increase for corresponding intrastate rates;

It further appearing, that the Idaho Public Utilities Commission, by Order No. 11817, in Case No. R-2000-248, dated March 31, 1975, denied petitioners' application to apply Ex Parte No. 303 increases to intrastate rates, and in Case No. R-2000-253, initiated by petitioners on June 26, 1974, it has failed to date to apply Ex Parte No. 305 increases to intrastate rates and in view of the denial and delay, petitioners have not filed with the State Commission for Ex Parte No. 310 increases to be applied to intrastate rates;

It further appearing, that under section 13(4) of the Interstate Commerce Act, and judicial authority,[3] this Commission is directed to institute an investigation of the lawfulness of intrastate rail freight rates and charges upon the filing of a petition by the carriers concerned pursuant to section 13(3) of the Interstate Commerce Act, whether or not theretofore considered by any State agency or authority and without regard to the pendency before any State agency or authority;

It further appearing, that petitioners contend that the Idaho intrastate freight rates have historically been maintained at the same general level as the corresponding interstate rates; that the present interstate basis of rates is just and reasonable and that the proposed intrastate rates will not exceed a just and reasonable level; that transportation conditions for intrastate traffic in Idaho are not more favorable than for interstate traffic; and that traffic moving under present Idaho intrastate rates

---

[1] The carriers have negotiated separate adjustments on saw logs in lieu of the Ex Parte No. 267 and Ex Parte No. 305 increases, which were apparently limited to 6 and 7 percent, respectively.

[2] Authorized by Special Permission Order No. 74-1825.

[3] See *Intrastate Freight Rates and Charges, 1969*, 339 I.C.C. 670 (1971) affm'd *sub nom. State of N.C. ex rel. North Carolina Utilities Com'n.* v. *I.C.C.*, 347 F. Supp. 103 (E.D.N.C., 1972), affm'd *sub nom. North Carolina Utilities Commission et al.* v. *Interstate Commerce Commission, et al.*, 410 U.S. 919 (1973).

and charges fails to provide its fair share of earnings;

And it further appearing, that, petitioners contend that the present Idaho intrastate rail freight rates and charges create undue and unreasonable advantage, preference and prejudice between persons and localities in intrastate commerce within Idaho and interstate and foreign commerce, and, result in undue, unreasonable and unjust discrimination against and an undue burden on interstate commerce in violation of sections 3, 13, and 15a of the Interstate Commerce Act, to the extent that they do not include the increases authorized in Ex Parte No. 267, Ex Parte No. 303, Ex Parte No. 305, and Ex Parte No. 310, supra, less the 6 percent increase approved by the Idaho Public Utility Commission, and except on saw logs, as noted above;

Wherefore, and good cause appearing therefor:

It is ordered, That the petition be, and it is hereby, granted to the extent that an investigation under sections 13 and 15a of the Interstate Commerce Act, be, and it is hereby, instituted to determine whether the Idaho intrastate rail freight rates in any respect cause any unjust discrimination against or any undue burden on interstate or foreign commerce, or cause undue or unreasonable advantage, preference or prejudice as between persons and localities in intrastate commerce and those in interstate or foreign commerce, or are otherwise unlawful, by reason of the failure of such rates and charges to include the full increases corresponding to the interstate increases authorized in Ex Parte No. 267, Ex Parte No. 303, Ex Parte No. 305 and Ex Parte No. 310, supra; and to determine if any rates or charges, or maximum or minimum charges, or both, should be prescribed to remove any unlawful advantage, preference, discrimination, undue burden, or other violation of the law, found to exist; and that the petition be, and it is hereby denied to the extent that relief is sought under section 3 of the act.[4]

It is further ordered, That all common carriers by railroad operating in the State of Idaho, subject to the jurisdiction of this Commission, be, and they are hereby, made respondents in this proceeding.

It is further ordered, That all persons who wish to actively participate in this proceeding and to file and receive copies of pleadings shall make known that fact by notifying the Office of Proceedings, Room 5342, Interstate Commerce Commission, Washington, D.C. 20423, on or before 15 days from the Federal Register publication date. Although individual participation is not precluded, to conserve time and to avoid unnecessary expense, persons having common interests should endeavor to consolidate their presentations to the greatest extent possible. The Commission desires participation only of those who intend to take an active part in the proceeding.

It is further ordered, That as soon as practicable after the date of indicating a desire to participate in the proceeding has passed, the Commission will serve a list of the names and addresses of all persons upon whom service of all pleadings must be made and that thereafter this proceeding will be assigned for oral hearing or handling under modified procedure.

And it is further ordered, That a copy of this order be served upon each of the petitioners herein; that the State of Idaho be notified of the proceeding by sending copies of this order and of the instant petition by certified mail to the Governor of the State of Idaho and the Idaho Public Utilities Commission, Boise, Idaho, and that further notice of this proceeding be given to the public by depositing a copy of this order in the office of the Secretary of the Interstate Commerce Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

This 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, Division 2.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-17846 Filed 7-8-75;8:45 am]

[4] Petitioners request for relief under section 3 of the act, which prohibits discrimination, prejudice, or disadvantage is unnecessary since under the provisions of section 13(4) the Commission is authorized to remove any advantage, preference, prejudice, discrimination or burden as between interstate and intrastate commerce which it finds to exist.

[Notice 23]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

JULY 3, 1975.

The following letter-notices of proposals (except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application), to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969 (49 CFR 1042.4(c)(11)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.4(c)(12)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC 11220 (Deviation No. 24), GORDONS TRANSPORTS, INC., 185 West McLemore Ave., Memphis, Tenn. 38101, filed June 18, 1975. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *general commodities,* with certain exceptions, over a deviation route as follows: From Calhoun, Ga., over Interstate Highway 75 to Chattanooga, Tenn., thence over Interstate Highway 24 to Nashville, Tenn., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Calhoun, Ga., over Georgia Highway 53 to junction U.S. Highway 411, thence over U.S. Highway 411 to Gadsden, Ala., thence over U.S. Highway 278 to junction Alabama Highway 67, thence over Alabama Highway 67 to junction U.S. Highway 31, thence over U.S. Highway 31 to Decatur, Ala., thence over Interstate Highway 65 to Nashville, Tenn., and return over the same route, restricted (1) against the transportation of traffic which originates at, or is destined to Louisville, Ky., and points in its commercial zone as defined by the Commission, on the one hand, and, on the other, is destined to or originates at Memphis, Tenn, or a point in its commercial zone as defined by the Commission, and (2) to or from those points in the Louisville, Ky., commercial zone as defined by the Commission which are in Indiana.

No. MC 11220 (Deviation No. 25), GORDONS TRANSPORTS, INC., 185 West McLemore Ave., Memphis, Tenn. 38101, filed June 18, 1975. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *general commodities,* with certain exceptions, over a deviation route as follows: From Chicago, Ill., over Interstate Highway 55 (using portions of U.S. Highway 66 where Interstate Highway 55 is incomplete) to St. Louis, Mo., thence over Interstate Highway 44 (using portions of U.S. Highway 66 where Interstate Highway 44 is incomplete) to Springfield, Mo., thence over U.S. Highway 60 to Monett, Mo., thence over Missouri Highway 37 to the Arkansas-Missouri State line, thence over Arkansas Highway 47 to Gateway, Ark., thence over U.S. Highway 62 to Rogers, Ark., thence over U.S. Highway 71 to Ft. Smith, Ark., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Chicago, Ill., over U.S. Highway 54 to Kankakee, Ill., thence over U.S. Highway 45 to junction Illinois Highway

37, thence over Illinois Highway 37 to Cairo, Ill., thence over U.S. Highway 60 to Sikeston, Mo., thence over U.S. Highway 61 to Memphis, Tenn., thence over U.S. Highway 70 to Little Rock, Ark., thence over U.S. Highway 65 to Conway, Ark., thence over U.S. Highway 64 to Russellville, Ark., thence over Arkansas Highway 7 to Dardanelle, Ark., thence over Arkansas Highway 22 to Ft. Smith, Ark., and return over the same route.

No. MC 111383 (Deviation No. 25), BRASWELL MOTOR FREIGHT LINES, INC., P.O. Box 4447, Dallas, Tex. 75208, filed June 18, 1975. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Minden, La., over U.S. Highway 79 to Memphis, Tenn., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Minden, La., over U.S. Highway 80 to Monroe, La., thence over U.S. Highway 165 to Montrose, Ark., thence over U.S. Highway 82 to Leland, Miss., thence over U.S. Highway 61 to Memphis, Tenn., and return over the same route.

No. MC 111383 (Deviation No. 26), BRASWELL MOTOR FREIGHT LINES, INC., P.O. Box 4447, Dallas, Tex. 75208, filed June 18, 1975. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Springfield, Mo., over U.S. Highway 65 to Ferriday, La., thence over U.S. Highway 84 to Archie, La., thence over Louisiana State Highway 28 to Alexandria, La., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Springfield, Mo., over U.S. Highway 66 to Tulsa, Okla., thence over U.S. Highway 75 to junction Oklahoma Highway 3 near Coalgate, Okla., thence over U.S. Highway 3 to Antlers, Okla., thence over U.S. Highway 271 to Mt. Pleasant, Tex., thence over U.S. Highway 67 to Naples, Tex., thence over Texas Highway 77 to the Louisiana-Texas State line, thence over Louisiana Highway 1 to Shreveport, La., thence over U.S. Highway 71 to Alexandria, La., and return over the same route.

No. MC 111383 (Deviation No. 27), BRASWELL MOTOR FREIGHT LINES, INC., P.O. Box 4447, Dallas, Tex. 75208, filed June 18, 1975. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From junction Interstate Highway 40 and U.S. Highway 270 near Dale, Okla., over Interstate Highway 40 to Memphis, Tenn., thence over U.S. Highway 72 and Alternate U.S. Highway 72 to Decatur, Ala., thence over U.S. Highway 31 to junction Alabama Highway 67, thence over Alabama Highway 67 to junction U.S. Highway 278, thence over U.S. Highway 278 to Gadsden, Ala., thence over U.S. Highway 431 to junction U.S. Highway 78 near Oxford, Ala., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Oklahoma City, Okla., over U.S. Highway 270 to Seminole, Okla., thence over Oklahoma Highway 3 to Antlers, Okla., thence over U.S. Highway 271 to Mt. Pleasant, Tex., thence over U.S. Highway 67 to Naples, Tex., thence over Texas Highway 77 to the Louisiana-Texas State line, thence over Louisiana Highway 1 to Shreveport, La., thence over U.S. Highway 80 to junction U.S. Highway 11, thence over U.S. Highway 11 to Birmingham, Ala., thence over U.S. Highway 78 to junction U.S. Highway 431 near Oxford, Ala., and return over the same route.

No. MC 111383 (Deviation No. 28), BRASWELL MOTOR FREIGHT LINES, INC., P.O. Box 4447, Dallas, Tex. 75208, filed June 18, 1975. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From junction U.S. Highways 69 and 66 near Vinita, Okla., over U.S. Highway 69 to junction U.S. Highway 75, thence over U.S. Highway 75 to Dallas, Tex., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From junction U.S. Highways 69 and 66 near Vinita, Okla., over U.S. Highway 66 to Oklahoma City, Okla., thence over U.S. Highway 77 to Dallas, Tex., and return over the same route.

No. MC 134308 (Deviation No. 1), CADDO EXPRESS, INC., P.O. Box 10280, Palo Alto, Calif. 94303, filed June 18, 1975. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Seiling, Okla., over U.S. Highway 60 to junction U.S. Highway 183, thence over U.S. Highway 183 to Clinton, Okla., thence over Interstate Highway 40 to junction Oklahoma Highway 58, thence over Oklahoma Highway 58 to junction Oklahoma Highway 9, thence over Oklahoma Highway 9 to Anadarko, Okla., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Seiling, Okla., over U.S. Highway 270 to Oklahoma City, Okla., thence over U.S. Highway 62 to Anadarko, Okla., and return over the same route.

No. MC 134308 (Deviation No. 2), CADDO EXPRESS, INC., P.O. Box 10280, Palo Alto, Calif. 94303, filed June 18, 1975. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Seiling, Okla., over U.S. Highway 60 to junction U.S. Highway 183, thence over U.S. Highway 183 to junction Oklahoma Highway 9, thence over Oklahoma Highway 9 to Anadarko, Okla., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Seiling, Okla., over U.S. Highway 270 to Oklahoma City, Okla., thence over U.S. Highway 62 to Anadarko, Okla., and return over the same route.

No. MC 48958 (Deviation No. 65), ILLINOIS-CALIFORNIA EXPRESS, INC., 510 East 51st Ave., Denver, Colo. 80216, filed June 18, 1975. Carrier's representative: Morris G. Cobb, P.O. Box 9050, Amarillo, Tex. 79105. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From Tucumcari, N. Mex., over Interstate Highway 40 (U.S. Highway 66) to junction Interstate Highway 44, thence over Interstate Highway 44 (U.S. Highway 66) to junction Interstate Highway 70, thence over Interstate Highway 70 to junction Interstate Highway 71, thence over Interstate Highway 71 to junction Interstate Highway 76, thence over Interstate Highway 76 to Akron, Ohio, and (2) From Tucumcari, N. Mex., over U.S. Highway 54 to junction Interstate Highway 70, thence over Interstate Highway 70 to junction Interstate Highway 71, thence over Interstate Highway 71 to junction Interstate Highway 76, thence over Interstate Highway 76 to Akron, Ohio, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Tucumcari, N. Mex., over U.S. Highway 54 to Logan, N. Mex., thence over New Mexico Highways 39 and 58 to Springer, N. Mex., thence over U.S. Highway 85 to Denver, Colo., thence over U.S. Highway 6 to Sterling, Colo., thence over U.S. Highways 138 and 30 to Grand Island, Nebr., thence over U.S. Highways 281 and 34 to Lincoln, Nebr., thence over U.S. Highway 6 to Princeton, Ill., thence over U.S. Highway 34 to Chicago, Ill., thence over U.S. Highways 6 and 20 to Norwalk, Ohio, and thence over Ohio Highway 18 to Akron, Ohio, and return over the same route.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-17836 Filed 7-8-75;8:45 am]

[Notice 53]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

JULY 3, 1975.

The following publications include motor carrier, water carrier, broker, freight forwarder and rail proceedings indexed as follows: (1) Grants of au-

thority requiring republication prior to certification; (2) notices of filing of petitions for modification of existing authorities; (3) new operating right's applications directly related to and processed on a consolidated record with finance applications filed under sections 5(2) and 212(b); (4) notices of filing of sections 5(2) and 210a(b) finance applications; and (5) notices of filing of section 212(b) transfer applications.

Each applicant (except as otherwise specifically noted) states that there will be no significant effect on the quality of the human environment resulting from approval of its application in compliance with the requirements of 49 CFR 1100.250.

Protests to the granting of the requested authority must be filed with the Commission on or before August 6, 1975 (unless otherwise specified). Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest should comply with section 247(d) or section 240(c) as appropriate of the Commission's general rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and a detailed description of the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one (1) copy of the protest (except for petitions and Finance Dockets under Rule 40 requiring the original and six (6) copies of the protest) shall be filed with the Commission, and a copy shall be served concurrently upon applicant's or petitioner's representative, or applicant or petitioner if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) or section 240(c)(4) of the special rules, and shall include the certification required therein.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under Sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto. (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

APPLICATIONS FOR CERTIFICATES OR PERMITS WHICH ARE TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5 GOVERNED BY SPECIAL RULE 240 TO THE EXTENT APPLICABLE

No. MC 133689 (Sub-No. 61), filed June 13, 1975. Applicant: OVERLAND EXPRESS, INC., P.O. Box 2667, New Brighton, Minn. 55112. Applicant's representative: Charles W. Singer, 2440 East Commercial Boulevard, Fort Lauderdale, Fla. 33308. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale and retail department stores (except foodstuffs), and in connection therewith, *materials and supplies* used in the conduct of such business (except commodities in bulk, those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities requiring special equipment), From points in Connecticut, Delaware, Illinois, (except those north of U.S. Highway 24), Indiana, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Missouri, New Hampshire, New Jersey (except those in Essex, Hudson, Hunterdon, Mercer, Middlesex, Passaic, and Union Counties, N.J.) New York (except those east of New York Highway 12), North Carolina, Ohio, Pennsylvania, Rhode Island, and West Virginia, to Minneapolis-St. Paul, Minn. and points in their commercial zone as defined by the Commission. The purpose of this filing is to eliminate gateways at the facilities of World Wide, Inc. and Erickson Petroleum Co. at Minneapolis-St. Paul, Minn. and points in their commercial zone.

NOTE.—This is a gateway elimination requests and is directly related to a Section 5(2) proceeding in MC–F–12556 published in the FEDERAL REGISTER issue of June 25, 1975. If a hearing is deemed necessary, applicant requests it be held at Minneapolis-St. Paul, Minn.

No. MC 44735 (Sub-No. 22) (Correction), January 31, 1975, published in the FEDERAL REGISTER issue of May 21, 1975, and republished as corrected this issue. Applicant: KISSICK TRUCK LINES, INC., 7101 East 12th Street, Kansas City, Mo. 64126. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clay and concrete products* (except in bulk) between points in Illinois, Iowa and Nebraska on the one hand, and, on the other, points in Arkansas, Kansas, Missouri, Oklahoma, and Texas, restricted against: (1) the transportation of pipe between points in Kansas (except the Kansas City, Kans-Kansas City, Mo. Commercial Zone), Oklahoma, Texas, and Arkansas, (2) the transportation of composition or prepared roofing from Dallas, Tex., and (3) the transportation of precast concrete products from Little Rock, Ark. The purpose of this filing is to eliminate a gateway at points in the Kansas City, Kans.-Kansas City, Mo. Commercial Zone. This application is a gateway elimination request filed pursuant to the commission's Policy statement in Ex Parte 55 (Sub-No. 8) notice in the FEDERAL REGISTER issue of December 9, 1974; and is directly related to MC–F–12235 published in the FEDERAL REGISTER issue of June 19, 1974.

NOTE.—The purpose of this republication is to correct the commodity description.

No. MC 1936 (Sub-No. 4) (Amendment), B&P Motor Express, Inc. Ext-Chicago, Ill. published in the May 8, 1974 issue of the FEDERAL REGISTER and republished June 19, 1974. By order served June 18, 1975, the proceeding was reopened to allow B&P Motor Express to amend the authority granted by order of Review Board Number 5, issued March 21, 1975 in No. MC–1936 (Sub-No. 40) to authorize operations as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities of unusual value, Classes A and B explosives, household goods, as defined by the Commission, office and store equipment; commodities requiring special equipment, livestock; textiles weighing more than 500 pounds, and commodities in bulk), between Chicago, Ill., on the one hand, and, on the other, points in the Counties of Lake, McHenry, Kane, Du Page, and Will, points in that portion of De Kalb County, east of Illinois Highway 23 and those in that portion of Kankakee County north of Illinois Highway 114 and thence north Illinois Highway 114 to the Indiana-Illinois border.

NOTE.—The purpose of this amendment is to omit from the exceptions to the description general commodities "building materials". This matter is directly related to the section 5 proceeding in MC–F–12181 published in the FEDERAL REGISTER issue of April 10, 1974.

No. MC F 12542 (Correction) (CAROLINA–WESTERN EXPRESS, INC.—LINA-WESTERN EXPRESS, INC.—LYNCH, doing business as LYNCH TRUCKING), published in the June 18, 1975, issue of the FEDERAL REGISTER. Prior notice should be modified to include: *Woven fiberglass*, as a *common carrier* over irregular routes, from Amsterdam, N.Y., West Shelby, N.C., and Waterville, Ohio, to Auburn, Kirkland, and Seattle, Wash.

No. MC F 12547 (Correction) (Route Messengers of PENNSYLVANIA, INC.—PURCHASE (PORTION) — HOURLY MESSENGERS, INC., doing business as as H. M. PACKAGE DELIVERY SERVICE), published in the June 18, 1975, issue of the FEDERAL REGISTER. Prior

notice should be modified to include: *Drugs, medicines* and *pharmaceutical products,* as a *common carrier* over irregular routes, between the facilities of Parke Davis at Cherry Hill, N.J., on the one hand, and, on the other, points in New Castle County, Del., and Adams, Berks, Bucks, Carbon, Chester, Cumberland, Delaware, Dauphin, Franklin, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Monroe, Montgomery, Northampton, Perry, Philadelphia, Schuylkill, and York Counties, Pa., with restriction.

No. MC F 12572. Authority sought for purchase by LONG TRANSPORTATION COMPANY, 3755 Central Ave., Detroit, MI 48210, of the operating rights and property of JOHNSTOWN MOTOR FREIGHT, INC., 1226 Claythorne Drive, Johnstown, PA 15904, and for acquisition by WAYNE E. LONG, Route 1, Brutus, MI 49716, of control of such rights and property through the purchase. Applicants' attorney: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, OH 43215. Operating rights sought to be transferred: *Fresh fruits and vegetables, groceries, new and scrap metal, machinery,* and *office and store furniture and fixtures,* as a *common carrier* over irregular routes, between Johnstown, Pa., on the one hand, and, on the other, Washington, D.C., and Baltimore, Md., from Baltimore, Md., to Cresson, California, Huntington, Indiana, Latrobe, Mont Alto, Pittsburgh, Polk, Scotland, Somerset, Shippensburg, South Fork, Torrance, and Warren, Pa. Vendee is authorized to operate as a *common carrier* in Connecticut, Delaware, Illinois, Indiana, Maryland, Michigan, New Jersey, New York, Ohio, Pennsylvania, Virginia, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC F 12575. Authority sought for purchase by SALT CREEK FREIGHTWAYS, 3333 West Yellowstone, Casper, WY 82601, of a portion of the operating rights of GEORGE A. HORTON, doing business as ASHLAND-HARLO FREIGHT LINES, 640 St. Johns Ave., Billings, MT 59102, and for acquisition by WILLIAM UTZINGER, WILLIAM D. UTZINGER, AND C. E. OGDEN, all of Casper WY 82601, of control of such rights through the purchase. Applicant's attorney: John R. Davidson, Room 805, Midland Bank Bldg., Billings, MT 59101. Operating rights sought to be transferred: Under a certificate of registration, in Docket No. MC 120249 (Sub-No. 1), covering the transportation of general commodities, as a common carrier in interstate commerce within the State of Montana; and *general commodities,* with the usual exceptions as a *common carrier* over regular routes, between Harlowton, and White Sulphur Springs, Mont., serving no intermediate points, and serving the off-route points of Two Dot and Martinsdale, between White Sulphur Springs, and Helena, Mont., serving Townsend and East Helena, Mont., as intermediate points. Vendee is authorized to operate as a *common carrier* in Montana, Colorado, South Dakota, and Wyoming. Application has been filed for temporary authority under section 210a(b).

NOTE.—MC 59856 (Sub-No. 63), is a matter directly related.

Finance Docket No. 27589 (Petition for Reopening and Modification to Approve and Authorize Participation of 21 Additional Common Carriers by Railroad) (AMERICAN RAIL BOX CAR COMPANY AND TRAILER TRAIN COMPANY ET AL.—FOR APPROVAL OF THE POOLING OF CAR SERVICE IN RESPECT TO BOX CARS), published in the March 12, 1974, issue of the FEDERAL REGISTER. By petition filed June 9, 1975, 21 additional common carriers by railroad seek modification of the report and order of August 1, 1974, as modified by supplemental report and order of September 24, 17974, which approved the box car pooling agreement in the above-entitled proceeding, subject to conditions, in order to permit the petitioning railroads to join in the box car pooling arrangement as full and equal participants. The 21 petitioning railroads are:

Alexander Railroad Company
The Arcata and Mad River Rail Road Company
Bauxite & Northern Railway Company
Robert W. Meserve and Benjamin H. Lacy Trustees of the Property of Boston and Maine Corporation
Chicago & Eastern Illinois Railroad Company
Chicago Heights Terminal Transfer Railroad Company
Doniphan, Kensett & Searcy Railway
Graysonia, Nashville & Ashdown Railroad Company
Iowa Terminal Railroad Co.
The Massena Terminal Railroad Company
Missouri-Illinois Railroad Company
New Orleans and Lower Coast Railroad Company
Oregon Electric Railway Company
Oregon Trunk Railway
Point Comfort & Northern Railway Company
Rockdale, Sandow & Southern Railroad Company
St. Joseph Belt Railway Company
South Omaha Terminal Railway Company
Texas Pacific-Missouri Pacific Terminal Railroad
Union Terminal Railway Company
Walla Walla Valley Railway Company

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.75-17837 Filed 7-8-75;8:45 am]

[Notice 24]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

JULY 9, 1975.

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before July 29, 1975. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-75883. By order entered 6.25.75 the Motor Carrier Board approved the transfer to Keystone Delivery Service, Inc., North Miami, Fla., of the operating rights set forth in Permit No. MC 134716 (Sub-No. 4), issued May 10, 1973, to Rush Trucking, Inc., Ft. Lauderdale, Fla., authorizing the transportation of various specified commodities, from Tampa, Fla., to points in Pinellas and Hillsborough Counties, Fla., restricted to a transportation service to be performed under a continuing contract, or contracts, with Avon Products, Inc. Guy H. Postell, 3384 Peachtree Road NE, Atlanta, Ga. 30326, attorney for applicants.

No. MC-FC-75935. By order entered 6.25.75 the Motor Carrier Board approved the transfer to Stuart E. Keeny, New Freedom, Pa., of the operating rights set forth in Certificate No. MC 118586, issued August 22, 1974, to Emory S. Miller, Jr., Spring Grove, Pa., authorizing the transportation of agricultural limestones, in spreader type vehicles, from Jackson Township (York County), Pa., to points in Baltimore, Carroll, Cecil, Frederick, Harford, Howard, and Montgomery Counties, Md., with exceptions. Norman T. Petow, 43 North Duke St., York, Pa. 17401, attorney for applicants.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.75-17839 Filed 7-8-75;8:45 am]

[Notice 23]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

JULY 9, 1975.

Synopses of orders entered by Division 3 of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's general rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before August 8, 1975. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such

a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC–75478. By order of June 19, 1975, Division 3, acting as an Appellate Division, approved the transfer to Burwell Ray Gallop, doing business as Gallop Bus Company, Virginia Beach, Virginia, of Certificate No. MC 78723, issued August 9, 1966, to Maitland Bros. Bus Lines, Inc., Petersburg, Virginia, authorizing the transportation of passengers and their baggage, in charter operations, from Petersburg, Va., to points in Maryland, Pennsylvania, North Carolina, Virginia and the District of Columbia, and return. Raymond H. Strople, Moody, McMurran and Miller, P.O. Box 1138, Portsmouth, Virginia 23705 attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75–17840 Filed 7–8–75;8:45 am]

[Finance docket No. 27628]

OREGON-WASHINGTON RAILROAD AND NAVIGATION COMPANY CONSTRUCTION AND OPERATION NEAR HEDGES, BENTON COUNTY, WASHINGTON

JUNE 30, 1975.

The Interstate Commerce Commission hereby gives notice that: 1. By order served Thursday, May 22, 1975, applicant was required to publish a notice in Benton County, Wash., that an environmental threshold assessment survey was made in the above-entitled proceeding and based on that assessment it was determined that the proceeding does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. sec. 4321, et seq.

2. No comments in opposition, of an environmental nature, were received by the Commission in response to the May 22, 1975, order and subsequent notice.

3. This proceeding is now ready for further disposition within the Office of Hearings or the Office of Proceedings as appropriate.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75–17841 Filed 7–8–75;8:45 am]

[Notice 69]

TEMPORARY AUTHORITY TERMINATION

The temporary authorities granted in the dockets listed below have expired as a result of final action either granting or denying the issuance of a Certificate or Permit in a corresponding application for permanent authority, on the date indicated below:

Temporary authority application	Final action or certificate or permit	Date of action
D. J. McNichol Co., MC–2135 Sub-10	MC–2135 Sub-11	June 12, 1975
Wilson Freight Co., MC–13123 Sub-76	MC–13123 Sub-77	June 17, 1975
Arkansas-Best Freight Systems, MC–29910 Sub-144	MC–29910 Sub-146	June 12, 1975
Wells Fargo Armored Service Corp., MC–35807 Sub-46	MC–35807 Sub-50	June 17, 1975
Magnolia Truck Line, Inc., MC–64832 Sub-5	MC–64832 Sub-4	June 16, 1975
B. F. Walker, Inc., MC–74321 Sub-80	MC–74321 Sub-85	June 17, 1975
Pre-Fab Transit Co., MC–107295 Sub-649	MC–107295 Sub-657	June 12, 1975
Chemical Leaman Tank Lines, MC–110525 Sub-1102	MC–110525 Sub-1107	June 13, 1975
Huff Transport Co., Inc., MC–114091 Sub-88	MC–114091 Sub-86	Do.
Aurelia Trucking Co., MC–117820 Sub-6	MC–117820 Sub-7	June 12, 1975
Carvan Refrigerated Cargo, MC–119789 Sub-206	MC–119789 Sub-208	June 17, 1975
B & L Motor Freight, Inc., MC–123255 Sub-29	MC–123255 Sub-34	June 16, 1975
Sawyer Transport, Inc., MC–123407 Sub-192	MC–123407 Sub-196	June 17, 1975
Sawyer Transport, Inc., MC–123407 Sub-207	MC–123407 Sub-183	Do.
Crete Carrier Corp., MC–128375 Sub-86	MC–128375 Sub-90	June 16, 1975
Evergreen Express, MC–129350 Sub-27	MC–129350 Sub-36	June 17, 1975
Charro Trucking Corp., MC–129667 Sub-4	MC–129667 Sub-5	June 13, 1975
Heyl Truck Lines, Inc., MC–133119 Sub-52	MC–133119 Sub-33	June 17, 1975
Goose Creek Transport, Inc., MC–134601 Sub-5	MC–134601 Sub-6	June 13, 1975
Whitehead Specialties MC–136268 Sub-3	MC–136268 Sub-5	June 12, 1975
D.b.a. Senske & Son Transfer, MC–138931 Sub-1	MC–138931 Sub-2	Do.
Davison Transport, Inc., MC–139243 Sub-1	MC–139243 Sub-2	Do.
D.b.a. Lee and Tweedy, MC–139472	MC–139472 Sub-1	June 13, 1975
Walter F. Hutfilz and James A. Hutfilz, d.b.a. Walter F. Hutfilz, Trucking, MC–139820.	MC–139820 Sub-1	June 12, 1975

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.75–17850 Filed 7–8–75;8:45 am]

[Notice 70]

TEMPORARY AUTHORITY TERMINATION

The temporary authorities granted in the dockets listed below have expired as a result of final action either granting or denying the issuance of a Certificate or Permit in a corresponding application for permanent authority, on the date indicated below:

Temporary authority application	Final action or certificate or permit	Date of action
Kahan Delivery Service, MC–667 Sub-3	MC–667 Sub-4	Mar. 4, 1975
Dan Dugan Transport Co., MC–22195 Sub-155	MC–22195 Sub-156	Mar. 7, 1975
Clay Hyder Trucking Lines, MC–25798 Sub-258	MC–25798 Sub-260	Mar. 6, 1975
Schneider Transport, Inc., MC–51146 Sub-317	MC–51146 Sub-339	Mar. 18, 1975
Southeastern Motor Freight, MC–58828 Sub-8	MC–58828 Sub-9	Mar. 7, 1975
The Willett Co., MC–66462 Sub-14	MC–66462 Sub-13	Mar. 20, 1975
Nelson's Express, Inc., MC–76449 Sub-19	MC–76449 Sub-16	Mar. 7, 1975
Material Trucking, Inc., MC–76472 Sub-18, Sub-19, Sub-20	MC–76472 Sub-21	July 1, 1975
Graff Trucking Co., MC–105269 Sub-55	MC–105269 Sub-56	Mar. 7, 1975
E. B. Law & Son, Inc., MC–106278 Sub-33	MC–106278 Sub-35	Mar. 6, 1975
Frozen Food Express, MC–108207 Sub-358	MC–108207 Sub-366	Mar. 7, 1975
Short Freight Lines, Inc., MC–108382 Sub-20	MC–108382 Sub-23	Do.
Purolator Courier Corp., MC–111729 Subs 382 and 384	MC–111729 Sub-387	Mar. 5, 1975
Perchak Trucking, Inc., MC–112539 Sub-9	MC–112539 Sub-10	Mar. 7, 1975
Erickson Transport Corp., MC–113908 Sub-283	MC–113908 Sub-290	Mar. 6, 1975
Senn Trucking Co., MC–114552 Sub-97	MC–114552 Sub-87	Mar. 4, 1975
Weiss Trucking, Inc., MC–115092 Sub-28	MC–115092 Sub-27	Mar. 11, 1975
Pollard Delivery Service, MC–116133 Sub-11	MC–116133 Sub-12	Mar. 6, 1975
Chem-Hauling, Inc., MC–116254 Sub-141	MC–116254 Sub-143	Mar. 3, 1975
Russ Transport, Inc., MC–116459 Sub-43	MC–116459 Sub-42	Mar. 12, 1975
Apex Trucking Co., MC–117184 Sub-8	MC–117184 Sub-9	Mar. 11, 1975
Inco Express, Inc., MC–119639 Sub-14	MC–119639 Sub-13	Mar. 7, 1975
Craig Transportation Co., MC–119864 Sub-55	MC–119864 Sub-56	Do.
D.b.a. Black & White Express, MC–120841 Sub-4	MC–120841 Sub-6	Mar. 3, 1975
Chemical Express Carriers, MC–124236 Sub-70	MC–124236 Sub-73	Mar. 5, 1975
Gaston Feed Transport, Inc., MC–126489 Sub-20	MC–126489 Sub-21	Mar. 11, 1975
Paul's Hauling, Ltd., MC–128515 Sub-4	MC–128515 Sub-3	Mar. 12, 1975
Service Truck Line, Inc., MC–128878 Sub-31	MC–128878 Sub-32	Mar. 13, 1975
Jo/KEL, Inc., MC–128988 Sub-47	MC–128988 Sub-28	Mar. 3, 1975
Griffin Transportation, MC–129068 Sub-22	MC–129068 Sub-23	Mar. 6, 1975
Mallette Brothers Truck Line, MC–129660 Sub-3	MC–129660 Sub-4	Mar. 7, 1975
Fundis Co., MC–133779 Sub-6	MC–133779 Sub-7	Do.
Young's Express, Inc., MC–134280 Sub-2	MC–134280 Sub-3	Mar. 11, 1975
American Trans-Freight, Inc., MC–134404 Sub-12	MC–134404 Sub.13	Mar. 4, 1975
American Transport, Inc., MC–135007 Sub-35	MC–135007 Sub-40	Do.
Earl R. Martin, MC–135741 Sub-3	MC–135741 Sub-4	Mar. 10, 1975
Merchants Home Delivery Service, MC–136211 Sub-22	MC–136211 Sub-23	Mar. 12, 1975
Milton Transportation, Inc., MC–136343 Sub-16	MC–136343 Sub-18	Mar. 10, 1975
Donco Carriers, Inc., MC–136375 Sub-1	MC–136375 Sub-2	Mar. 12, 1975
Frosty Transportation, Inc., MC–136950 Sub-1	MC–136950 Sub-2	Mar. 10, 1975
D.b.a. ALL Ways Freight Lines, MC–138772 Sub-2	MC–138772 Sub-1	Mar. 13, 1975
D.b.a. John S. Watson Trucking Co., MC–1388878 Sub-1	MC–1388878 Sub-2	Mar. 17, 1975
Happy House Transport, Inc., MC–139297	MC–139297 Sub-1	Do.
Transtates, Inc., MC–139336 Sub-1, Sub-2, Sub-5, Sub-6	MC–139336 Sub-3	Mar. 4, 1975
Summit Transportation Corp., MC–139376 Sub-	MC–139376 Sub-1	Mar. 13, 1975
D.b.a. WYMO Transportation, MC–139431 Sub-	MC–139431 Sub-1	Mar. 6, 1975

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.75–17851 Filed 7–8–75;8:45 am]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY ELIMINATION OF GATEWAY APPLICATIONS

JULY 3, 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 August 8, 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 2607 (Sub-No. 14G), filed June 4, 1974. Applicant: BERRY VAN LINES, INC., 747 N. Dupont Highway, Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, 1776 Broadway, New York, N.Y. 10019. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (A) *Household goods* as defined by the Commission:

(1) Between points in Rhode Island, on the one hand, and, on the other, points in Connecticut, New Jersey, New York, Pennsylvania, Delaware, Maryland, Virginia, and the District of Columbia. The purpose of this filing is to eliminate the gateways of Camden, N.J., and points in New Jersey within 20 miles of Camden, N.J.

(2) Between points in Massachusetts, on the one hand, and, on the other, points in Connecticut, New Jersey, New York, Pennsylvania, Delaware, Maryland, Virginia, and the District of Columbia. The purpose of this filing is to eliminate the gateways of Camden, N.J.; and points in New Jersey within 20 miles of Camden, N.J.

(3) Between points in Connecticut, on the one hand, and, on the other, points in Delaware and Maryland. The purpose of this filing is to eliminate the gateways of Camden, N.J., and points in New Jersey within 20 miles.

(4) Between points in New Jersey, on the one hand, and, on the other, points in Delaware, Virginia, and the District of Columbia. The purpose of this filing is to eliminate the gateways of Camden, N.J. and points in New Jersey within 20 miles.

(5) Between points in New York, on the one hand, and, on the other, points in Delaware and the District of Columbia. The purpose of this filing is to eliminate the gateways of Camden, N.J., and points in New Jersey within 20 miles.

(6) Between points in Pennsylvania, on the one hand, and, on the other, points in Delaware and Maryland. The purpose of this filing is to eliminate the gateways of Camden, N.J., and points in New Jersey within 20 miles.

(7) Between points in Connecticut and points in New York. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

(8) Between points in Connecticut and points in New Jersey. The purpose of this filing is to elimiante the gateways of Gloucester City, N.J., and points in New Jersey within 20 miles.

(9) Between points in New Jersey, on the one hand, and, on the other, points in New York, Pennsylvania, and Maryland. The purpose of this filing is to eliminate the gateways of Gloucester City, N.J., and points in New Jersey within 20 miles.

(10) Between points in New York, on the one hand, and, on the other, points in Pennsylvania and Maryland. The purpose of this filing is to eliminate the gateways of Gloucester City, N.J., and points in New Jersey within 20 miles.

(11) Between points in New York and points in Delaware. The purpose of this filing is to eliminate the gateway of Caroline County, Md.

(12) Between points in New York and points in Virginia. The purpose of this filing is to eliminate the gateways of Philadelphia, Pa., and Queen Anne County, Md.

(13) Between points in Pennsylvania and points in Delaware. The purpose of this filing is to eliminate the gateway of Queen Anne County, Md.

(14) Between points in Pennsylvania and points in Maryland. The purpose of this filing is to eliminate the gateways of Camden, N.J., Kent County, Md., and Queen Anne County, Md.

(15) Between points in Pennsylvania and points in Virginia. The purpose of this filing is to eliminate the gateways of Gloucester City, N.J., and points in New Jersey within 20 miles, and Kent County, Md.

(16) Between points in Delaware and points in Maryland. The purpose of this filing is to eliminate the gateways of Caroline County, Md., and Gloucester City, N.J., and points in New Jersey within 20 miles.

(17) Between points in Delaware and points in Virginia. The purpose of this filing is to eliminate the gateways of Queen Anne County, Md., and Dorchester County, Md.

(18) Between points in Delaware and points in the District of Columbia. The purpose of this filing is to eliminate the gateway of Queen Anne County, Md.

(19) Between points in Maryland and points in Virginia. The purpose of this filing is to eliminate the gateways of Gloucester City, N.J., and points in New Jersey within 20 miles and Kent County, Md.

(20) Between points in Maryland and points in the District of Columbia. The purpose of this filing is to eliminate the gateways of Gloucester City, N.J., and points in New Jersey within 20 miles and Queen Anne County, Md.

(21) Between points in Rhode Island and points in Massachusetts. The purpose of this filing is to eliminate the gateways of Kent County, Md., and Camden, N.J.

(22) Between points in Connecticut, Pennsylvania, and Virginia, on the one hand, and, on the other, North Carolina, South Carolina, Georgia, Florida, Ohio, Indiana, and Illinois. The purpose of this filing is to eliminate the gateway of Camden, N.J.

(23) Between points in Connecticut and Pennsylvania, on the one hand, and, on the other, points in West Virginia. The purpose of this filing is to eliminate the gateway of Camden, N.J.

(24) Between points in Virginia and points in West Virginia. The purpose of this filing is to eliminate the gateways of Queen Anne County, Md., and Camden, N.J., and points in New Jersey within 20 miles.

(25) Between points in New York and Maryland, on the one hand, and, on the other, points in North Carolina, South Carolina, Georgia, Florida, Ohio, Indiana, Illinois, and West Virginia. The purpose of this filing is to eliminate the gateways of Gloucester City, N.J., and points in New Jersey within 20 miles;

(26) Between points in New Jersey and Delaware, on the one hand, and, on the other, points in North Carolina, South Carolina, Georgia, Florida, Indiana, Illinois, and West Virginia. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

(27) Between points in Connecticut, Pennsylvania, Virginia, and the District of Columbia, on the one hand, and, on the other, points in Missouri, Michigan, Wisconsin, Iowa, and Tennessee. The purpose of this filing is to eliminate the gateways of Camden, N.J., and Macon County, Ill.

(28) Between points in New York and Maryland, on the one hand, and, on the other, points in Missouri, Michigan, Wisconsin, Iowa, and Tennessee. The purpose of this filing is to eliminate the gateways of Gloucester City, N.J., and points in New Jersey within 20 miles and Macon County, Ill.

(29) Between points in New Jersey and Delaware, on the one hand, and, on the other points in Missouri, Michigan, Wisconsin, Iowa, and Tennessee. The purpose of this filing is to eliminate the gateways of Philadelphia, Pa., and Macon County, Ill.

(30) Between points in Connecticut, Pennsylvania, Virginia, and the District of Columbia, on the one hand, and, on the other, points in Arkansas, Kansas, Oklahoma, Texas, and Kentucky. The purpose of this filing is to eliminate the gateways of Camden, N.J., and Clark County, Ill.

(31) Between points in New York and Maryland, on the one hand, and, on the other, points in Arkansas, Kansas, Oklahoma, Texas, and Kentucky. The purpose of this filing is to eliminate the gateways

of Gloucester City, N.J., and points in New Jersey within 20 miles and Clark County, Ill.

(32) Between points in New Jersey and Delaware, on the one hand, and, on the other, points in Arkansas, Kansas, Oklahoma, Texas, and Kentucky. The purpose of this filing is to eliminate the gateways of Philadelphia, Pa., and Clark County, Ill.

(33) Between points in the District of Columbia, on the one hand, and, on the other, points in Ohio, Indiana, and Illinois. The purpose of this filing is to eliminate the gateway of Camden, N.J.

(34) Between points in the District of Columbia, one the one hand, and, on the other, points in North Carolina, South Carolina, Georgia, Florida. The purpose of this filing is to eliminate the gateways of Kent County, Md., and Camden, N.J., and points in New Jersey within 20 miles.

(35) Between points in Rhode Island and Massachusetts, on the one hand, and, on the other, points in North Carolina, South Carolina, Georgia, Florida, Ohio, Indiana, Illinois, and West Virginia. The purpose of this filing is to eliminate the gateways of Kent County, Md., and Camden, N.J., and points in New Jersey within 20 miles.

(36) Between points in Rhode Island and Massachusetts, on the one hand, and, on the other, points in Missouri, Michigan, Wisconsin, Iowa, and Tennessee. The purpose of this filing is to eliminate the gateways of Kent County, Md., and Camden, N.J., and points in New Jersey within 20 miles, and Macon County, Ill.

(37) Between points in Rhode Island and Massachusetts, on the one hand, and, on the other, points in Arkansas, Kansas, Oklahoma, Texas, and Kentucky. The purpose of this filing is to eliminate the gateways of Kent County, Md., and Camden, N.J., and points in New Jersey within 20 miles, and Clark County, Ill.

(38) Between points in Rhode Island and Massachusetts, on the one hand, and, on the other, points in Maine, New Hampshire, and Vermont. The purpose of this filing is to eliminate the gateways of Kent County, Md., and Gloucester City, N.J., and points in New Jersey within 20 miles.

(39) Between points in Connecticut, Virginia, and the District of Columbia, on the one hand, and, on the other, points in Maine, New Hampshire, and Vermont. The purpose of this filing is to eliminate the gateway of Camden, N.J.

(40) Between points in New York and Pennsylvania, on the one hand, and, on the other, points in Maine, New Hampshire, and Vermont. The purpose of this filing is to eliminate the gateways of Gloucester City, N.J., and points in New Jersey within 20 miles.

(41) Between points in New Jersey, Delaware, and Maryland, on the one hand, and, on the other, points in Maine, New Hampshire, and Vermont. The purpose of this filing is to eliminate the gateways of Philadelphia, Pa., and Camden, N.J.

(B) *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading):

(1) From points in Pennsylvania, Maryland, and the District of Columbia within 90 miles of Wyoming, Del., to points in Caroline, Dorchester, and Talbot Counties, Md., with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Wyoming, Del.

(2) From points in Pennsylvania, New Jersey, New York, and Delaware, to Wyoming, Del. with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Caroline County, Md.

(3) From Baltimore, Md., and Philadelphia, Pa., to points in Caroline, Talbot, and Dorchester Counties, Md., with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Wyoming, Del.

(C) *Canned or preserved foodstuffs:*

(1) From points in Delaware, Pennsylvania, New Jersey, and New York, to points in Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Delaware, and Maryland. The purpose of this filing is to eliminate the gateway of Caroline County, Md.

(2) From points in Delaware, Pennsylvania, New Jersey, and New York, to points in the District of Columbia, and Norfolk and Richmond, Va. The purpose of this filing is to eliminate the gateways of Caroline County, Md., and Wyoming, Del.

(3) From Washington, D.C., and points in Maryland within 90 miles of Wyoming, Del., to points in Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Delaware, Maryland, and the District of Columbia. The purpose of this filing is to eliminate the gateways of Wyoming, Del., and Caroline County, Md.

(4) From Washington, D.C., and points in Maryland within 90 miles of Wyoming, Del., to points in the District of Columbia, and Norfolk and Richmond, Va. The purpose of this filing is to eliminate the gateway of Wyoming, Del.

(5) From points in Maryland within 90 miles of Wyoming, Del., to the District of Columbia. The purpose of this filing is to eliminate the gateway of Wyoming, Del.

(D) *Canned goods, applebutter, ketchup, and pickles* in containers, from points in Pennsylvania, New Jersey, New York, and Delaware, to Norfolk and Richmond, Va., Washington, D.C., Baltimore, Md., New York, N.Y., Atlantic City, N.J., Pittsburgh, Aliquippa, and Denbo, Pa., points in that part of Pennsylvania east of a line beginning at the New York-Pennsylvania State line near Brookfield, Pa., and extending south through Lewiston, Pa., to the Maryland-Pennsylvania State line, and points in that part of New Jersey on and within 15 miles of U.S. Highway 1, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateways of Caroline County, Md., Wyoming, Del., and Kent County, Del.

(E) *Roofing paper:*

(1) From New Brunswick, N.J., to points in Caroline, Talbot, and Dorchester Counties, Md. The purpose of this filing is to eliminate the gateway of Sussex County, Del.

(2) From New Brunswick, N.J., to Wyoming, Del. The purpose of this filing is to eliminate the gateways of Sussex County, Del., and points in Maryland within 90 miles of Wyoming, Del.

(F) *Lumber and shingles,* from Elizabeth City, N.C., and Norfolk and Suffolk, Va., to points in Talbot, Caroline, and Dorchester Counties, Md. The purpose of this filing is to eliminate the gateway of Dover, Del.

(G) *Coal,* from Shomokin, Mt. Carmel, Pottsville, Jeddo, Frackville, Tamaqua, and Nanticoke, Pa., and points within 5 miles of Shomokin, Mt. Carmel, and Pottsville and Renova, Pa., to Talbot, Caroline, and Dorchester Counties, Md., with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Dover, Del.

(H) *Empty cartons,* from Delair, N.J., to points in Talbot, Caroline, and Dorchester Counties, Md. The purpose of this filing is to eliminate the gateway of Wyoming, Del.

(I) *Concrete pipe,* from points in New Jersey, New York, Pennsylvania, and Delaware, to points in Kent and Sussex Counties, Del., points in Worcester, Wicomico, and Somerset Counties, Md., points in Northampton and Accomack Counties, Va. The purpose of this filing is to eliminate the gateways of Caroline County, Md., and Wyoming, Del.

(J) *Concrete pipe and machinery and equipment* used or useful in the manufacture of concrete pipe:

(1) From points in New Jersey, New York, Pennsylvania, Delaware, to Norfolk, Va. The purpose of this filing is to eliminate the gateways of Caroline County, Md., and Wyoming, Del.

(2) From points in Maryland and the District of Columbia within 90 miles of Wyoming, Del., to Norfolk, Va. The purpose of this filing is to eliminate the gateway of Wyoming, Del.

(3) From Norfolk, Va., to points in Caroline, Talbot, and Dorchester Counties, Md. The purpose of this filing is to eliminate the gateway of Dover, Del.

(K) *Pickled fish,* from points in Pennsylvania, the District of Columbia, and Maryland within 90 miles of Wyoming, Del., to New York, N.Y. The purpose of this filing is to eliminate the gateways of Wyoming, Del., and Bellevue, Md.

(L) *Protane gas,* from Plainfield, N.J., to Wyoming, Del. The purpose of this filing is to eliminate the gateway of Oxford, Md.

(M) *Vinegar,* from Biglersville, Pa., to points in Caroline, Dorchester, and Talbot Counties, Md. The purpose of this filing is to eliminate the gateway of Wyoming, Del.

(N) *Insecticides and spray materials,* from Philadelphia, Pa., and Baltimore, Md., to points in Caroline, Dorchester, and Talbot Counties, Md. The purpose of this filing is to eliminate the gateways of Kent and Sussex Counties, Del.

(O) *Lumber and fertilizer:*

(1) From Baltimore, Md., to points in Caroline, Dorchester, and Talbot Counties, Md. The purpose of this filing is to eliminate the gateway of New Castle County, Del.

(2) From Baltimore, Md., to Wyoming, Del. The purpose of this filing is to eliminate the gateways of New Castle County, Del., and Caroline County, Md.

No. MC 56383 (Sub-No. 12G), filed June 4, 1974. Applicant: KESSELL TRANSFER & STORAGE CO., INC., 3325 North El Paso Street, Colorado Springs, Colo. 80907. Applicant's representative: Herbert Alan Dubin, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Household goods,* as defined by the Commission, (1) between points in Arkansas, Colorado, Illinois, Iowa, Kansas, Louisiana, Michigan, Minnesota, Missouri, Nebraska, New Mexico, Oklahoma, South Dakota, Texas, Wisconsin, and Wyoming and (2) between points in Arkansas, Colorado, Illinois, Iowa, Kansas, Louisiana, Michigan, Minnesota, Missouri, Nebraska, New Mexico, Oklahoma, South Dakota, Texas, Wisconsin, and Wyoming, on the one hand, and, on the other, points in Indiana, Ohio, Maryland, New Jersey, New York, Pennsylvania, and the District of Columbia. The purpose of this filing is to eliminate the gateways of Des Moines, Iowa, and points within 30 miles thereof, Des Moines, Iowa, and points within 50 miles thereof, Des Moines, Iowa, and points within 80 miles thereof, and points in Oklahoma.

No. MC 83539 (Sub-No. 408G), filed May 30, 1975. Applicant: C & H TRANSPORTATION CO., INC., 1936–2010 West Commerce St., P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Thomas E. James (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (I) *Iron and steel articles* as described in Appendix V to the Report of the Commission in Ex Parte No. 45, *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209:

(1) Between points in California, on the one hand, and, on the other, points in Montana. The purpose of this filing is to eliminate the gateways of Utah, Oregon, or Oregon, and any point in Montana on and west of a line extending north and south through Dupuyer and Butte, Mont.

(2) Between points in California, on the one hand, and, on the other, points in North Dakota. The purpose of this filing is to eliminate the gateway of points in Utah.

(3) Between points in California, on the one hand, and, on the other, points in South Dakota. The purpose of this filing is to eliminate the gateway of points in Utah.

(4) Between points in California, on the one hand, and, on the other, points in Wyoming. The purpose of this filing is to eliminate the gateway of points in Utah.

(5) Between points in California, on the one hand, and, on the other, points in Colorado. The purpose of this filing is to eliminate the gateway of points in Utah.

(6) Between points in Oregon, on the one hand, and, on the other, points in Montana. The purpose of this filing is to eliminate the gateway of any point in Montana on and west of a line extending north and south through Dupuyer and Butte, Mont.

(7) Between points in Oregon, on the one hand, and, on the other, points in North Dakota. The purpose of this filing is to eliminate the gateway of any point in Montana on and west of a line extending north and south through Dupuyer and Butte, Mont.

(8) Between points in Oregon, on the one hand, and, on the other, points in South Dakota. The purpose of this filing is to eliminate the gateway of any point in Montana on and west of a line extending north and south through Dupuyer and Butte, Mont.

(9) Between points in Washington, on the one hand, and, on the other, points in Montana. The purpose of this filing is to eliminate the gateway of any point in Montana on and west of a line extending north and south through Dupuyer and Butte, Mont.

(10) Between points in Washington, on the one hand, and, on the other, points in North Dakota. The purpose of this filing is to eliminate the gateway of any point in Montana on and west of a line extending north and south through Dupuyer and Butte, Mont.

(11) Between points in Washington, on the one hand, and, on the other, points in South Dakota. The purpose of this filing is to eliminate the gateway of any point in Montana on and west of a line extending north and south through Dupuyer and Butte, Mont.

(12) Between points in Washington, on the one hand, and, on the other, points in Wyoming. The purpose of this filing is to eliminate the gateway of any point in Montana on and west of a line extending north and south through Dupuyer and Butte, Mont.

(13) Between points in Idaho, on the one hand, and, on the other, points in North Dakota. The purpose of this filing is to eliminate the gateway of any point Montana on and west of a line extending north and south through Dupuyer and Butte, Mont.

(II) *Iron and steel articles,* as described in Appendix V to the Report of the Commission in Ex Parte No. 45, *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209;

(1) Between points in California, on the one hand, and, on the other, points in Idaho. The purpose of this filing is to eliminate the gateway of points in Oregon.

(2) Between points in Oregon, on the one hand, and, on the other, points in Wyoming. The purpose of this filing is to eliminate the gateway of any point in Montana on and west of a line extending north and south through Dupuyer and Butte, Mont.

(3) Between points in Oregon, on the one hand, and, on the other, points in Colorado. The purpose of this filing is to eliminate the gateway of any point in Montana on and west of a line extending north and south through Dupuyer and Butte, Mont.

(4) Between points in Oregon, on the one hand, and, on the other, points in Utah. The purpose of this filing is to eliminate the gateway of any point in Montana on and west of a line extending north and south through Dupuyer and Butte, Mont.

(5) Between points in Washington, on the one hand, and, on the other, points in Colorado. The purpose of this filing is to eliminate the gateway of any point in Montana on and west of a line extending north and south through Dupuyer and Butte, Mont.

(6) Between points in Washington, on the one hand, and, on the other, points in Utah. The purpose of this filing is to eliminate the gateway of any point in Montana on and west of a line extending north and south through Dupuyer and Butte, Mont.

(7) Between points in Idaho, on the one hand, and, on the other, points in Montana. The purpose of this filing is to eliminate the gateway of any point in Montana on and west of a line extending north and south through Dupuyer and Butte, Mont.

(8) Between points in Idaho, on the one hand, and, on the other, points in South Dakota. The purpose of this filing is to eliminate the gateway of any point in Montana on and west of a line extending north and south through Dupuyer and Butte, Mont.

(9) Between points in Idaho, on the one hand, and, on the other, points in Wyoming. The purpose of this filing is to eliminate the gateway of any point in Montana on and west of a line extending north and south through Dupuyer and Butte, Mont.

(10) Between points in Idaho, on the one hand, and, on the other, points in Colorado. The purpose of this filing is to eliminate the gateway of any point in Montana on and west of a line extending north and south through Dupuyer and Butte, Mont.

(11) Between points in Idaho, on the one hand, and, on the other, points in Utah. The purpose of this filing is to eliminate the gateway of any point in Montana on and west of a line extending north and south through Dupuyer and Butte, Mont.

No. MC 108676 (Sub-No. 66G), filed June 4, 1974. Applicant: A. J. METLER HAULING & RIGGING, INC., 117 Chi-

camauga Avenue NE., Knoxville, Tenn. 37917. Applicant's representative: A. A. Metler (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles*, consisting of iron or steel conveying, dredging, dumping, or hoisting buckets, dippers, or skips, (2) *iron and steel articles* consisting of signs, sign poles, and parts and accessories therefore, and (3) *iron and steel articles*, consisting of contractors' equipment and coal and coke mining equipment, (a) between points in Kentucky, on the one hand, and, on the other, points in Georgia and South Carolina, (b) between points in Tennessee, on the one hand, and, on the other, points in North Carolina, South Carolina, and Virginia, (c) between points in Alabama, on the one hand, and, on the other, points in Virginia, (d) between points in Kentucky, on the one hand, and, on the other, points in Alabama, North Carolina, and that part of Tennessee on and east of U.S. Highway 27, (e) between points in Tennessee, on the one hand, and, on the other, points in South Carolina and that part of Georgia on and east of Interstate Highway 75, (f) between points in Alabama, on the one hand, and, on the other, points in that part of North Carolina on and west of Interstate Highway 85, that part of Kentucky on and east of Interstate Highway 75, and that part of Tennessee in and east of Scott, Anderson, Roane, Loudon, and Blount Counties, Tenn.

(g) Between points in Georgia, on the one hand, and, on the other, points in that part of Virginia on and west of Interstate Highway 81, that part of North Carolina on, north, and west of a line beginning at the North Carolina-Tennessee state line and extending along Interstate Highway 40 to Winston-Salem, N.C., and thence along U.S. Highway 52 to the North Carolina-Virginia state line, and that part of Tennessee in and east of Scott, Anderson, Roane, Loudon, and Blount Counties, Tenn., (h) between points in North Carolina, on the one hand, and, on the other, points in that part of Alabama on and west of Interstate Highway 59, and (i) between points in Virginia, on the one hand, and, on the other, points in that part of Kentucky on and west of U.S. Highway 41. The purpose of this filing is to eliminate the gateway of Knoxville, Tenn.

(4) *Iron and steel articles* consisting of construction equipment, and parts, accessories, and attachments therefor (not including contractors' equipment), *maintenance equipment, and parts, accessories, and attachments therefor* (not including contractors' equipment), *power distribution equipment, and parts, accessories, and attachments therefor* (not including contractors' equipment), and *plant equipment, and parts, accessories, and attachments therefor* (not including contractors' equipment), (a) between points in Kentucky, on the one hand, and, on the other, points in Georgia and South Carolina, (b) between points in Tennessee, on the one hand, and, on the other, points in North Carolina, South Carolina, and Virginia, (c) between points in Alabama, on the one hand, and, on the other, points in Virginia, (d) between points in Kentucky, on the one hand, and, on the other, points in Alabama, North Carolina, and that part of Tennessee on and east of U.S. Highway 27.

(e) Between points in Tennessee, on the one hand, and, on the other, points in South Carolina and that part of Georgia on and east of Interstate Highway 75, (f) between points in Alabama, on the one hand, and, on the other, points in that part of North Carolina on and west of Interstate Highway 85, that part of Kentucky on and east of Interstate Highway 75, and that part of Tennessee in and east of Scott, Anderson, Roane, Loudon, and Blount Counties, Tenn., (g) between points in Georgia, on the one hand, and, on the other, points in that part of Virginia on and west of Interstate Highway 81, that part of North Carolina on, north, and west of a line beginning at the North Carolina-Tennessee state line and extending along Interstate Highway 40 to Winston-Salem, N.C., and thence along U.S. Highway 52 to the North Carolina-Virginia state line, and that part of Tennessee in and east of Scott, Anderson, Roane, Loudon, and Blount Counties, Tenn., (h) between points in North Carolina, on the one hand, and, on the other, points in that part of Alabama on and west of Interstate Highway 59, and (i) between points in Virginia, on the one hand, and, on the other, points in that part of Kentucky on and west of U.S. Highway 41. The purpose of this filing is to eliminate the gateway of Knoxville, Tenn.

(5) *Coal and coke mining machinery, equipment and vehicles and mine cars*, consisting of maintenance machinery and equipment, and parts, accessories, and attachments therefor (not including contractors' machinery and equipment), (a) between points in Kentucky, on the one hand, and, on the other, points in Alabama, Georgia, South Carolina, and North Carolina, and points in Tennessee in and east of Pickett, Overton, Putnam, White, Van Buren, Sequatchie, Grundy, and Marion Counties, Tenn., and points in Virginia on and west of U.S. Highway 21, (b) between points in Tennessee, on the one hand, and, on the other, points in North Carolina, South Carolina, and Virginia, and points in Kentucky on and east of U.S. Highway 27 and points in that part of Georgia on and east of U.S. Highway 41, (c) between points in Alabama, on the one hand, and, on the other, points in Virginia, North Carolina, and points in Tennessee in and east of Pickett, Overton, Putnam, White, Van Buren, Sequatchie, Grundy, and Marion Counties, Tenn., and points in South Carolina on and north of U.S. Highway 1, (d) between points in Georgia, on the one hand, and, on the other, points in Tennessee in and east of Pickett, Overton, Putnam, White, Van Buren, Sequatchie, Grundy, and Marion Counties Tenn., and points in Virginia on and west of Interstate Highway 95 and points in North Carolina north and west of Interstate Highway 85, (e) between points in South Carolina, on the one hand, and, on the other, points in Virginia on and west of U.S. Highway 21, (f) between points in North Carolina, on the one hand, and on the other, points in Alabama on and north of a line beginning at the Alabama-Georgia state line and extending along U.S. Highway 78 to Birmingham, Ala., and thence along U.S. Highway 11 to the Alabama-Mississippi state line.

(g) Between points in Virginia on and south of U.S. Highway 60, on the one hand, and, on the other, points in Kentucky in and west of Wayne, Adair, Green, Hart, Edmonson, Butler, Ohio, and Daviess Counties, Ky., and (h) between points in Virginia on and west of Interstate Highway 81, on the one hand, and, on the other, points in Georgia. The purpose of this filing is to eliminate the gateway of any point within 75 miles of Knoxville, Tenn.

(6) *Iron or steel conveying, dredging, dumping, or hoisting buckets, dippers, or skips*, consisting of construction machinery, tools, and equipment, and parts, accessories, and attachments therefor (not including contractors' machinery and equipment), *maintenance machinery, tools, and equipment, and parts, accessories, and attachments therefor* (not including contractors' machinery and equipment), *power distribution machinery, tools, and equipment, and parts, accessories, and attachments* therefor (not including contractors' machinery and equipment), and *plant machinery, tools, and equipment, and parts, accessories, and attachments* therefor (not including contractors' machinery and equipment), (a) between points in Kentucky, on the one hand, and, on the other, points in Alabama, Georgia, South Carolina, and North Carolina, and points in Tennessee in and east of Pickett, Overton, Putnam, White, Van Buren, Sequatchie, Grundy, and Marion Counties, Tenn., and points in Virginia on and west of U.S. Highway 21, (b) between points in Tennessee, on the one hand, and, on the other, points in North Carolina, South Carolina, and Virginia, and points in Kentucky on and east of U.S. Highway 27 and points in that part of Georgia on and east of U.S. Highway 41.

(c) Between points in Alabama, on the one hand, and, on the other, points in Virginia, North Carolina, and points in Tennessee in and east of Pickett, Overton, Putnam, White, Van Buren, Sequatchie, Grundy, and Marion Counties, Tenn., and points in South Carolina on and north of U.S. Highway 1, (d) between points in Georgia, on the one hand, and, on the other, points in Tennessee in and east of Pickett, Overton, Putnam, White, Van Buren, Sequatchie, Grundy, and Marion Counties, Tenn., and points in Virginia on and west of Interstate Highway 95 and points in North Carolina north and west of Interstate Highway 85, (e) between points in South Carolina, on the one hand, and, on the other, points in Virginia on and west of U.S. Highway 21, (f) between points in

North Carolina, on the one hand, and, on the other, points in Alabama on and north of a line beginning at the Alabama-Georgia state line and extending along U.S. Highway 78 to Birmingham, Ala., and thence along U.S. Highway 11 to the Alabama-Mississippi state line, (g) between points in Virginia on and south of U.S. Highway 60, on the one hand, and, on the other, points in Kentucky in and west of Wayne, Adair, Green, Hart, Edmonson Butler, Ohio, and Daviess Counties, Ky., and (h) between points in Virginia on and west of Interstate Highway 81, on the one hand, and, on the other, points in Georgia. The purpose of this filing is to eliminate the gateway of any point within 75 miles of Knoxville, Tenn.

(7) *Iron and steel articles* consisting of signs, sign poles, and parts and accessories therefore, (a) from points in Georgia, to points in the United States in and north of Missouri, Kansas, Colorado, Utah, Nevada, California, Kentucky, West Virginia, Maryland, and Delaware (except Alaska and Hawaii), (b) from points in South Carolina, to points in the United States in and west of Ohio, Kentucky, Missouri, Arkansas, and Texas (except Alaska and Hawaii), (c) from points in North Carolina, to points in the United States in and west of Minnesota, Wisconsin, Illinois, Indiana, Missouri, Arkansas, and Mississippi (except Alaska and Hawaii), (d) from points in Virginia, to points in the United States in and west of Mississippi, Arkansas, Kansas, Nebraska, Wyoming, and Montana (except Alaska and Hawaii), (e) from points in Kentucky, to points in Florida, (f) from points in Tennessee, to points in the United States in and east of Pennsylvania, West Virginia, Maryland, and Delaware, and (g) from points in Alabama, to points in the United States in and east of Michigan, Ohio, West Virginia, Maryland, and Delaware. The purpose of this filing is to eliminate the gateway of Knoxville, Tenn.

No. MC 113528 (Sub-No. 23G), filed May 21, 1974. Applicant: MERCURY FREIGHT LINES, INC., P.O. Box 1247, 710 N. Joachim St., Mobile, Ala. 36601. Applicant's representative: Drew L. Carraway, 618 Perpetual Building, Washington, D.C. 20004. 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), between points in Alabama south of U.S. Highway 278, on the one hand, and, on the other, points in North Carolina and South Carolina. The purpose of this filing is to eliminate the gateway of Sumter, S.C.

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 *within 10 days* from the date of this publication. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will *not* operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 2630 (Sub E12), filed May 31, 1974. Applicant: TOM STILL TRANSFER COMPANY, INC., 632 Boone Street, Kingsport, Tenn. 37660. Applicant's representative: Eugene R. Still (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods* as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, between points in Sussex County, Del., on the one hand, and, on the other, points in Indiana south and west of a line beginning at the Indiana-Illinois State line and extending along U.S. Highway 135 to junction U.S. Highway 41 to junction Indiana Highway 28 to junction Indiana Highway 25 to junction Indiana Highway 26 to junction Indiana Highway 9 to junction Indiana Highway 7 to the Kentucky-Indiana State line. The purpose of this filing is to eliminate the gateway of Kingsport, Tenn., or points within 100 miles of Kingsport.

No. MC 2630 (Sub E41), filed May 31, 1974. Applicant: TOM STILL TRANSFER COMPANY, Inc., 632 Boone Street, Kingsport, Tenn. 37660. Applicant's representative: Eugene R. Still (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods* as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, between points in Florida west of U.S. Highway 231, on the one hand, and, on the other, points in Indiana on and east of Interstate Highway 65. The purpose of this filing is to eliminate the gateway of Kingsport, Tenn., or points within 100 miles of Kingsport.

No. MC 2630 (Sub E42), filed May 31, 1974. Applicant: TOM STILL TRANSFER COMPANY, Inc., 632 Boone Street, Kingsport, Tenn. 37660. Applicant's representative: Eugene R. Still (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods* as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, between those points in Florida on and east of U.S. Highway 231, on the one hand, and, on the other, points in Indiana. The purpose of this filing is to eliminate the gateway of Kingsport, Tenn., or points within 100 miles of Kingsport.

No. MC 2630 (Sub No. E43), filed May 31, 1974. Applicant: TOM STILL TRANSFER COMPANY, INC., 632 Boone Street, Kingsport, Tenn. 37660. Applicant's representative: Eugene R. Still (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods* as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, between those points in Texas on, south, and west of a line beginning at the Texas-New Mexico State line and extending along U.S. Highway 285 to junction U.S. Highway 67 to U.S. Highway 87 to U.S. Highway 190 to Junction U.S. Highway 183 to junction U.S. Highway 87 to Port Lavaca, on the one hand, and, on the other, those points in Kentucky on and east of a line beginning at the Indiana-Kentucky State line and extending along Interstate Highway 65 to junction U.S. Highway 90 to junction U.S. Highway 31E to the Kentucky-Tennessee State line. The purpose of this filing is to eliminate the gateway of Kingsport, Tenn., or points within 100 miles of Kingsport.

No. MC 2630 (Sub E44), filed May 31, 1974. Applicant: TOM STILL TRANSFER COMPANY, INC., 632 Boone Street, Kingsport, Tenn. 37660. Applicant's representative: Eugene R. Still (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods* as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, between points in Texas, on the one hand, and, on the other, those points in Kentucky on and east of a line beginning at the Kentucky-Ohio State line and extending along Interstate Highway 75 to its junction with U.S. Highway 461 to its junction with U.S. Highway 27. The purpose of this filing is to eliminate the gateway of Kingsport, Tenn., or points within 100 miles of Kingsport.

No. MC 2630 (Sub E45), filed May 31, 1974. Applicant: TOM STILL TRANSFER COMPANY, INC., 632 Boone Street, Kingsport, Tenn. 37660. Applicant's representative: Eugene R. Still (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over

irregular routes, transporting: *Household goods* as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, between those points in Texas on south and west of a line beginning at the Texas-New Mexico State line and extending along U.S. Highway 285 to its junction with U.S. Highway 67 to its junction with U.S. Highway 87 to its junction with U.S. Highway 190 to its junction with U.S. Highway 183 to its junction with U.S. Highway 81 to Corpus Christi Bay, on the one hand, and, on the other, those points in Indiana north and east of U.S. Highway 31 and Interstate Highway 70. The purpose of this filing is to eliminate the gateway of Kingsport, Tenn., or points within 100 miles of Kingsport.

No. MC 2630 (Sub E46), filed May 31, 1974. Applicant: TOM STILL TRANSFER COMPANY, INC., 632 Boone St., Kingsport, Tenn. 37660. Applicant's representative: Eugene R. Still (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods* as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, between points in New Castle County, Del., on the one hand, and, on the other, points in Virginia on and west of a line beginning at the Virginia-West Virginia State line and extending along U.S. Highway 460 to junction Virginia Highway 8 to the Virginia-North Carolina State line. The purpose of this filing is to eliminate the gateway of Kingsport, Tenn., or points within 100 miles of Kingsport.

No. MC 4405 (Sub-No. E19), filed July 13, 1974. Applicant: DEALERS TRANSIT, INC., P.O. Box 361, Lansing, Ill. 60438. Applicant's representative: Robert E. Joyner, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, Tenn. 38137. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Commodities* which because of size or weight, require the use of special equipment, and (2) *self-propelled articles*, each weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies* moving in connection therewith, between points in Michigan (except those in Geogebic, Ontonagau, Houghton, Keewenaw, Iron, and Baraga Counties), and East St. Louis, Ill., on the one hand, and, on the other, points in Oklahoma and those in Kansas in and east of Seward, Meade, Clark, Kiowa, Pratt, Kingman, Sedgwick, Butler, Greenwood, Coffey, Franklin, and Miami Counties. The purpose of this filing is to eliminate the gateway of St. Louis, Mo., and East St. Louis, Ill.

No. MC 4405 (Sub-No. E20), filed July 13, 1974. Applicant: DEALERS TRANSIT, INC., P.O. Box 361, Lansing, Ill. 60438. Applicant's representative: Robert E. Joyner, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, Tenn. 38137. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum, and their products and by-products, and *machinery, materials, equipment, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, restricted against the transportation of any such commodity to be used in, or in connection with main or trunk pipelines, restricted to commodities which because of size or weight require the use of special equipment, (a) between points in Tennessee, South Carolina, North Carolina, Alabama, and Georgia, on the one hand, and, on the other, points in Kansas; (b) between points in Kansas, on the one hand, and, on the other, points in Virginia and West Virginia; and (c) between points in Kentucky, on the one hand, and, on the other, points in Kansas south of a line beginning at the Kansas-Oklahoma State line and extending along U.S. Highway 54 to junction U.S. Highway 183 to the Kansas-Oklahoma State line. The purpose of this filing is to eliminate the gateway of points in Arkansas.

No. MC 30446 (Sub-No. E4), filed May 13, 1974. Applicant: BRUCE JOHNSON TRUCKING CO., INC., 125 E. Craighead Road, Charlotte, N.C. 28205. Applicant's representative: Charles Ephraim, 1250 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *General commodities* (except those of unusual value, classes A and B explosives, brick, cement, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (a) between points in that part of South Carolina bounded by a line beginning at the North Carolina-South Carolina State line and extending along South Carolina Highway 5 to Blacksburg, thence along U.S. Highway 29 to Gaffney, thence along South Carolina Highway 11 to New Prospect, thence along South Carolina Highway 9 to the North Carolina-South Carolina State line to points in that part of South Carolina bounded by a line beginning at the North Carolina-South Carolina State line at junction Lynches River, and extending along the Lancaster County, S.C., line to Kershaw, S.C., thence in a southeasterly direction along U.S. Highway 521 to junction U.S. Highway 52 at or near Lane, S.C., thence along U.S. Highway 52 to junction U.S. Alternate Highway 17 at or near Moncks Corner, S.C., thence along U.S. Alternate Highway 17 to junction South Carolina Highway 61, thence along South Carolina Highway 61 to junction South Carolina Highway 165, thence along South Carolina Highway 165 to the Atlantic Ocean, thence along the Ocean shores to the North Carolina-South Carolina State line, thence along the North Carolina-South Carolina State line to junction Lynches River, and points of beginning, including points on said boundary line.

(b) Between points in that part of South Carolina bounded by a line beginning at the North Carolina-South Carolina State line, and extending along South Carolina Highway 5 to Blacksburg, S.C., thence along U.S. Highway 29 to Gaffney, S.C., thence along South Carolina Highway 11 to Prospect, S.C., thence along South Carolina Highway 9 to the North Carolina-South Carolina State line, thence along the North Carolina-South Carolina State line to junction South Carolina Highway 5 and point of beginning, including points on said boundary line, on the one hand, and, on the other, points in that part of South Carolina bounded by a line beginning at the South Carolina-Georgia State line and junction U.S. Highway 321 near Port Wentworth, Ga., thence along U.S. Highway 321 to Tillman, S.C., thence along South Carolina Highway 336 to Ridgeland, S.C., thence along U.S. Highway 278 to junction South Carolina Highway 170, thence along South Carolina Highway 170 to Beaufort, S.C., thence along U.S. Highway 21 to the Atlantic Ocean, thence along the ocean shores to the South Carolina-Georgia State line to junction U.S. Highway 321, and points of beginning, including points on said boundary line.

(c) Between points in that part of South Carolina bounded by a line beginning at the Georgia-South Carolina State line and extending along U.S. Highway 123 to Clemson, S.C., thence along U.S. Highway 88 to junction Interstate Highway 85, thence along Interstate Highway 85 to junction South Carolina Highway 11, thence along South Carolina Highway 11 to New Prospect, S.C., thence along South Carolina Highway 9 to the North Carolina-South Carolina State line, thence along the North Carolina-South Carolina State line to junction Georgia-South Carolina State line, thence along the Georgia-South Carolina State line to junction U.S. Highway 123, and point of beginning, including points on said boundary line, on the one hand, and, on the other, points in that part of South Carolina bounded by a line beginning at the North Carolina-South Carolina State line at junction Lynches River, and extending along Lancaster County, S.C., line to Kershaw, S.C., thence along South Carolina Highway 341 to Lake City, S.C., thence along U.S. Highway 52 to Kingstree, S.C., thence along South Carolina Highway 261 to junction South Carolina Highway 377, thence along South Carolina Highway 377 to junction U.S. Highway 521, thence along U.S. Highway 521 to Georgetown, S.C., thence along the south river shore of the Vinyah Bay to the Atlantic Ocean, thence along the ocean shores to the North Carolina-South Carolina State line, thence along the North Carolina-South Carolina State line to junction Lynches River, and point of beginning, including points on said boundary line; between points in that

part of South Carolina bounded by a line beginning at the Georgia-South Carolina State line and extending along U.S. Highway 123 to Clemson, S.C., thence along South Carolina Highway 88 to junction Interstate Highway 85, thence along Interstate Highway 85 to Greenville, S.C., thence along South Carolina Highway 20 to Belton, S.C., thence along U.S. Highway 76 to Anderson, S.C., thence along South Carolina Highway 24 to junction Interstate Highway 85, thence along Interstate Highway 85 to the North Carolina-South Carolina State line, thence along the North Carolina-South Carolina State line to junction U.S. Highway 123, and point of beginning, including points on said boundary lines, on the one hand, and, on the other, points in that part of South Carolina bounded by a line beginning at the North Carolina-South Carolina State line at junction Lynches River, and extending along the Lancaster County, S.C., line to junction South Carolina Highway 903, thence along South Carolina Highway 903 to junction South Carolina Highway 151, thence along South Carolina Highway 151 to Darlington, S.C., thence along U.S. Highway 52 to junction U.S. Highway 76, thence along U.S. Highway 76 to Marion, S.C., thence along U.S. Highway 501 to Myrtle Beach, S.C., thence along the ocean shores to the North Carolina-South Carolina State line, thence along the North Carolina-South Carolina State line to junction Lynches River, and points of beginning, including points on said boundary line. The purpose of this filing is to eliminate the gateways of Charlotte, N.C., and Lancaster, S.C.

No. MC 60014 (Sub-No. E16), filed June 4, 1974. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Commodities,* requiring special equipment, restricted so that, or provided that, the loading or unloading, which necessitate the special equipment, is performed by the consignor or consignee, or both, between points in Delaware, on the one hand, and, on the other, points in New Hampshire, Rhode Island, and those in Vermont on and east of a line beginning at Champlain, and extending along U.S. Highway 7 to junction Vermont Highway 103, thence along Vermont Highway 103 to junction Vermont Highway 155, thence along Vermont Highway 155 to junction Vermont Highway 100, thence along Vermont Highway 100 to junction Vermont Highway 30, thence along Vermont Highway 30 to junction U.S. Highway 5, thence along U.S. Highway 5 to the Vermont-Massachusetts State line. The purpose of this filing is to eliminate the gateways of points in New York within 10 miles of Greenwich, Conn.; Greenwich, Conn.; and points in Massachusetts within 35 miles of Boston.

No. MC 60014 (Sub E24), filed June 4, 1974. Applicant: AERO TRUCKING INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Iron and steel articles,* which by reason of size or weight require the use of special equipment, from points in Pennsylvania to points in Kentucky, Alabama, and those in Tennessee on and west of a line beginning at the Tennessee-Virginia State line and extending along Tennessee Highway 63 to junction U.S. Highway 25W, thence along U.S. Highway 25W to junction Tennessee Highway 95, thence along Tennessee Highway 95 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction Tennessee Highway 30, thence along Tennessee Highway 30 to junction U.S. Highway 411, thence along U.S. Highway 411 to the Tennessee-Georgia State line. The purpose of this filing is to eliminate the gateway of Wheeling, W. Va.

No. MC 60014 (Sub E25), filed June 4, 1974. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Commodities,* requiring special equipment, restricted so that, or provided that, the loading or unloading, which necessitate the special equipment, is performed by the consignor or consignee, or both, between points in Pennsylvania, on the one hand, and, on the other, those points in Massachusetts on and east of a line beginning at the Connecticut-Massachusetts State line and extending along U.S. Highway 5 to junction Interstate Highway 90, thence along Interstate Highway 90 to junction Massachusetts Highway 32, thence along Massachusetts Highway 32 to junction U.S. Highway 202, thence along U.S. Highway 202 to the Massachusetts-New Hampshire State line. The purpose of this filing is to eliminate the gateway of points in New York within 10 miles of Greenwich, Conn., and Greenwich, Conn.

No. MC 60014 (Sub E26), filed June 4, 1974. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Commodities,* requiring special equipment, restricted so that, or provided that, the loading or unloading, which necessitate the special equipment, is performed by the consignor or consignee, or both, between those points in Pennsylvania on and south of Interstate Highway 80, on the one hand, and, on the other, those points in Vermont on and east of U.S. Highway 5. The purpose of this filing is to eliminate the gateway of points in New York within 10 miles of Greenwich, Conn.; Greenwich, Conn.; and points within 35 miles of Boston.

No. MC 60014 (Sub E29), filed June 4, 1974. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Commodities,* the transportation of which, by reason of their size or weight, requires the use of special equipment, between points in Pennsylvania, on the one hand, and on the other, those points in New Hampshire north and east of a line beginning at Vermont-New Hampshire State line and extending along New Hampshire Highway 25A, to junction New Hampshire Highway 118, thence along New Hampshire Highway 118 to junction U.S. Highway 4, thence along U.S. Highway 4 to junction New Hampshire Highway 11, thence along New Hampshire Highway 11 to junction Interstate Highway 89, thence along Interstate Highway 89 to junction New Hampshire Highway 103, thence along New Hampshire Highway 103 to junction New Hampshire Highway 114, thence along New Hampshire Highway 114 to junction U.S. Highway 202, thence along U.S. Highway 202 to junction New Hampshire Highway 9, thence along New Hampshire Highway 9 to junction New Hampshire Highway 123, thence along New Hampshire Highway 123 to New Hampshire-Vermont State line. The purpose of this filing is to eliminate the gateways of New York and points in Massachusetts within 35 miles of Boston.

No. MC 60014 (Sub E30), filed June 4, 1974. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Commodities,* requiring special equipment, restricted so that, or provided that, the loading or unloading, which necessitate the special equipment, is performed by the consignor or consignee, or both, between those points in Pennsylvania on and west of a line beginning at the New York-Pennsylvania State line and extending along Pennsylvania Highway 171 to junction Pennsylvania Highway 247, thence along Pennsylvania Highway 247 to junction Pennsylvania Highway 348, thence along Pennsylvania Highway 348 to junction Pennsylvania Highway 191, thence along Pennsylvania Highway 191 to the Pennsylvania-New Jersey State line, on the one hand, and, on the other, those points in Rhode Island on and east of Interstate Highway 95. The purpose of this filing is to eliminate the gateways of points in New York within 10 miles of Greenwich, Conn.; Greenwich, Conn.; and points in Massachusetts within 35 miles of Boston.

No. MC 60014 (Sub E31), filed June 4, 1974. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Commodities,* the transportation of which, by reason of their size or weight, requires the use of

special equipment, between points in Pennsylvania, on the one hand, and, on the other, those points in Rhode Island on and south of a line beginning at the Connecticut-Rhode Island State line and extending along Rhode Island Highway 165 to junction Rhode Island 102, thence along Rhode Island Highway 102 to junction U.S. Highway 1, thence along U.S. Highway 1 to junction of Rhode Island Highway 1A, thence along Rhode Island 1A to the Rock Island Sound. The purpose of this filing is to eliminate the gateway of New York and points in Massachusetts, points within 35 miles of Boston.

No. MC 60014 (Sub E32), filed June 4, 1974. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as abov). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Commodities,* the transportation of which by reason of their size or weight, requires the use of special equipment, between points in New Jersey, on the one hand, and, on the other, points in Ohio, Pennsylvania, and points in Columbiana, Cuyahoga, Mahoning, Summit, and Trumbull Counties, Ohio.

No. MC 60014 (Sub E33), filed June 4, 1974. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Commodities,* requiring special equipment, restricted so that, or provided that, the loading or unloading, which necessitates the special equipment, is performed by the consignor or consignee, or both, between points in New Jersey, on the one hand, and, on the other, points in Maine. The purpose of this filing is to eliminate the gateway of points in New York within 10 miles of Greenwich, Conn.; Greenwich, Conn.; and points in Massachusetts within 35 miles of Boston.

No. MC 60014 (Sub E34), filed June 4, 1974. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Commodities,* requiring special equipment, restricted so that, or provided that, the loading or unloading, which necessitates the special equipment, is performed by the consignor or consignee, or both, between points in New Jersey, on the one hand, and, on the other, those points in Massachusetts on and east of U.S. Highway 5. The purpose of this filing is to eliminate the gateways of points in New York within 10 miles of Greenwich, Conn., and Greenwich, Conn.

No. MC 60014 (Sub-No. E35), filed June 4, 1974. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Commodities,* requiring special equipment, restricted so that, or provided that, the loading or unloading, which necessitate the special equipment, is performed by the consignor or consignee, or both, between those points in New Jersey on and east of a line beginning at the Pennsylvania-New Jersey State line and extending along New Jersey Highway 94 to junction New Jersey Highway 521, thence along New Jersey Highway 521 to junction New Jersey Highway 519, thence along New Jersey Highway 519 to junction New Jersey Highway 23, thence along New Jersey Highway 23 to the New Jersey-New York State line, on the one hand, and, on the other, points in Connecticut. The purpose of this filing is to eliminate the gateways of points in New York, within ten miles of Greenwich, Conn., and Greenwich, Conn.

No. MC 60014 (Sub-No. E36), filed June 4, 1974. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Iron and steel articles,* which by reason of size or weight, require the use of special equipment, from points in New Jersey, to points in Alabama, Mississippi, Kentucky, and those in Tennessee west of U.S. Highway 27. The purpose of this filing is to eliminate the gateways of Wheeling and Beechbottom, W. Va.

No. MC 60014 (Sub-No. E37), filed June 4, 1974. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Commodities,* requiring special equipment, restricted so that, or provided that, the loading or unloading, which necessitates the special equipment, is performed by the consignor or consignee, or both, between those points in New Jersey on and east of a line beginning at the Pennsylvania-New Jersey State line and extending along New Jersey Highway 94 to junction New Jersey Highway 521, thence along New Jersey Highway 521 to junction New Jersey Highway 519, thence along New Jersey Highway 519 to junction New Jersey Highway 23, thence along New Jersey Highway 23 to junction New Jersey Highway 284, thence along New Jersey Highway 284 to the New Jersey-New York State line, on the one hand, and, on the other, those points in Vermont on and east of a line beginning at the United States-Canada International Boundary line, and extending along Vermont Highway 105 to junction Vermont Highway 101, thence along Vermont Highway 101 to junction Vermont Highway 100, thence along Vermont Highway 100 to junction Vermont Highway 15/15A, thence along Vermont Highway 15/15A to junction Vermont Highway 15, thence along Vermont Highway 15 to junction U.S. Highway 2, thence along U.S. Highway 2 to junction U.S. Highway 302, thence along U.S. Highway 302 to junction Vermont Highway 110, thence along Vermont Highway 110 to junction Vermont Highway 14, thence along Vermont Highway 14 to junction Vermont Highway 107, thence along Vermont Highway 107 to junction Vermont Highway 12, thence along Vermont Highway 12 to junction Vermont Highway 106, thence along Vermont Highway 106 to junction Vermont Highway 131, thence along Vermont Highway 131 to the Vermont-New Hampshire State line, those in New Hampshire on and east of a line beginning at the Vermont-New Hampshire State line, and extending along New Hampshire Highway 12/103, thence along New Hampshire Highway 12/103 to junction New Hampshire Highway 11/103, thence along New Hampshire Highway 11/103 to junction New Hampshire Highway 31, thence along New Hampshire Highway 31 to junction New Hampshire Highway 10, thence along New Hampshire Highway 10 to junction New Hamp-Hampshire Highway 12, thence along New Hampshire Highway 12 to the New Hampshire-Massachusetts State line, and those in Rhode Island on and north of Interstate Highway 6. The purpose of this filing is to eliminate the gateways of New York within 15 miles of Greenwich, Conn.; Greenwich, Conn.; and points in Massachusetts within 35 miles of Boston.

No. MC 60014 (Sub-No. E38), filed June 4, 1974. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Commodities,* requiring special equipment, restricted so that, or provided that, the loading or unloading, which necessitate the special equipment, is performed by the consignor or consignee, or both, between points in Maryland, on the one hand, and, on the other, points in Connecticut. The purpose of this filing is to eliminate the gateways of points in New York within ten miles of Greenwich, Conn.; and Greenwich, Conn.

No. MC 60014 (Sub-No. E39), filed June 4, 1974. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Commodities,* the transportation of which, by reason of size or weight require the use of special equipment, between points in Maryland, on the one hand, and, on the other, points in Ohio. The purpose of this filing is to eliminate the gateways of West Virginia, and points in that part of Ohio on and east of a line extending from Mansfield to Pomeroy, Ohio, along Ohio Highway 13 to junction thereof with U.S. Highway

33, thence along U.S. Highway 33 to Pomeroy, and on and south of U.S. Highway 30 extending from Mansfield to the Ohio-West Virginia State line.

No. MC 60014 (Sub-No. E40), filed June 4, 1974. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, requiring special equipment, restricted so that, or provided that, the loading or unloading, which necessitate the special equipment, is performed by the consignor or consignee, or both, between points in Maryland, on the one hand, and, on the other, points in Maine, New Hampshire, those in Vermont on and east of a line beginning at the United States-Canada International Boundary line and extending along Vermont Highway 105 to junction Vermont Highway 101, thence along Vermont Highway 101 to junction Vermont Highway 100, thence along Vermont Highway 100 to junction U.S. Highway 4, thence along U.S. Highway 4 to junction Vermont Highway 100, thence along Vermont Highway 100 to junction Vermont Highway 30, thence along Vermont Highway 30 to junction U.S. Highway 5, thence along U.S. Highway 5 to the Vermont-Massachusetts State line, those in Rhode Island on and north of a line beginning at the Connecticut-Rhode Island State line and extending along Rhode Island Highway 165 to junction Rhode Island Highway 102, thence along Rhode Island Highway 102 to junction U.S. Highway 1–A, thence along U.S. Highway 1–A to Rhode Island Sound, and those in Massachusetts on and east of U.S. Highway 5. The purpose of this filing is to eliminate the gateways of points in New York within ten miles of Greenwich, Conn.; Greenwich, Conn.; and points in Massachusetts within 15 miles of Boston.

No. MC 60014 (Sub-No. E41), filed June 4, 1974. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, which by reason of size or weight require the use of special equipment, from points in Maryland, to points in Mississippi, those in Alabama on and west of a line beginning at the Mississippi-Alabama State line and extending along Alabama Highway 10 to junction Alabama Highway 5, thence along Alabama Highway 5 to junction Alabama Highway 116, thence along Alabama Highway 116 to junction Alabama Highway 36, thence along Alabama Highway 36 to junction Alabama Highway 23, thence along Alabama Highway 23 to junction Alabama Highway 81, thence along Alabama Highway 81 to junction Alabama Highway 22, thence along Alabama Highway 22 to junction Alabama Highway 140, thence along Alabama Highway 140 to junction Alabama Highway 8, thence along Alabama Highway 8 to junction Alabama Highway 75, thence along Alabama Highway 75 to the Alabama-Georgia State line, those in Tennessee on and west of a line beginning at the Tennessee-Alabama State line and extending along Tennessee Highway 27 to junction Tennessee Highway 108, thence along Tennessee Highway 108 to junction Tennessee Highway 111, thence along Tennessee Highway 111 to junction Tennessee Highway 42, thence along Tennessee Highway 42 to the Tennessee-Kentucky State line, and extending along U.S. Highway 25 to junction Kentucky Highway 80, thence along Kentucky Highway 80 to junction U.S. Highway 460, thence along U.S. Highway 460 to the Kentucky-Virginia State line. The purpose of this filing is to eliminate the gateways of Wheeling and Beechbottom, W. Va.

No. MC 60014 (Sub-No. E42), filed June 4, 1974. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which, by reason of their size or weight, require the use of special equipment, between points in Delaware, on the one hand, and, on the other, points in Ohio. The purpose of this filing is to eliminate the gateways of points in Pennsylvania on and west of a line extending from the Pennsylvania-Maryland State line north along unnumbered highway to York, Pa., thence along Interstate Highway 83 (formerly U.S. Highway 111), to Harrisburg, Pa., thence north along Pennsylvania Highway 147 (formerly portion Pennsylvania Highway 14) to junction U.S. Highway 220 (formerly portion Pennsylvania Highway 14), thence along U.S. Highway 220 to junction U.S. Highway 15 (formerly portion Pennsylvania Highway 14), thence along U.S. Highway 15 to Trout Run, Pa., thence continuing along U.S. Highway 15 to the Pennsylvania-New York State line; and Columbiana, Cuyahoga, Mahoning, Summit, and Trumbull Counties, Ohio.

No. MC 60014 (Sub-No. E43), filed June 4, 1974. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, requiring special equipment, restricted so that, or provided that, the loading or unloading, which necessitate the special equipment, is performed by the consignor or consignee, or both, between points in Delaware, on the one hand, and, on the other, points in Connecticut. The purpose of this filing is to eliminate the gateways of points in New York within ten miles of Greenwich, Conn., and Greenwich, Conn.

No. MC 60014 (Sub-No. E44), filed June 4, 1974. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, requiring special equipment, restricted so that, or provided that, the loading or unloading, which necessitate the special equipment, is performed by the consignor or consignee, or both, between points in Delaware, on the one hand, and, on the other, those points in Massachusetts on and east of U.S. Highway 5. The purpose of this filing is to eliminate the gateways of points in New York within ten miles of Greenwich, Conn., and Greenwich, Conn.

No. MC 60014 (Sub-No. E45), filed June 4, 1974. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, requiring special equipment, restricted so that, or provided that, the loading or unloading, which necessitate the special equipment, is performed by the consignor or consignee, or both, between points in Delaware, on the one hand, and, on the other, points in Maine. The purpose of this filing is to eliminate the gateways of points in New York within ten miles of Greenwich, Conn., Greenwich, Conn., and points in Massachusetts within 35 miles of Boston.

No. MC 60014 (Sub-No. E47), filed June 4, 1974. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Iron and steel articles which by reason of size or weight require the use of special equipment, from points in Delaware, to points in Mississippi, those in Kentucky on and east of a line beginning at the West Virginia-Kentucky State line and extending along U.S. Highway 23 to junction U.S. Highway 23/460, thence along U.S. Highway 23/460 to junction Kentucky Highway 80, thence along Kentucky Highway 80 to junction Kentucky Highway 421, thence along Kentucky Highway 421 to the Kentucky-Virginia State line, those in Tennessee on and west of a line beginning at the Kentucky-Tennessee State line and extending along Tennessee Highway 42 to junction U.S. Highway 70S, thence along U.S. Highway 70S to junction Tennessee Highway 56, thence along Tennessee Highway 56 to the Tennessee-Alabama State line, those in Alabama on and west of a line beginning at the Tennessee-Alabama State line and extending along U.S. Highway 231/431 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction Alabama Highway 79, thence along Alabama Highway 79 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction Alabama Highway 5, thence along Alabama

Highway 5 to junction U.S. Highway 43, thence along U.S. Highway 43 to junction Alabama Highway 56, thence along Alabama Highway 56 to the Alabama-Mississippi State line. The purpose of this filing is to eliminate the gateways of Wheeling and Beechbottom, W. Va.

No. MC 60014 (Sub-No. E48), filed June 4, 1974. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Commodities,* the transportation of which, by reason of size or weight, require the use of special equipment, between points in New York, on the one hand, and, on the other, those points in Ohio on and south of a line beginning at Lake Erie and extending along Ohio Highway 91 to junction U.S. Highway 322, thence along U.S. Highway 322 to the Ohio-Pennsylvania State line. The purpose of this filing is to eliminate the gateways of points in Pennsylvania on and west of a line extending from the Pennsylvania-Maryland State line along unnumbered highway to York, Pa., thence along Interstate Highway 83 (formerly U.S. Highway 111) to Harrisburg, Pa., thence along Pennsylvania Highway 147 (formerly portion Pennsylvania Highway 14) to junction U.S. Highway 220 (formerly portion Pennsylvania Highway 14), thence along U.S. Highway 220 to junction U.S. Highway 15 (formerly portion Pennsylvania Highway 14), thence along U.S. Highway 15 to Trout Run, Pa., thence continuing along U.S. Highway 15 to the Pennsylvania-New York State line, and Columbiana, Cuyahoga, Mahoning, Summit, and Trumbull Counties, Ohio.

No. MC 60014 (Sub-No. E49), filed June 4, 1974. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Iron and steel articles* which by reason of size or weight require the use of special equipment, from points in New York to points in Kentucky, Mississippi, Alabama, those in Tennessee on and west of a line beginning at the Virginia-Tennessee State line, and extending along Tennessee Highway 33 to junction Tennessee Highway 31, thence along Tennessee Highway 3 to junction U.S. Highway 11W, thence along U.S. Highway 11W to junction U.S. Highway 25E, thence along U.S. Highway 25E to junction Tennessee Highway 31 to junction U.S. Highway 11W, thence to junction Interstate Highway 40, thence along Interstate Highway 40 to the Tennessee-North Carolina State line. The purpose of this filing is to eliminate the gateways of Wheeling and Beechbottom, W. Va.

No. MC 60014 (Sub-No. E50), filed June 4, 1974. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Commodities,* the transportation of which, by reason of size or weight, requires the use of special equipment, between points in New York, on the one hand, and, on the other, points in Michigan. The purpose of this filing is to eliminate the gateways of points in Pennsylvania on and west of a line extending from the Pennsylvania-Maryland State line along unnumbered highway to York, Pa., thence along Interstate Highway 83 (formerly U.S. Highway 111) to Harrisburg, Pa., thence along Pennsylvania Highway 147 (formerly portion Pennsylvania Highway 14) to junction U.S. Highway 220 (formerly portion Pennsylvania Highway 14), thence along U.S. Highway 220 to junction U.S. Highway 15 (formerly portion Pennsylvania Highway 14), thence along U.S. Highway 15 to Trout Run, Pa., thence along U.S. Highway 15 to the Pennsylvania-New York State line; Columbiana, Cuyahoga, Mahoning, Summit, and Trumbull Counties, Ohio; and points in that part of Ohio on and east of a line extending from Mansfield to Pomeroy, Ohio, along Ohio Highway 13 to junction thereof with U.S. Highway 33, thence along U.S. Highway 33 to Pomeroy, and on and south of U.S. Highway 30 extending from Mansfield to the Ohio-West Virginia State line.

No. MC 60014 (Sub-No. E52), filed June 4, 1974. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Commodities,* requiring special equipment, restricted so that, or provided that, the loading or unloading, which necessitate the special equipment, is performed by the consignor or consignee, or both, from those points in New York on and south of a line beginning at Lake Erie and extending along U.S. Highway 20 to junction New York Highway 12, thence along New York Highway 12 to junction New York Highway 23, thence along New York Highway 23 to junction New York Highway 8, thence along New York Highway 8 to junction New York Highway 206, thence along New York Highway 206 to junction New York Highway 30, thence along New York Highway 30 to junction New York Highway 28, thence along New York Highway 28 to junction New York Highway 199, thence along New York Highway 199 to junction U.S. Highway 44, thence along U.S. Highway 44 to the New York-Connecticut State line, to those points in Maine on and east of a line beginning at the United States-Canada International Boundary line and extending along Maine Highway 11 to junction Interstate Highway 95, thence along Interstate Highway 95 to junction U.S. Alternate Highway 1, thence along U.S. Alternate Highway 1 to junction U.S. Highway 1, thence along U.S. Highway 1 to Penobscot Bay. The purpose of this filing is to eliminate the gateways of points in New York within ten miles of Greenwich, Conn., Greenwich, Conn., and points in Massachusetts.

No. MC 60014 (Sub E55), filed June 4, 1974. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Commodities,* the transportation of which, by reason of their size or weight, require the use of special equipment, between points in Michigan, on the one hand, and, on the other, points in Maryland. The purpose of this filing is to eliminate the gateways of Columbiana, Cuyahoga, Mahoning, Summit, and Trumbull Counties, Ohio.

No. MC 60014 (Sub-No. E67), filed June 4, 1974. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Machinery, materials, supplies,* and *equipment* incidental to or used in the construction, development, operation, and maintenance of facilities for the discovery, development, and production of natural gas and petroleum, which by reason of size or weight, requires the use of special equipment, between points in Michigan, on the one hand, and, on the other, points in Rhode Island, New Hampshire, and those in Connecticut east of a line beginning at the Massachusetts-Connecticut State line and extending along Connecticut Highway 8 to junction Connecticut Highway 202, thence along Connecticut Highway 202 to junction Connecticut Highway 72, thence along Connecticut Highway 72 to junction U.S. Highway 5, thence along U.S. Highway 5 to the Long Island Sound. The purpose of this filing is to eliminate the gateways of Erie, Crawford, Mercer, Lawrence, Beaver, Allegheny, Washington, Greene, Fayette, Westmoreland, Butler, Venango, Warren, McKean, Forest, Elk, Cameron, Clarion, Jefferson, Clearfield, Armstrong, Indiana, Cambria Somerset, Bedford, Blair, Huntingdon, Fulton, and Franklin Counties, Pa., New York; and points in Massachusetts within 35 miles of Boston.

No. MC 83539 (Sub-No. E7) (Correction), filed May 2, 1974, published in the FEDERAL REGISTER April 3, 1975. Applicant: C & H TRANSPORTATION CO., INC., P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Kenneth Weeks (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Commodities,* the transportation of which, because of size or weight, requires the use of special equipment, and parts thereof when moving in connection with such commodities, and

related contractors' materials and supplies and *self-propelled articles*, each weighing 15,000 pounds or more, and related machinery, tools, parts, and supplies moving in connection therewith, restricted to commodities which are transported on trailers, between points in Missouri in and south of Platte, Clay, Ray, Caldwell, Livingston, Linn, Adair, Knox, and Clark Counties, Mo., on the one hand, and, on the other, points in Colorado (except those points east of a line extending from the Nebraska-Colorado State line on Colorado Highway 71 to Limon, Colo., and those points north of a line extending from Limon, Colo., on U.S. Highway 40 to the Colorado-Kansas State line. The purpose of this filing is to eliminate the gateway of Wichita, Kans. The purpose of this correction is to correct the highway description in the exception above.

No. MC 83539 (Sub E28), filed June 1, 1974. Applicant: C & H TRANSPORTATION CO. INC., 2010 West Commerce St., Dallas, Tex. 75208. Applicant's representative: Wiley Willingham (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic Pipe* (except those which because of size or weight require the use of special equipment, those described in Mercer Extension-Oil Field Commodities, 74 M.C.C. 459 at 543, and except the stringing or picking up of pipe in connection with the stringing or dismantling of main or trunk pipelines), from High Springs, Fla., to points in Connecticut, Delaware, New Jersey, New Hampshire, Maine, Massachusetts, Vermont, Rhode Island, (Macungie, Pa.)*, Kansas, and Oklahoma (Memphis, Tenn.).* The purpose of this filing is to eliminate the gateways indicated by the asterisks above.

No. MC 83539 (Sub-No. E62), filed June 4, 1974. Applicant: C & H TRANSPORTATION, 2010 W. Commerce St., Dallas, Tex. 75222. Applicant's representative: Kenneth Weeks (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which, because of size or weight, require the use of special equipment and related machinery parts and related contractors' materials and supplies when their transportation is incidental to the transportation by the carrier of commodities which, because of size or weight, require the use of special equipment, from points in Bonneville County, Idaho, to points in Wisconsin (except those in and west of Ashland, Price, Taylor, Clark, Jackson, Monroe, and Vernon Counties). Restricted against the stringing or picking up of pipe in connection with oil or gas pipelines. The purpose of this filing is to eliminate the gateways of Butte, Mont., points in South Dakota, Iowa, and Illinois.

No. MC 102616 (Sub-No. E134), filed June 3, 1974. Applicant: COASTAL TANK LINES, INC., 215 E. Waterloo Rd., Akron, Ohio 44319. Applicant's representative: Fred H. Daly (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes: transporting: *Liquid chemicals*, in bulk, in tank vehicles, from points in Maryland to points in Missouri. The purpose of this filing is to eliminate the gateways of South Charleston or Institute, W. Va., and Huntington, Ind.

No. MC 102616 (Sub-No. E154), filed June 3, 1974. Applicant: COASTAL TANK LINES, INC., 215 E. Waterloo Road, Akron, Ohio 44319. Applicant's representative: Fred H. Daly (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, except dry chemicals, in bulk, in tank vehicles, from Ludington and Bay City, Mich., to points in Illinois, Indiana, and Ohio. The purpose of this filing is to eliminate the gateway of Kalamazoo, Mich.

No. MC 102616 (Sub-No. E155), filed June 3, 1974. Applicant: COASTAL TANK LINES, INC., 215 E. Waterloo Road, Akron, Ohio 44319. Applicant's representative: Fred H. Daly (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, except dry chemicals and except liquid hydrogen, liquid oxygen, and liquid nitrogen, in bulk, in tank vehicles, from Ludington and Bay City, Mich., to points in Alabama, Florida, Georgia, Louisiana, North Carolina, South Carolina, and Virginia. The purpose of this filing is to eliminate the gateway of Kalamazoo, Mich.

No. MC 102616 (Sub-No. E156), filed June 3, 1974. Applicant: COASTAL TANK LINES, INC., 215 E. Waterloo Road, Akron, Ohio 44319. Applicant's representative: Fred H. Daly (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from points in Michigan, (1) to points in Delaware, Maryland, Virginia, and the District of Columbia (points within 5 miles of Nitro, W. Va., which are within the Commercial Zone of Institute or South Charleston, W. Va.)*; and (2) to points in Kanawha County, W. Va. (South Charleston or Institute, W. Va.)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 102616 (Sub-No. E157), filed June 3, 1974. Applicant: COASTAL TANK LINES, INC., 215 E. Waterloo Road, Akron, Ohio 44319. Applicant's representative: Fred H. Daly (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from Ludington and Bay City, Mich., to points in Delaware, Maryland, New Jersey, New York, and Pennsylvania (except Allegheny, Beaver, Butler, Cambria, Fayette, and McKean Counties). The purpose of this filing is to eliminate the gateways of Detroit, Mich., Akron, Ohio, and the plantsites of Aniline or Solvay divisions of Allied Chemical Co., near Moundsville, W. Va.

No. MC 102616 (Sub-No. E158), filed June 3, 1974. Applicant: COASTAL TANK LINES, INC., 215 E. Waterloo Road, Akron, Ohio 44319. Applicant's representative: Fred H. Daly (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from Ludington and Bay City, Mich., to points in Alabama, Arkansas, Florida, Georgia, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Oklahoma, South Carolina, Tennessee, Texas (except Harris County), points in Nebraska west of U.S. Highway 83, and points in Colorado, New Mexico, and Wyoming, which are on and east of U.S. Highway 85, restricted against the transportation of resins, paints and paint materials, to points in the Dallas, Tex., Commercial Zone. The purpose of this filing is to eliminate the gateways of Kalamazoo, Mich., and Marshall, Ill., or points within 5 miles thereof.

No. MC 102616 (Sub-No. E159), filed June 3, 1974. Applicant: COASTAL TANK LINES, INC., 215 E. Waterloo Road, Akron, Ohio 44319. Applicant's representative: Fred H. Daly (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from Ludington and Bay City, Mich., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and West Virginia (except Charleston, South Charleston, Nitro, and Institute). The purpose of this filing is to eliminate the gateway of Midland, Mich.

No. MC 102616 (Sub-No. E161), filed June 3, 1974. Applicant: COASTAL TANK LINES, INC., 215 E. Waterloo Road, Akron, Ohio 44319. Applicant's representative: Fred H. Daly (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from Ludington and Bay City, Mich., to points in Kentucky. The purpose of this filing is to eliminate the gateways of Midland, Mich., and points within 5 miles thereof.

No. MC 102616 (Sub-No. E162), filed June 3, 1974. Applicant: COASTAL TANK LINES, INC., 215 E. Waterloo Road, Akron, Ohio 44319. Applicant's representative: Fred H. Daly (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except sulphuric acid), in bulk, in tank vehicles, from Kalamazoo, Grand Rapids, and Montague, Mich., to points in Alabama, Arkansas, Florida, Georgia, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Nebraska, Oklahoma, South Carolina, Tennessee, Texas (except Harris County), and points in Colorado, New Mexico, North Dakota,

South Dakota, and Wyoming, which are on and east of U.S. Highway 85, restricted against the transportation of resins, paint and paint materials to points in the Commercial Zone of Dallas, Tex. The purpose of this filing is to eliminate the gateways of Marshall, Ill., and points within 5 miles thereof.

No. MC 102616 (Sub-No. E163), filed June 3, 1974. Applicant: COASTAL TANK LINES, INC., 215 E. Waterloo Road, Akron, Ohio 44319. Applicant's representative: Fred H. Daly (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except sulphuric acid), in bulk, in tank vehicles, from Kalamazoo, Grand Rapids, and Montague, Mich., to points in Brooke, Hampshire, Hancock, Kanawha, Marion, Marshall, Monongalia, Pleasants, and Wetzel Counties, W. Va., and Allegheny, Beaver, Butler, Cambria, Fayette, and McKean Counties, Pa. The purpose of this filing is to eliminate the gateways of Cuyahoga, Hamilton, Mahoning, Stark, Summit, or Trumbull Counties, Ohio.

No. MC 102616 (Sub-No. E164), filed June 3, 1974. Applicant: COASTAL TANK LINES, INC., 215 E. Waterloo Road, Akron, Ohio 44319. Applicant's representative: Fred H. Daly (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except sulphuric acid), in bulk, in tank vehicles, from Kalamazoo, Grand Rapids, and Montague, Mich., to points in Delaware, Maryland, New Jersey, New York, and Pennsylvania (except Allegheny, Beaver, Butler, Cambria, Fayette, and McKean Counties). The purpose of this filing is to eliminate the gateways of Cuyahoga, Hamilton, Mahoning, Summit, Stark, or Trumbull Counties, Ohio, and the plantsites of Aniline or Solvay divisions of Allied Chemical Co., near Moundsville, W. Va.

No. MC 102616 (Sub-No. E165), filed June 3, 1974. Applicant: COASTAL TANK LINES, INC., 215 E. Waterloo Road, Akron, Ohio 44319. Applicant's representative: Fred H. Daly (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Liquid chemicals,* in bulk, in tank vehicles, from Bay City, Mich., to points in Illinois, Indiana, and Ohio. The purpose of this filing is to eliminate the gateways of Midland, Mich., or points within 10 miles thereof.

No. MC 102616 (Sub-No. E166), filed June 3, 1974. Applicant: COASTAL TANK LINES, INC., 215 E. Waterloo Road, Akron, Ohio 44319. Applicant's representative: Fred H. Daly (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Liquid chemicals,* in bulk, in tank vehicles, from Kalamazoo and Grand Rapids, Mich., to points in North Carolina, Virginia, and the District of Columbia. The purpose of this filing is to eliminate the gateways of Ohio and Institute, or South Charleston, W. Va.

No. MC 102616 (Sub-No. E167), filed June 3, 1974. Applicant: COASTAL TANK LINES, INC., 215 E. Waterloo Road, Akron, Ohio 44319. Applicant's representative: Fred H. Daly (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Liquid chemicals,* in bulk, in tank vehicles, from Midland, Mich., and points within 10 miles thereof, to points in Arkansas, Mississippi, Nebraska, Oklahoma, Texas (except Harris County), and points in New Mexico, North Dakota, South Dakota, and Wyoming, which are on and east of U.S. Highway 85, restricted against the transportation of resins, paint, and paint materials to points in the Dallas, Tex., Commercial Zone. The purpose of this filing is to eliminate the gateway of Marshall, Ill., and points within 5 miles thereof.

No. MC 102616 (Sub-No. E168), filed June 3, 1974. Applicant: COASTAL TANK LINES, INC., 215 E. Waterloo Road, Akron, Ohio 44319. Applicant's representative: Fred H. Daly (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except sulphuric acid), in bulk, in tank vehicles, from Montague, Mich., to points in North Carolina. The purpose of this filing is to eliminate the gateways of Cuyahoga, Hamilton, Mahoning, Stark, Summit, or Trumbull Counties, Ohio, and Institute, W. Va.

No. MC 102616 (Sub-No. E169), filed June 3, 1974. Applicant: COASTAL TANK LINES, INC., 215 E. Waterloo Road, Akron, Ohio 44319. Applicant's representative: Fred H. Daly (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except sulphuric acid), in bulk, in tank vehicles, from Kalamazoo, Grand Rapids, and Montague, Mich., to points in Kentucky. The purpose of this filing is to eliminate the gateway of Huntington, Ind.

No. MC 102616 (Sub-No. E170), filed June 3, 1974. Applicant: COASTAL TANK LINES, INC., 215 E. Waterloo Road, Akron, Ohio 44319. Applicant's representative: Fred H. Daly (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Liquid chemicals,* in bulk, in tank vehicles, from Ludington, Mich., to points in Kentucky, Illinois, and Ohio (except Dover). The purpose of this filing is to eliminate the gateways of Kalamazoo, Mich., and Huntington, Ind.

No. MC 102616 (Sub-No. E171), filed June 3, 1974. Applicant: COASTAL TANK LINES, INC., 215 E. Waterloo Road, Akron, Ohio 44319. Applicant's representative: Fred H. Daly (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except sulphuric acid), in bulk, in tank vehicles, from Montague, Mich., to points in Minnesota. The purpose of this filing is to eliminate the gateway of Chicago, Ill.

No. MC 102616 (Sub-No. E172), filed June 3, 1974. Applicant: COASTAL TANK LINES, INC., 215 E. Waterloo Road, Akron, Ohio 44319. Applicant's representative: Fred H. Daly (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except sulphuric acid), in bulk, in tank vehicles, from Montague, Mich., to points in Delaware. The purpose of this filing is to eliminate the gateways of Cuyahoga, Hamilton, Mahoning, Stark, Summit, or Trumbull Counties, Ohio, and the Allied Chemical Co. plantsite near Moundsville, W. Va.

No. MC 102616 (Sub-No. E176), filed June 3, 1974. Applicant: COASTAL TANK LINES, INC., 215 E. Waterloo Road, Akron, Ohio 44319. Applicant's representative: Fred H. Daly (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except sulphuric acid), in bulk, in tank vehicles, from Kalamazoo, Grand Rapids, and Montague, Mich., to points in Minnesota, Iowa, Missouri, and Wisconsin. The purpose of this filing is to eliminate the gateway of Chicago, Ill.

No. MC 102616 (Sub-No. E177), filed June 3, 1974. Applicant: COASTAL TANK LINES, INC., 215 E. Waterloo Road, Akron, Ohio 44319. Applicant's representative: Fred H. Daly (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Liquid chemicals,* in bulk, in tank vehicles, from Bay City, Mich., to points in Missouri and Wisconsin. The purpose of this filing is to eliminate the gateways of Midland, Mich., and points within 5 miles thereof.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-17835 Filed 7-8-75;8:45 am]

federal register

WEDNESDAY, JULY 9, 1975

WASHINGTON, D.C.

Volume 40 ■ Number 132

PART II

FEDERAL ELECTION COMMISSION

■

ADVISORY OPINION REQUESTS

FEDERAL ELECTION COMMISSION

[Notice 1975–11; AOR 1975–9—1975–12]

ADVISORY OPINION REQUESTS

In accordance with the procedures set forth in the Commission's Notice 1975–4, published on June 24, 1975 (40 FR 26660), Advisory Opinion Requests 1975–9 through 1975–12 are published today. Each of the Requests consists of inquiries from several sources which have been consolidated since they present similar issues.

Interested persons wishing to comment on the subject matter of any Advisory Opinion Request may submit written views with respect to such requests within 10 calendar days of the date of the publication of the request in the FEDERAL REGISTER. Such submission should be sent to the Federal Election Commission, Office of General Counsel, Advisory Opinion Request Section, 1325 K Street NW., Washington, D.C. 20463. Persons requiring additional time in which to respond to any Advisory Opinion Request will normally be granted such time upon written request to the Commission. All timely comments received by the Commission will be considered by the Commission before it issues an advisory opinion. The Commission recommends that comments on pending Advisory Opinion Requests refer to the specific AOR number of the Request commented upon, and that statutory references be to the United States Code citations, rather than to the Public Law Citations.

AOR 1975–9: APPLICATION OF CONTRIBUTION AND EXPENDITURE LIMITS TO UNOPPOSED PRIMARY CANDIDATES

A. *Request of Senator Strom Thurmond (Request Edited by the Commission).*

DEAR MR. CURTIS: * * * Is a primary in which there is only one candidate for nomination considered an election, for purposes of the contribution and spending limitations of 18 U.S.C. 608? Is the determination of this question affected if the executive committee of the State party, acting in accordance with State law, declares that sole candidate to be its nominee after the last filing date but before the primary date?

STROM THURMOND,
U.S. Senator.

Source: Senator Strom Thurmond, 4241 Dirksen Senate Office Building, Washington, D.C. 20510 (April 18, 1975).

B. *Republican State Central Committee of South Dakota (Request edited by the Commission).*

DEAR MR. CURTIS: We are hereby requesting a formal advisory opinion from the Federal Election Commission on the following situation:

In the situation of a candidate for U.S. Representative in South Dakota who does not have opposition in the primary and whose name therefore does not appear on the primary ballot, is such an individual entitled to expend funds in pursuit of the nomination up to the full $70,000 limitation?

* * * In South Dakota candidates who are not opposed in a primary election do not actually appear on the ballot and it is possible, therefore, that a candidate in either party might be limited to make only general election expenditures under the limitations of the Federal Election Laws * * *

JOHN E. OLSON,
State Chairman.

Source: John E. Olson, State Chairman, Republican State Central Committee of South Dakota, Post Office Box 1099, Pierre, South Dakota 57501 (May 28, 1975).

AOR 1975–10: INTERNAL TRANSFERS OF FUNDS BY CANDIDATES OR COMMITTEES

A. *Request of Congressman John J. McFall (Fund Transfers from Campaign Depository) (Request Edited by the Commission).*

Gentlemen: * * * Is it permissible for a principal campaign committee of a candidate for Federal office to transfer funds from a checking account at a designated campaign depository to a savings account in the same bank and/or to a savings account in another financial institution that is not a designated campaign depository?"

JOHN J. MCFALL,
Member of Congress.

Source: Congressman John J. McFall, 2346 Rayburn House Office Building, Washington, D.C. 20515 (May 19, 1975).

B. *Request of Thomas Coleman (Fund Transfer From Local to Federal Election) (Request Edited by the Commission).*

As a candidate for Congress * * * I respectfully request an advisory opinion on the following:

A candidate for Federal office has surplus campaign funds remaining from a local state election. How does he report the transfer of these funds to his Federal campaign committee? Does the candidate or his campaign committee need to disclose the source of the surplus contributions and, if so, does one presume the funds came from the last contributions to the campaign (last in-last out)? What if the names of the individual contributors are unknown?

E. THOMAS COLEMAN.

Source: E. Thomas Coleman, 2919 N.E. Russell Road, Kansas City, Missouri 64117 (May 20, 1975).

C. *Request of The Circle Club (Transfer of Funds by a Political Committee) (Request Edited by the Commission).*

DEAR SIRS: * * * Can a pre-existing political committee with residual funds obtain the consent of the contributors of said funds to earmark those funds for a specific Federal candidate, and transfer said funds as contributions from said contributors to the principal campaign committee of the candidate that the contributors wish to support (not exceeding $1,000.00) in the nominating process?

* * * * *

GORDON K. DURNIL,
Treasurer, The Circle Club.

Source: Gordon K. Durnil, Treasurer, The Circle Club, One Indiana Square, Suite 3300, Indianapolis, Indiana 46204 (June 17, 1975).

D. *Request of Senator James Buckley (Allocation of Campaign and Non-Campaign Expenditures) (Request Edited by the Commission).*

DEAR MR. CURTIS: Prior to the enactment of the Federal Election Campaign Act Amendments of 1974, I authorized a procedure to be followed by those handling my fund-raising that may or may not have to be altered prior to the time I declare my candidacy for the Senate in 1976.

* * * Senate rules allow an incumbent to raise and spend money for the purpose of augmenting his staff's activities. These monies are technically "non-political" in nature and don't have to be reported publicly.

Until about eighteen months ago, I had a committee operating under these rules, but at that time I decided to abolish it and report all funds received regardless of how they are expended. Therefore, when the Friends of Jim Buckley was formed as an authorized committee, I asked the chairman of that committee, Mr. F. Clifton White, to make clear in our fund-raising appeals that he is raising money for both purely political purposes and to assist me in communicating with the people of New York. He has done this and we have categorized expenditures internally as either "political" or "non-political" on a purely functional basis.

Once I become a "candidate," of course, this committee's "political" expenditures will apply to the spending limits imposed on my campaign by the new law. The question is this: will the Federal Election Commission recognize the functional distinction between the two types of expenditures or will I have to establish another committee to handle expenditures which have heretofor been considered "non-political?"

Moreover, if I establish such a committee, will it be able to receive contributions from the existing committee to be expended in this way?

* * * * *

JIM BUCKLEY,
U.S. Senator.

Source: Senator James L. Buckley, 304 Russell Senate Office Building, Washington, D.C., 20510 (June 16, 1975).

AOR 1975–11: FUNDING LIMITATIONS AND SEPARATE COMMITTEES FOR DUAL CANDIDATES

A. Request of Senator Bentsen by Counsel (Contribution and Spending Limits Applicable to Candidate for Two Offices) (Request Edited by the Commission).

DEAR COMMISSIONERS: This is a request for an advisory opinion concerning the application of the contribution and expenditure limits found in 18 U.S.C. 608 in cases where a candidate is seeking nomination for election to the office of President of the United States and to the office of United States Senator at the same time.

As you know, Senator Lloyd Bentsen is a declared candidate for the office of the President of the United States. He has been filing personally as a candidate on the appropriate FECA forms, and he has had a registered political committee working on his behalf for some time. Senator Bentsen also expects to run for reelection to the United States Senate in 1976. It now appears the Senator may well be running for both offices at the same time.

In the event the Senator seeks nomination for election to both offices at the same time, his name will appear twice on ballots presented to the Texas electorate. Texas voters will have an opportunity to judge his qualifications for both offices and cast a vote for or against Senator Bentsen in both elections. Since the Senator will actually be a candidate for both offices, policy considerations and the statutory language itself support the view that the contribution and expenditure limits of § 608 apply separately to each election.

* * * The Senator's specific questions are as follows:

1. Do the personal and immediate family expenditure limits of § 608(a)(1) apply separately to an individual's simultaneous candidacy for nomination for election to the Presidency and for nomination to the office of United States Senator, so that the individual may spend $35,000 with respect to his Senatorial race and another $50,000 with respect to his Presidential race?

2. Do the contribution limits in § 608(b)(1) and (2) apply separately in the case of stimultaneous candidacy, so that, for example, an individual may contribute $1,000 to the candidate with respect to his Senate primary election and another $1,000 with respect to his candidacy in the state's Presidential primary?

3. May a candidate seeking nomination for election to the office of President and U.S. Senator at the same time take advantage of two expenditure limits, so that he may spend the amount designated by § 608(c)(1)(C) on behalf of his Senatorial primary campaign and twice that amount with respect to his Presidential primary campaign, pursuant to § 608(c)(1)(A)?

* * * * *

ROBERT N. THOMSON.

Source: Robert N. Thomson, Counsel, Bentsen in '76, Preston, Thorgrimson, Ellis, Holman & Fletcher, 1776 F Street NW., Washington, D.C. 20006 (June 11, 1975).

B. *Request of Congressman Alan Steelman (Creation of Separate Campaign Committees for Congressional and Statewide Office) (Request Edited by the Commission)*

DEAR MR. CHAIRMAN: * * * Can a Member of Congress accumulate and spend campaign funds from more than one campaign committee, assuming that all such committees file timely reports listing all contributions and expenditures?

The reason for this question stems from the possibility of a Congressman's needing to raise political money for a purpose not directly related to his seeking re-election to the House of Representatives. Say, for example, Congressman X is contemplating running for a higher, statewide office. He determines he will need to raise $25,000 to pay for a statewide poll and to travel around the state over a period of six months to sound out party leaders and to "test the political waters." Not wanting to spend left-over campaign contributions given solely for his last campaign for the House, Congressman X decides he will need to raise new money for this special purpose, and to make sure the contributors understand for what purpose their money will be spent. The easiest way to accomplish this would be to form a new committee. Is it legal to do this?

* * * * *

ALAN STEELMAN,
Member of Congress.

Source: Congressman Alan Steelman, 437 Cannon House Office Building, Washington, D.C. 20515 (June 12, 1975).

AOR 1975–12: APPLICATION OF FEDERAL ELECTION CAMPAIGN ACT TO CANDIDATES FOR DELEGATE TO NATIONAL NOMINATING CONVENTIONS

A. *Michigan Democratic Party (Request Edited by the Commission)*

DEAR SIRS: * * * Section 431(a)(3)(4) includes within the definition of "election" certain types of presidential primary elections. Under * * * [Michigan] law, individual persons are elected as precinct delegates in a presidential primary election. These delegates then assemble in local county and district conventions to elect delegates to a state convention who in turn elect delegates to the national convention. My questions are these:

a. Does each one of the candidates for precinct delegate in a presidential primary need to file a report with the Federal Election Commission?

b. Do the local counties and districts need to file a report of expenses associated with their convention of precinct delegates following the primary election?

c. Does the state party need to file a report of its expenses with regard to the state convention at which national convention delegates are selected with the Federal Election Commission?

MORLEY A. WINOGRAD.

Source: Morley A. Winograd, Chairperson, The Michigan Democratic Party, John F. Kennedy House, 321 N. Pine, Lansing, Michigan 48933 (May 5, 1975).

B. *Republican State Committee of Pennsylvania (Request Edited by the Commission).*

DEAR MR. CURTIS: It appears to us that the new Federal Election law is somewhat unclear as to its application to the selection of delegates to the Republican National Convention.

It would be most helpful * * * if the Commission could clarify the following questions:

1. To what extent, if any, do the current Federal election statutes apply to the election and selection of delegates either by (a) popular election or (b) election by a state committee of a state party?

2. Is there any distinction in the application of these election statutes if a delegate, by state or party rules, runs as officially uncommitted, as opposed to a delegate who is committed to vote as his state votes in a preferential Presidential primary?

* * * * *

RICHARD C. FRAME.

Source: Richard C. Frame, Chairman, Republican State Committee of Pennsylvania, P.O. Box 1624, Harrisburg, Pennsylvania 17105.

Dated: July 3, 1975.

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

[FR Doc.75-17769 Filed 7-8-75;8:45 am]

federal register

WEDNESDAY, JULY 9, 1975

WASHINGTON, D.C.

Volume 40 ■ Number 132

PART III

OFFICE OF MANAGEMENT AND BUDGET

■

PRIVACY ACT IMPLEMENTATION

Guidelines and Responsibilities

OFFICE OF MANAGEMENT AND BUDGET

[Circular No. A–108]

HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

Responsibilities for the Maintenance of Records About Individuals by Federal Agencies

1. *Purpose.* This Circular defines responsibilities for implementing the Privacy Act of 1974 (Public Law No. 93–579, 5 U.S.C. 552a) to assure that personal information about individuals collected by Federal agencies is limited to that which is legally authorized and necessary and is maintained in a manner which precludes unwarranted intrusions upon individual privacy.

2. *Background.* a. The Privacy Act of 1974, approved December 31, 1974, set forth a series of requirements governing Federal agency personal record-keeping practices.

b. The Act places the principal responsibility for compliance with its provisions on Federal agencies but also provides that the Office of Management and Budget shall "develop guidelines and regulations . . . and provide continuing assistance to and oversight of the implementation of the . . ." operative provisions of the Act by the agencies.

3. *Definitions.* For the purpose of this Circular:

(1) the term "agency" means agency as defined in section 552(e) of this title; ("The term agency includes any executive department, military department, Government corporation, Government controlled corporation or other establishment in the executive branch of the Government (including the Executive Office of the President, or any independent regulatory agency." (5 U.S.C. 552 (e))));

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

(3) the term "maintain" includes maintain, collect, use, or disseminate;

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

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

(5 U.S.C. 552a(a))

4. *Coverage.* a. This Circular applies to all agencies as defined in the Act.

b. It applies to all agency activities related to the maintenance of systems of records subject to the Act; i.e., groupings of personal data about identifiable individuals. See definitions paragraph 3, above.

5. *Responsibilities.* a. Each agency head shall establish and maintain procedures, consistent with the Act, OMB guidelines,* and related directives issued pursuant to this Circular, to

(1) Identify each system of records which the agency maintains and review the content of the system to assure that only that information is maintained which is necessary and relevant to a function which the agency is authorized to perform by law or executive order (5 U.S.C. 552a(e)(1)) and that no information about the political or religious beliefs and activities of individuals is maintained except as provided in 5 U.S.C. 552a(e)(7).

2. Prepare and publish a public notice of the existence and character of those systems consistent with guidance on format issued by GSA. See 5 U.S.C. 552a(e)(4) and (11).

(3) Collect information which may result in an adverse determination about an individual from that individual wherever practicable (5 U.S.C. 552a(e)(2)) and inform individuals from whom information about themselves is collected of the purposes for which the information will be used and their rights, benefits, or obligations with respect to supplying that data (5 U.S.C. 552a(e)(3)).

(4) Revise any personal data collection forms or processes which they may prescribe for use by other agencies (e.g., standard forms) to conform to the requirements of 5 U.S.C. 552a(e)(3). (Agencies which use such forms to collect information are nevertheless responsible for assuring that individuals from whom information about themselves is solicited are advised of their rights and obligations.)

(5) Establish reasonable administrative, technical, and physical safeguards to assure that records are disclosed only to those who are authorized to have access and otherwise "to protect against any anticipated threats or hazards to their security or integrity which could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom information is maintained." See 5 U.S.C. 552a(b), and (e)(10).

(6) Maintain an accounting of all disclosures of information from systems of records except those to personnel within the agency who have an official need to know or to the public under the Freedom of Information Act, and make that accounting available as provided in 5 U.S.C. 552a(c)(1), (2), and (3).

(7) When using a record or disclosing it to someone other than an agency, assure that it is as accurate, relevant, timely and complete as is reasonably necessary to assure fairness to the individual. See 5 U.S.C. 552a(e)(5) and (6).

(8) Permit individuals to have access to records pertaining to themselves and to have an opportunity to request that such records be amended. See 5 U.S.C. 552a(d)(1), (2), and (3).

(9) Inform prior recipients when a record is amended pursuant to the request of an individual or a statement of disagreement has been filed, advise any subsequent recipient that a record is disputed, and provide a copy of the statement of disagreement to both prior and subsequent recipients of the disputed information. See 5 U.S.C. 552a(c)(4) and (d)(4).

(10) Publish rules describing agency procedures developed pursuant to the Act and describing any systems which are proposed to be exempted from provisions of the Act including the reasons for the proposed exemption consistent with guidance on format issued by GSA. See 5 U.S.C. 552a(f), (j), and (k).

(11) Review all agency contracts which provide for the maintenance of systems of records by or on behalf of the agency to accomplish an agency function to assure that, where appropriate and within the agency's authority, language is included which provides that such systems will be maintained in a manner consistent with the Act. See 5 U.S.C. 552a(m).

(12) Refrain from renting or selling lists of names and addresses unless specifically authorized by law. See 5 U.S.C. 552a(n).

(13) Prepare and submit to the Office of Management and Budget and to the Congress a report of any proposal to establish or alter a system of records in a form consistent with guidance on content, format and timing issued by OMB. See 5 U.S.C. 552a(o).

(14) Prepare and submit to the Office of Management and Budget, on or before April 30 of each year, a report of its activities under the Act consistent with guidance on content and format issued by OMB. See 5 U.S.C. 552a(p).

(15) Conduct training for all agency personnel who are in any way involved in maintaining systems of records to apprise them of their responsibilities under the Act and to indoctrinate them with respect to procedures established by the agency to implement the Act. See 5 U.S.C. 552a(e)(9).

(16) Establish a program for periodically reviewing agency record-keeping policies and practices to assure compliance with the Act.

b. The Secretary of Commerce shall, consistent with guidelines issued by OMB, issue standards and guidelines on computer and data security.

c. The Administrator of General Services shall, consistent with guidelines issued by OMB:

(1) Issue instructions on the format and timing of agency notices and rules required to be published under the Act. See 5 U.S.C. 552a(e)(4) and (f).

(2) Not later than November 30, 1975 and annually thereafter compile and publish a compendium of agency rules and notices and make that publication available to the public at low cost. See 5 U.S.C. 552a(f).

(3) Issue and/or revise procedures governing the transfer of records to Federal Records Centers for storage, processing, and servicing pursuant to 44 U.S.C. 3103 to ensure that such records are not disclosed except to the agency which maintains the records, or under rules established by that agency which are not inconsistent with the provisions of the Act. It should be noted that, for purposes of the Act, such records are considered to be maintained by the agency which deposited them. See 5 U.S.C. 552a(l)(1).

(4) Establish procedures to assure that records transferred to the National Archives of the United States pursuant to 44 U.S.C. 2103, are properly safeguarded and that public notices of the existence and character of such records are issued in conformance with 5 U.S.C. 552a (1), (2), and (3).

(5) Revise procedures governing the clearance of interagency data collection forms for which it is responsible to assure that those requesting information from individuals are revised in conformance with 5 U.S.C. 552a(e)(3).

(6) Revise procurement guidance to incorporate language consistent with 5 U.S.C. 552a(m); i.e., to provide that contracts which provide for the maintenance of a system of records by or on behalf of an agency to accomplish an agency function includes language which assures that such system will be maintained in conformance with the Act.

(7) Revise computer and telecommunications procurement policies to provide that agencies must review all proposed equipment and services procurements to assure compliance with applicable provisions of the Act; e.g., Report on New Systems.

d. The Civil Service Commission shall, consistent with guidelines issued by OMB:

(1) Revise civilian personnel information processing and record-keeping directives to bring them into conformance with the Act.

(2) Devise and conduct training programs for agency personnel including both the conduct of courses in various substantive areas (e.g., legal, administrative, ADP) and the development of materials which agencies can use in their own courses.

e. The Director of the Office of Telecommunications Policy shall, consistent with guidelines issued by OMB, issue and/or revise policies governing government data telecommunications consistent with the Privacy Act.

f. The Director of the Office of Management and Budget will:

(1) Issue guidelines and regulations to the agencies to implement the Act. While the application of the requirements of the Act is the agency's responsibility, interpretive guidelines have been devised to:

Assist agencies in interpreting the requirements of the Act;

Establish minimum standards or criteria, where appropriate, in applying the Act;

Provide illustrative examples of the application of the Act; and

Assure a uniform and constructive implementation of the Act.

(2) Provide assistance, upon request, to agencies.

(3) Review proposed new systems or changes to existing systems.

(4) Compile the annual report to the Congress on agency activities to comply with the Act in accordance with 5 U.S.C. 552a(p).

(5) Revise procedures governing the clearance of data collection forms and reports for which it is responsible to assure that those requesting information about individuals are revised in conformance with 5 U.S.C. 552a(e)(3).

6. *Reports.* Agencies are required to submit the following reports consistent with guidance on format, content, and timing to be issued under separate transmittal.

a. Reports on new systems to the Congress, OMB, and, for the period of its existence, the Privacy Protection Study Commission. Reports shall be submitted not later than 60 days prior to the establishment of a new system or the implementation of a change to an existing system.

b. Annual report on agency activities to comply with 5 U.S.C. 552a to OMB not later than April 30 of each year.

7. *Effective Date.* The provisions of this Circular are effective on September 27, 1975 except that:

a. Reports on new systems which cover the implementation of new or altered systems of records proposed to be effective after September 27, 1975 shall be submitted not later than 60 days before the effective date of those new systems or changes; and

b. Rules and notices prescribed by the Act and regulations and guidelines to be issued by the responsible agencies shall be issued in advance of the effective date where required by law (e.g., the Administrative Procedures Act, 5 U.S.C. 553) or as otherwise necessary to permit timely and effective compliance.

8. *Inquiries.* Inquiries concerning this Circular may be addressed to the Information Systems Division, Office of Management and Budget, Room 9002, NEOB, Washington, D.C., 20503, telephone 202 395-4814.

JAMES T. LYNN.
Director.

NOTE: Each agency shall order sufficient quantities of the OMB guidelines in accordance with the instructions which will be provided by the FEDERAL REGISTER. At a later date, copies will be available for sale from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C.

[FR Doc.75-17773 Filed 7-8-75;8:45 am]

PRIVACY ACT GUIDELINES—JULY 1, 1975[1]

Implementation of Section 552a of Title 5 of the United States Code

[1] Section 3 of the Privacy Act of 1974, Pub. L. 93-579.

TABLE OF CONTENTS

(3) Basis for Judicial Review and Remedies for Denial of Access.
(4) Basis for Judicial Review and Remedies for Adverse Determination and Other Failures to Comply.
(5) Jurisdiction and Time Limits.
(h) RIGHTS OF LEGAL GUARDIANS.
(i) CRIMINAL PENALTIES.
(1) Criminal Penalties for Unauthorized Disclosure.
(2) Criminal Penalties for Failure to Publish a Public Notice.
(3) Criminal Penalties for Obtaining Records Under False Pretenses.
(j) & (k) EXEMPTIONS.
(j) GENERAL EXEMPTIONS APPLICABILITY AND NOTICE REQUIREMENTS.
(1) General Exemption for the Central Intelligence Agency.
(2) General Exemption for Criminal Law Enforcement Records.
(k) SPECIFIC EXEMPTIONS APPLICABILITY AND NOTICE REQUIREMENTS.
(1) Exemption for Classified Material.
(2) Exemption for Investigatory Material Compiled for Law Enforcement Purposes.
(3) Exemption for Records Maintained to Provide Protective Services.
(4) Exemption for Statistical Records.
(5) Exemption for Investigatory Material Compiled for Determining Suitability for Federal Employment or Military Service.
(6) Exemption for Testing or Examination Material.
(7) Exemption for Material used to Evaluate Potential for Promotion in the Armed Services.
(l) ARCHIVAL RECORDS.
(1) Records Stored in GSA Records Centers.
(2) Records Archived Prior to September 27, 1975.
(3) Records Archived on or after September 27, 1975.
(m) GOVERNMENT CONTRACTORS.
(n) MAILING LISTS.
(o) REPORT ON NEW SYSTEMS.
(p) ANNUAL REPORT.
(q) EFFECT OF OTHER LAWS.

SUBSECTION (a) DEFINITIONS

Subsection (a) "For purposes of this section—"

Agency. Subsection (a)(1) "The term 'agency' means agency as defined in section 552(e) of this title;"

The definition of "agency" is the same as that used in the Administrative Procedures Act as modified by the recently enacted Freedom of Information Act amendments (Pub. L. 93–502): " 'agency' means each authority of the Government of the United States, whether or not it is within or subject to review by another agency . . ." (5 U.S.C. 551(1)). "[T]he term agency * * * includes any executive department, military department, Government corporation, Government controlled corporation or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency." (5 U.S.C. 552(e) as added by Pub. L. 93–502)

Two aspects of this definition require further explanation:

The scope of the term; i.e., what entities are covered, how has the definition of agency been broadened to encompass additional organizations as a result of the FOIA amendments?

Whether or not entities within an agency are to be considered agencies. This is particularly significant in applying subsection (b)(1), in determining what constitutes an interagency transfer.

The first question—the scope of the definition—is covered in the House report on the FOIA amendments quoted below, as modified by the conference report language set out thereafter:

For the purposes of this section, the definition of "agency" has been expanded to include those entities which may not be considered agencies under section 551(1) of title 5, U.S. Code, but which perform governmental functions and control information of interest to the public. The bill expands the definition of "agency" for purposes of section 552, [and 552a] title 5, United States Code. Its effect is to insure inclusion under the Act of Government corporations, Government controlled corporations, or other establishments within the executive branch, such as the U.S. Postal Service.

The term "establishment in the Executive Office of the President," as used in this amendment means such functional entities as the Office of Telecommunications Policy, the Office of Management and Budget, the Council of Economic Advisers, the National Security Council, the Federal Property Council, and other similar establishments which have been or may in the future be created by Congress through statute or by Executive order.

The term "Government corporation," as used in this subsection, would include a corporation that is a wholly Government-owned enterprsie, established by Congress through statute, such as the St. Lawrence Seaway Development Corporation, the Federal Crop Insurance Corporation (FCIC), the Tennessee Valley Authority (TVA), and the Inter-American Foundation.

The term "Government controlled Corporation," as used in this subsection, would include a corporation which is not owned by the Federal Government * * * (House Document 93–876, pp. 8–9, Report on the Freedom of Information Act amendments, H.R. 12741).

The conferees state that they intend to include within the definition of "agency" those entities encompassed by 5 U.S.C. 551 and other entities including the United States Postal Service, the Postal Rate Commission, and government corporations or government-controlled corporations now in existence or which may be created in the future. They do not intend to include corporations which receive appropriated funds but are neither chartered by the Federal Government nor controlled by it, such as the Corporation for Public Broadcasting. Expansion of the definition of "agency" in this subsection is intended to broaden applicability of the Freedom of Information Act but it is not intended that the term "agency" be applied to subdivisions, offices or units within an agency.

With respect to the meaning of the term "Executive Office of the President" the conferees intend the result reached in *Soucie v. David,* 448 F. 2d. 1067 (C.A.D.C. 1971). The term is not to be interpreted as including the President's immediate personal staff or units in the Executive Office whose sole function is to advise and assist the President." (House Report 93–1380, p. 14–15)

Whether or not an agency can exist within an agency is a somewhat more complex issue. This is addressed, in part, in the above quotation from the conference report language in the statement "* * * but it is not intended that the term 'agency' be applied to subdivisions, offices, or units within an agency." The issue was also addressed in debate on H.R. 16373 on the House floor in a statement by Congressman Moorhead—"* * * 'agency' is given the meaning which it carries elsewhere in the Freedom of Information Act, 5 United States Code, section 551(1), as amended by H.R. 12471 of this Congress, section 552(e), on which Congress has acted to override the veto. The present bill is intended to give 'agency' its broadcast statutory meaning. This will permit employees and officers of the agency which maintains the records to have access to such records if they have a need for them in the performance of their duties. For example, within the Justice Department—which is an agency under the bill—transfer between division of the Department, the U.S. Attorney's offices, the Parole Board, and the Federal Bureau of Investigation would be on a need-for-the-record basis. Transfer outside the Justice Department to other agencies would be more specifically regulated. Thus, transfer of information between the FBI and the Criminal Division of the Justice Department for official purposes would not require additional showing or authority, in contrast to transfer of such information from the FBI to the Labor Department." (*Congressional Record* November 21, 1974, p. H10962)

In addressing this question the Justice Department has advised that

* * * it is our firm view that the 1974 [FOIA] Amendments require no change in the original Act, that it is for the over-unit—the Department or other higher-level "agency"—to determine which of its substantially independent components will function independently for Freedom of Information Act purposes. Moreover, as the Attorney General noted in that portion of his Memorandum dealing with the subject, "it is sometimes permissible to make the determination differently for purposes of various provisions of the Act—for example, to publish and maintain an index at the overunit level while letting the appropriate subunits handle requests for their own records." (Attorney General's Memorandum on the 1974 Amendments to the Freedom of Information Act, February, 1975, p. 26). In our view, this practice of giving variable content to the meaning of the word "agency" for various purposes can be applied to the Privacy Act as well as the Freedom of Information Act. For example, it may be desirable and in furtherance of the purposes of the Act to treat the various components of a Department as separate "agencies" for purposes of entertaining applications for access and ruling upon appeals from denials, while treating the Department as the "agency" for purposes of those provisions limiting intragovernmental exchange of records. (Of course, dissemination among components of the Department must still be only on a "need-to-know" basis. 5 U.S.C. 552a(b)(1).) Needless to say, this practice must not be employed invidiously, so as to frustrate rather than to further the purposes of the Act; and there should be a consistency between the practice under the Privacy Act and the practice for comparable purposes under the Freedom of Information Act. For this reason it seems to us doubtful (though not entirely impossible) that a Department or other over-unit which has treated its components as separate agencies for all purposes under the Freedom of Information Act could successfully maintain that all of its components can be considered a single "agency" under the Privacy Act, simply to facilitate the exchange of records (Letter from Assist-

ant Attorney General, Office of Legal Counsel, dated April 14, 1975)

In addition to the matter of determining when a component of an agency is to be considered an agency itself when the entire agency is to be treated as a single entity, the issue arises as to whether an entity or individual serving more than one agency may be considered an "employee" of each agency he serves, for certain purposes. While this is not specifically addressed in the Act, it is reasonable to assume that members of temporary task forces, composed of personnel of several agencies, should usually be considered employees of the lead agency and of their own agency for purposes of access to information. Similarly, members of permanent "strike forces" and personnel crossdesignated to serve the functions of two or more agencies should usually be treated as employees of both the lead agency and their own employing agency, e.g., employees or State or local officials assigned to organized crime, and customs officers cross designated to perfrom each others functions.

Individual. Subsection (a)(2) "The term 'individual' means a citizen of the United States or an alien lawfully admitted for permanent residence;"

This definition is intended to "distinguish between the rights which are given to the citizen as an individual under this Act and the rights of proprietorships, businesses, and corporations which are not intended to be covered by this Act. This distinction was to insure that the bill leaves untouched the Federal Government's information activities for such purposes as economic regulations. This definition was also included to exempt from the coverage of the bill intelligence files and data banks devoted solely to foreign nationals or maintained by the State Department, the Central Intelligence Agency and other agencies for the purpose of dealing with nonresident aliens and people in other countries." (Senate Report 93-1183, p. 79).

The language cited above suggests that a distinction can be made between individuals acting in a personal capacity and individuals acting in an entrepreneurial capacity (e.g., as sole proprietors) and that this definition (and, therefore, the Act) was intended to embrace only the former. This distinction is, of course crucial to the application of the Act since the Act, for the most part, addresses "records" which are defined as "* * * information about individuals" (subsection (a)(4)). Agencies should examine the content of the records in question to determine whether the information being maintained is, in fact, personal in nature. A secondary criterion in deciding whether the subject of an agency file is, for purposes of the Act, an individual, is the manner in which the information is used; i.e., is the subject dealt with in a personal or entrepreneurial role.

Files relating solely to nonresident aliens are not covered by any portion of the Act. Where a system of records covers both citizens and nonresident aliens, only that portion which relates to citizens or resident aliens is subject to the Act but agencies are encouraged to treat such systems as if they were, in their entirety, subject to the Act.

The Act and the legislative history are silent as to whether a decedent may be considered to be an individual and whether anyone may authorize the rights of the decedent to records pertaining to him maintained by Federal agencies. It would appear that the thrust of the Act was to provide certain statutory rights to living as opposed to deceased individuals. But for the provision enabling parents to act on behalf of minors and guardians to act on behalf of those deemed to be incompetent, the rights of an individual provided by the Privacy Act could not have been utilized in their behalf by those interested. The failure of the Privacy Act to so provide for decedents and the overall thrust of the Act—that individuals be given the opportunity to judge for themselves how, and the extent to which, certain information about them maintained by Federal agencies is used, and the implicit personal judgement involved in this thrust—indicates that the Act did not contemplate permitting relatives and other interested parties to exercise rights granted by the Privacy Act to individuals after the demise of those individuals. These same records, however, may pertain as well to those living persons who might otherwise seek to exercise the decedent's right with regard to that information and thereby be covered by the Privacy Act. Furthermore, access to a decedent's records may be had in various judicial forums as a part of, or ancillary to, other proceedings.

Maintain. Subsection (a)(3) "The term 'maintain' includes maintain, collect, use, or disseminate;"

The term "maintain" is used in two ways in the Privacy Act.

First, it is used to connote the various record keeping functions to which the requirements of the Act apply; i.e., maintaining, collecting, using, or disseminating. Thus, wherever the word "maintain" appears with reference to a record, one should understand it to mean collect, use, or disseminate or any combination of any of these record-keeping functions.

Second, it is used to connote control over and hence responsibility and accountability for systems of records. This is extremely important given the civil and criminal sanctions in subsections (g) and (i) for failure to comply with certain provisions. The applicability of certain provisions, including the exemptions in subsections (j) and (k), can be determined by an agency's ability to demonstrate that it has effective control over a system of records. See, for example, subsections (b)(1), (d), (e)(1), (e)(9), (g), and (i) wherein the term "maintain" clearly means having effective control over a system of records. To have effective control of a system of records does not necessarily mean to have physical control of the system. When records are disclosed to Agency B from a system of records maintained by Agency A, they are then considered to be maintained by Agency B (as well as Agency A) and are subject to all of the provisions of the Act in the same manner as though Agency B had originally compiled them. If one agency turns over a record from its system of records to a second agency and that record is placed in a separate system of records maintained by the second agency, then the record becomes part of the system of records maintained by the second agency and all of the published material as to the second agency's system of records would apply to the record moved into its system.

The requirements of subsection (m) must also be carefully considered in determining which systems are to be considered as "maintained," i.e., controlled by an agency within the terms of the Act. Subsection (m) stipulates that systems of records operated under contract or, in some instances, State or local governments operating under Federal mandates "by or on behalf of the agency . . . to accomplish an agency function" are subject to the provisions of Section 3 of the Act. The intent of this provision is to make it clear that the systems "maintained" by an agency are not limited to those operated by agency personnel on agency premises but include certain systems operated pursuant to the terms of a contract to which the agency is a party. The qualifying phrase "to accomplish an agency function" limits the applicability of subsection (m) to those systems directly related to the performance of Federal agency functions by excluding from its coverage systems which are financed, in whole or part, with Federal funds, but which are managed by state or local governments for the benefit of State or local governments.

Record.—Subsection (a)(4) "The term 'record' means any item, collection or grouping of information about an individual that is maintained by an agency, including, but not limited to, his education, financial transactions, medical history, and criminal or employment history and that contains his name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph;"

The term "record", as defined for purposes of the Act, means a tangible or documentary record (as opposed to a record contained in someone's memory) and has a broader meaning than the term commonly has when used in connection with record-keeping systems. (It may also differ from the usual definition of a computer record.) An understanding of the term "record", as it is used in the Act, is essential in interpreting the meaning of many of the Act's requirements.

A "record"

Means any item of information about an individual that includes an individual identifier;

Includes any grouping of such items of information (it should not be confused with the use of the term record in the conventional sense or as used in the automatic data processing (ADP) community);

Does not distinguish between data and information; both are within the scope of the definition; and

Includes individual identifiers in any form including, but not limited to, finger prints, voice prints and photographs.

The phrase "identifying particular" suggests any element of data (name, number) or other descriptor (finger print, voice print, photographs) which can be used to identify an individual. Identifying particulars are not always unique (i.e., many individuals share the same name) but when they are not unique (e.g., name) they are individually assigned—as distinguished from generic characteristics.

The term "record" was defined "to assure the intent that a record can include as little as one descriptive item about an individual." (*Congressional Record*, p. S21818, December 17, 1974 and p. H12246, December 18, 1974). This definition "includes the record of present registration, or membership in an organization or activity, or admission to an institution." (Senate Report 93–1183, p. 79). (While this language was written with reference to the definition of the term "personel information" in the Senate bill, it would appear to be equally applicable to the term "record" as used in the Act.)

A record, by this definition, can be part of another record. Therefore prohibitions on the disclosure of a record, for example, apply not only to the entire record in the conventional sense (such as a record in a computer system), but also to any item or grouping of items from a record provided that such grouping includes an individual identifier.

System of Records. Subsection (a)(5) "The term 'system of records' means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual;"

The definition of "system of records" limits the applicability of some of the provisions of the Act to "records" which are maintained by an agency, retrieved by individual identifier (i.e., there is an indexing or retrievel capability using identifying particulars, as discussed above, built into the system), and the agency does, in fact, retrieve records about individuals by reference to some personal identifier.

A system of records for purposes of the Act must meet all of the following three criteria:

It must consist of records. See discussions of "record" (a)(4), above.

It must be "under the control of" an agency.

It must consist of records retrieved by reference to an individual name or some other personal identifier.

The phrase "* * * under the control of any agency * * *" was intended to accomplish two separate purposes: (1) To determine possession and establish accountability; and (2) to separate agency records from records which are maintained personally by employees of an agency but which are not agency records.

As previously noted, the definition of "maintain" was broadened to encompass all systems used by Federal agencies. The phrase " * * * under the control of any agency * * * " in the definition of "system of records" was not intended to eliminate from the coverage of the Act any of those systems (which would largely negate the definition of "maintain"), but rather was intended to assign responsibility to a particular agency to discharge the obligations established by the Privacy Act. An agency is responsible for those systems which are "* * * under the control of" that agency. The concept of possession implicit in this phrase is also apparent in the language which begins most of the operative subsections of the Act. For example, the concept is evident although tacit in subsection (b); express in subsection (c) "under its control * * *" "* * * that maintains a system of records * * *" in subsections (d), (e) and (f); "agency records" in subsection (i), and "* * * any system of records within the agency" in subsection (j) and (k).

The intent was, despite the different wording for each subsection, not to have each of the subsections apply to a different roster of systems of records, but to express, in terms of possession, for which systems of records an agency was responsible.

The second purpose of the phrase was to distinguish "agency records" from those records which, although in the physical possession of agency employees and used by them in performing official functions, were not considered "agency records." Uncirculated personal notes, papers and records which are retained or discarded at the author's discretion and over which the agency exercises no control or dominion (e.g., personal telephone lists) are not considered to be agency records within the meaning of the Privacy Act. This distinction is embodied, in part, in the phrase "under the control of" an agency as well as in the definition of "record" (5 U.S.C. 552(a)(4)).

An agency shall not classify records, which are controlled and maintained by it, as non-agency records, in order to avoid publishing notices of their existence, prevent access by the individuals to whom they pertain, or otherwise evade the requirements of the act.

The "are retrieved by" criterion implies that the grouping of records under the control of an agency is accessed by the agency by use of a personal identifier; not merely that a capability or potential for retrieval exists. For example, an agency record-keeping system on firms it regulates may contain "records" (i.e., personal information) about officers of the firm incident to evaluating the firm's performance. Even though these are clearly "records" under the control of" an agency, they would not be considered part of a system as defined by the Act unless the agency accessed them by reference to a personal identifier (name, etc.). That is, if these hypothetical "records" are never retrieved except by reference to company identifier or some other nonpersonal indexing scheme (e.g., type of firm) they are not a part of a system of records. Agencies will necessarily have to make determinations on a system-by-system basis.

Considerable latitude is left to the agency in defining the scope or grouping of records which constitute a system. Conceivably all the "records" for a particular program can be considered a single system or the agency may consider it appropriate to segment a system by function or geographic unit and treat each segment as a "system". The implications of these decisions and some limitations on them are discussed in connection with subsection (e)(4), publication of the annual notice. Briefly, the two considerations which the agency should take into account in its decisions are

Its ability to comply with the requirements of the Act and facilitate the exercise of the rights of individuals; and

The cost and convenience to the agency, but only to the extent consistent with the first consideration.

Statistical Record. Subsection (a)(6) "The term 'statistical record' means a record in a system of records maintained for statistical research or reporting purposes only and not used in whole or in part in making any determination about an identifiable individual, except as provided by section 8 of title 13;"

A "statistical record", for purposes of this Act, is a record in a system of records that is not used by anyone in making any determination about an individual. This means that, for a record to qualify as a "statistical record", it must be held in a system which is separated from systems (some perhaps containing the same information) which contain records that are used in any manner in making decisions about the rights, benefits, or entitlements of an identifiable individual. The term "identifiable individual" is used to distinguish determinations about specific individuals from determinations about aggregates of individuals as, for example, census data are used to apportion funds on the basis of population.

By this definition, it appears that some so-called "research records" which are only used for analytic purposes qualify as "statistical records" under the Act if they are not used in making determinations. A "determination" is defined as "any decision affecting the individual which is in whole or in part based on information contained in the record and which is made by any person or any agency." (House Report 93–1416, p. 15.)

Most of the records of the Bureau of the Census are considered to be "statistical records" even though, pursuant to section 8 of title 13, United States Code, the Census Bureau is authorized to "furnish transcripts of census records for genealogical and other proper purposes and to make special statistical surveys from census data for a fee upon request." (House report 93–1416, p. 12)

In applying this definition, it might be helpful to distinguish three types of collections or groupings of information about individuals: (1) Statistical com-

pilations which, because they cannot be identified with individuals, are not subject to the Act at all; (2) "records" maintained solely for the purpose of compiling statistics—which are the types of records covered by (a)(6); and (3) "records" on individuals which are used both to compile statistics and also for other purposes, e.g. a criminal history record used both to compile individual statistics and to assist a judge in making a sentencing decision about the individual to whom the record pertains, which is not a "statistical record."

The term "statistical record" is used in subsection (k)(4), specific exemptions.

Routine use. Subsection (a)(7) "The term 'routine use' means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected."

One of the primary objectives of the Act is to restrict the use of information to the purposes for which it was collected. The term "routine use" was introduced to recognize the practical limitations of restricting use of information to explicit and expressed purposes for which it was collected. It recognizes that there are corollary purposes "compatible with the purpose for which [the information] was collected" that are appropriate and necessary for the efficient conduct of government and in the best interest of both the individual and the public. Routine uses include "transfer of information to the Treasury Department to complete payroll checks, the receipt of information by the Social Security Administration to complete quarterly posting of accounts, or other such housekeeping measures and necessarily frequent interagency or intra-agency transfers of information." (Congressional Record p. S21816, December 17, 1974 and p. H12244, December 18, 1974)

Additional guidance on the conceptual basis for "routine uses" is found in the statement of Congressman Moorhead on the House floor:

> It would be an impossible legislative task to attempt to set forth all of the appropriate uses of Federal records about an identifiable individual. It is not the purpose of the bill to restrict such ordinary uses of the information. Rather than attempting to specify each proper use of such records, the bill gives each Federal agency the authority to set forth the "routine" purposes for which the records are to be used under the guidance contained in the committee's report.
>
> In this sense "routine use" does not encompass merely the common and ordinary uses to which records are put, but also includes all of the proper and necessary uses even if any such use occurs infrequently. For example, individual income tax return records are routinely used for auditing the determination of the amount of tax due and for assistance in collection of such tax by civil proceedings. They are less often used, however, for referral to the Justice Department for possible criminal prosecution in the event of possible fraud or tax evasion, though no one would argue that such referral is improper; thus the "routine" use of such records and subsection (b)(3) might be appropriately construed to permit the Internal Revenue Service to list in its regulations such a referral as a "routine use."
>
> Again, if a Federal agency such as the Housing and Urban Development Department or the mall Business Administration were to discover a possible fraudulent scheme in one of its programs it could "routinely", as it does today, refer the relevant ment or the Small Business Administration investigatory arm, the FBI.
>
> Mr. Chairman, the bill obviously is not intended to prohibit such necessary exchanges of information, providing its rulemaking procedures are followed. It is intended to prohibit gratuitous, ad hoc, disseminations for private or otherwise irregular purposes. To this end it would be sufficient if an agency publishes as a "routine use" of its information gathered in any program that an apparent violation of the law will be referred to the appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory order. (*Congressional Record, November 21, 1974, p. H10962*)

In discussing the final language of the Act, Senator Ervin and Congressman Moorhead, in similar statements said that "[t]he compromise definition should serve as a caution to agencies to think out in advance what uses it will make of information. This Act is not intended to impose undue burdens on the transfer of information to the Treasury Department to complete payroll checks, the receipt of information by the Social Security Administration to complete quarterly posting of accounts, or other such housekeeping measures and necessarily frequent interagency or intra-agency transfers of information. It is, however, intended to discourage the unnecessary exchange of information to other persons or to agencies who may not be as sensitive to the collecting agency's reasons for using and interpreting the material." (*Congressional Record,* December 17, 1974, p. S21816 and December 18, 1974, p. H12244). This implies, at least, that a "routine use" must be not only compatible with, but related to, the purpose for which the record is maintained; e.g., development of a sampling frame for an evaluation study or other statistical purposes.

There are certain "routine uses" which are applicable to a substantial number of systems of records but which are only permissible if properly established by each agency:

Disclosures to a law enforcement agency when criminal misconduct is suspected in connection with the administration of a program; e.g., apparently falsified statements on a grant application or suspected fraud on a contract.

Disclosures to an investigative agency in the process of requesting that a background or suitability investigation be conducted on individuals being cleared for access to classified information, employment on contracts, or appointment to a position within the agency.

The Act further limits the extent to which disclosures can be made as "routine uses" by requiring an agency to establish the "routine uses" of information in each system of records which it maintains by publishing a declaration of intent in the FEDERAL REGISTER, thereby permitting public review and comment (subsection (e)(11)).

SUBSECTION (b) CONDITIONS OF DISCLOSURE

Subsection (b) "No agency shall disclose any record which is contained in a system of records by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, unless disclosure of the record would be—"

This subsection provides that an agency may not disclose any record contained in system of records, as defined in subsection (a)(5) above, to any person or to any other agency unless the agency which maintains the record is requested to do so by the individual to whom the record pertains or the agency has obtained the written consent of the individual or the disclosure would fall within one or more of the categories enumerated in subsections (b)(1) through (11), below. The phrase "by any means of communication" means any type of disclosure (e.g., oral disclosure, written disclosure, electronic or mechanical transfers between computers of the contents of a record).

Disclosure, however, is permissive not mandatory. An agency is authorized to disclosure a record for any purpose enumerated below when it deems that disclosure to be appropriate and consistent with the letter and intent of the Act and these guidelines.

Nothing in the privacy act should be interpreted to authorize or compel disclosures of records, not otherwise permitted or required, to anyone other than the individual to whom a record pertains pursuant to a request by the individual for access to it.

Agencies shall not automatically disclose a record to someone other than the individual to whom it pertains simply because such a disclosure is permitted by this subsection. Agencies shall continue to abide by other constraints on their authority to disclose information to a third party including, where appropriate, the likely effect upon the individual of making that disclosure. Except as prescribed in subsection (d)(1), (individual access to records) this Act does not require disclosure of a record to anyone other than the individual to whom the record pertains.

A disclosure may be either the transfer of a record or the granting of access to a record.

The fact that an individual is informed of the purposes for which information will be used when information is collected pursuant to subsection (e)(3) does not constitute consent.

There are two instances in which consent to disclose a record might be actively sought by an agency (i.e., without waiting for the individual to request that a disclosure be made).

Disclosure would properly be a "routine use" (b)(3)) but disclosure is proposed to be made before the 30 day notice period; e.g., the agency is developing a sampling frame for an evaluation study or a statistical program directly related to the purpose for which the record was established.

Disclosure is unrelated to the purpose for which the record is maintained but the individual may wish to elect to have his or her record disclosed; e.g., to have information on a Federal employment application referred to State agencies or to permit information on such an application to be checked against other Federal agency's records.

In either case, however, care must be exercised to assure that the language of the request is not coercive and that any consequences of refusing to consent are made clear. It is particularly important that the impression not be created that consent to disclose is a prerequisite to obtaining a benefit when it is not.

The consent provision of this subsection was not intended to permit a blanket or open-ended consent clause; i.e., one which would permit the agency to disclose a record without limit. At a minimum, the consent clause should state the general purposes for, or types of recipients, to which disclosure may be made.

A record in a system of records may be disclosed without either a request from or the written consent of the individual to whom the record pertains only if disclosure is authorized below.

Disclosure within the Agency. Subsection (b)(1) "To those officers and employees of the agency which maintains the record who have a need for the record in the performance of their duties;"

This provision is based on a "need to know" concept. See also definition of "agency," (a)(1). It is recognized that agency personnel require access to records to discharge their duties. In discussing the conditions of disclosure provision generally, the House Committee said that "it is not the Committee's intent to impede the orderly conduct of government or delay services performed in the interests of the individual. Under the conditional disclosure provisions of the bill, 'routine' transfers will be permitted without the necessity of prior written consent. A 'non-routine' transfer is generally one in which the personal information on an individual is used for a purpose other than originally intended." (House Report 93–1416, p. 12).

This discussion suggests that some constraints on the transfer of records within the agency were intended irrespective of the definition of agency. Minimally, the recipient officer or employee must have an official "need to know." The language would also seem to imply that the use should be generally related to the purpose for which the record is maintained.

Movement of records between personnel of different agencies may in some instances be viewed as intra-agency disclosures if that movement is in connection with an inter-agency support agreement. For example, the payroll records compiled by Agency A to support Agency B in a cross-service arrangement are, arguably, being maintained by Agency A as if it were an employee of Agency B. While such transfers would meet the criteria both for intra-agency disclosure and "routine use," they should be treated as intra-agency disclosures for purposes of the accounting requirements (e)(1). In this case, however, Agency B would remain responsible and liable for the maintenance of such records in conformance with the Act.

It should be noted that the conditions of disclosure language makes no specific provision for disclosures expressly required by law other than 5 U.S.C. 552. Such disclosures, which are in effect congressionally-mandated "routine uses," should still be established as "routine uses" pursuant to subsections (e)(11) and (e)(4)(D). This is not to suggest that a "routine use" must be specifically prescribed in law.

Disclosure to the Public. Subsection (b)(2) "Required under section 552 of this title;" Subsection (b)(2) is intended "to preserve the status quo as interpreted by the courts regarding the disclosure of personal information" to the public under the Freedom of Information Act (*Congressional Record* p. S21817, December 17, 1974 and p. H12244, December 18, 1974). It absolves the agency of any obligation to obtain the consent of an individual before disclosing a record about him or her to a member of the public to whom the agency is required to disclose such information under the Freedom of Information Act and permits an agency to withhold a record about an individual from a member of the public only to the extent that it is permitted to do so under closed (i.e., they are permitted to be 552(b)). Given the use of the term "required", agencies may not voluntarily make public any record which they are not required to release (i.e., those that they are permitted to withhold) without the consent of the individual unless that disclosure is permitted under one of the other portions of this subsection.

Records which have traditionally been considered to be in the public domain and are required to be disclosed to the public, such as many of the final orders and opinions of quasi-judicial agencies, press releases, etc. may be released under this provision without waiting for a specific Freedom of Information Act request. For example, opinions of quasi-judicial agencies may be sent to counsel for the parties and to legal reporting services, and press releases may be issued by agencies dealing with public record matters such as suits commenced or agency proceedings initiated. Records which the agency would elect to disclose to the public but which are not required to be disclosed (i.e., they are permitted to be withheld under the FOIA) may only be released to the public under the "routine use" provision (subsection (b)(3)). Note, however, that an agency may not rely on any provision of the Freedom of Information Act as a basis for refusing access to a record to the individual to whom it pertains, unless such refusal of access is authorized by an exemption within the Privacy Act. See subsections (d)(1) and (g) below.

Disclosure for a "Routine Use". Subsection (b)(3) "For a routine use as defined in subsection (a)(7) of this section and described under subsection (e)(4)(D) of this section;"

Records may be disclosed without the prior consent of the individual for a "routine use", as defined above, if that "routine use" has been established and described in the public notice about the system published pursuant to subsections (e)(4)(D), and (e)(11) below.

Disclosure to the Bureau of the Census. Subsection (b)(4) "To the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of title 13;"

Agencies may disclose records to the Census Bureau in individually identifiable form for use by the Census Bureau pursuant to the provisions of Title 13. (Title 13 not only limits the uses which may be made of these records but also makes them immune from compulsory disclosure).

Disclosure for Statistical Research and Reporting. Subsection (b)(5) "To a recipient who has provided the agency with advance adequate written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable;"

Agencies may disclose records for statistical purposes under limited conditions. The use of the phrase "in a form that is not individually identifiable" means not only that the information disclosed or transferred must be stripped of individual identifiers but also that the identity of the individual can not reasonably be deduced by anyone from tabulations or other presentations of the information (i.e., the identity of the individual can not be determined or deduced by combining various statistical records or by reference to public records or other available sources of information.) See also the discussion of "statistical record" ((a)(6)), above.

Records, whether or not statistical records as defined in (a)(6), above, may be disclosed for statistical research or reporting purposes only after the agency which maintains the record has received and evaluated a written statement which:

States the purpose for requesting the records; and

Certifies that they will only be used as statistical records.

Such written statements will be made part of the agency's accounting of disclosures under subsection (c)(1).

Fundamentally, agencies disclosing records under this provision are required to assure that information disclosed for use as a statistical research or reporting record cannot reasonably be used in any way to make determinations about individuals. One may infer from the legislative history and other portions of the Act that an objective of this provision is to reduce the possibility of matching and analysis of statistical records with other records to reconstruct individually identifiable records. An accounting of disclosures is not required when agencies publish aggregate data so long as no individual member of the population covered can be identified: for example, statistics on employee turnover rates, sick leave usage rates.

Viewed from the perspective of the recipient agencies, material thus transferred would not constitute records for its purposes.

Disclosure to the National Archives. Subsection (b)(6) "To the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Administrator of General Services or his designee to determine whether the record has such value."

Agencies may disclose records to the National Archives of the United States pursuant to Section 2103 of Title 44 of the United States Code which provides for the preservation of records "of historical or other value". This subsection ((b)(6)) allows not only the transfer of records for preservation but also the disclosure of records to the Archivist to permit a determination as to whether preservation under Title 44 is warranted. See subsections (1)(2) and (1)(3) for a discussion of constraints on the maintenance of records by the Archives.

Records which are transferred to Federal Records Centers for safekeeping or storage do not fall within this category. Such transfers are not considered to be disclosures within the terms of this Act since the records remain under the control of the transferring agency. Federal Records Center personnel are acting on behalf of the agency which controls the records. See subsection (l)(1), below.

Disclosure for Law Enforcement Purposes. Subsection (b)(7) "To another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to the agency which maintains the record specifying the particular portion desired and the law enforcement activity for which the record is sought:"

An agency may, upon receipt of a written request, disclose a record to another agency or unit of State or local government for a civil or criminal law enforcement activity. The request must specify

The law enforcement purpose for which the record is requested; and

The particular record requested.

Blanket requests for all records pertaining to an individual are not permitted. Agencies or other entities seeking disclosure may, of course, seek a court order as a basis for disclosure. See subsection (b)(11).

A record may also be disclosed to a law enforcement agency at the initiative of the agency which maintains the record when a violation of law is suspected; *provided,* That such disclosure has been established in advance as a "routine use" and that misconduct is related to the purposes for which the records are maintained. For example, certain loan or employment application information may be obtained with the understanding that individuals who knowingly and willfully provide inaccurate or erroneous information will be subject to criminal prosecution. This usage was explicitly addressed by Congressman Moorhead in explaining the House bill, on the floor of the House:

> It should be noted that the "routine use" exception is in addition to the exception provided for dissemination for law enforcement activity under subsection (b)(7) of the bill. Thus a requested record may be disseminated under either the "routine use" exception, the "law enforcement" exception, or both sections, depending on the circumstances of the case. (*Congressional Record* November 21, 1974, p. H10962.)

In that same discussion, additional guidance was provided on the term "head of the agency" as that term is used in this subsection ((b)):

> The words "head of the agency" deserve elaboration. The committee recognizes that the heads of Government departments cannot be expected to personally request each of the thousands of records which may properly be disseminated under this subsection. If that were required, such officials could not perform their other duties, and in many cases, they could not even perform record requesting duties alone. Such duties may be delegated, like other duties, to other officials, when absolutely necessary but never below a section chief, and this is what is contemplated by subsection (b)(7). The Attorney General, for example, will have the power to delegate the authority to request the thousands of records which may be required for the operation of the Justice Department under this section.

It should be noted that this usuage is somewhat at variance with the use of the term "agency head" in subsections (j), and (k), rules and exemptions, where delegations to this extent are neither necessary nor appropriate.

This subsection permits disclosures for law enforcement purposes only to governmental agencies "within or under the control of the United States." Disclosures to to foreign (as well as to State and local) law enforcement agencies may, when appropriate, be established as "routine uses."

Records in law enforcement systems may also be disclosed for law enforcement purposes when that disclosure has properly been established as a "routine use"; e.g., statutorily authorized responses to properly made queries to the National Driver Register; transfer by a law enforcement agency of protective intelligence information to the Secret Service.

Disclosure under Emergency Circumstances. Subsection (b)(8) "To a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if upon such disclosure notification is transmitted to the last known address of such individual;"

Agencies may disclose records when, for example, the time required to obtain the consent of the individual to whom the record pertains might result in a delay which could impair the health or safety of an individual; as in the release of medical records on a patient undergoing emergency treatment. The individual pertaining to whom records are disclosed need not necessarily be the individual whose health or safety is at peril; e.g., release of dental records on several individuals in order to identify an individual who was injured in an accident.

Disclosure to the Congress. Subsection (b)(9) "To either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress or subcommittee of any such joint committee;"

This language does not authorize the disclosure of a record to members of Congress acting in their individual capacities without the consent of the individual.

Disclosure to the General Accounting Office. Subsection (b)(10) "To the Comptroller General, or any of his authorized representatives, in the course of the performance of the duties of the General Accounting Office;"

Disclosure Pursuant to Court Arder. Subsection (b)(11) "Pursuant to the order of a court of competent jurisdiction."

Subsection (c) Accounting of Certain Disclosures

Subsection (c) "Each agency, with respect to each system of record under its control, shall—"

When Accounting Is Required. Subsection (c)(1) "Except for disclosures made under subsections (b)(1) or (b)(2) of this section, keep an accurate accounting of—

"(A) The date, nature, and purpose of each disclosure of a record to any person or to another agency made under subsection (b) of this section; and

"(B) The name and address of the person or agency to whom the disclosure is made;"

An accounting is required

For disclosures outside the agency even when such disclosure is at the request of the individual with the written consent or at the request of the individual;

For disclosures for routine uses (see (b)(3));

For disclosures to the Bureau of the Census (see (b)(4));

For disclosures to a person or another agency for statistical research or reporting purposes (see (b)(5));

For disclosures to the Archives (see (b)(6));

For disclosures for a law enforcement activity consistent with the provisions of subsection (see (b)(7));

For disclosures upon a showing of "compelling circumstances" (see (b)(8));

For disclosures to the Congress or the Comptroller General (see (b)(9) and (10)); or

For disclosures pursuant to a court order (see (b)(11)).

An accounting of disclosures is not required

For disclosures to employees of the agency maintaining the record who have a need to have access in the performance of their official duties for the agency.

(Agencies are required to establish safeguards, pursuant to subsection (e)(10), to assure that individuals who do not have a "need to know" will not have access.) (see (b)(1)); or

For disclosures to members of the public which would be required under the Freedom of Information Act (see (b)(2)).

(NOTE: That the accounting requirement is not one from which an energy may seek an exemption under subsections (j) and (k).)

"The term 'accounting' rather than 'record,' [was used] to indicate that an agency need not make a notation on a single document of every disclosure of a particular record. The agency may use any system it desires for keeping notations of disclosures, provided that it can construct from its system a document listing of all disclosures." (House Report 93-1416, p. 14). For example, if a list of names and other pertinent data necessary to issue payroll or benefit checks is transferred to a disbursing office outside the agency, the agency transferring the record need not maintain a separate record of such transfer in each individual record provided that it can construct the required accounting information when requested by the individual (subsection (c)(3)) or when necessary to inform previous recipients of any corrected or disputed information (subsection (c)(4)). The accounting should also provide a cross-reference to the basis upon which the release was made including any written documentation as is required in the case of the release of records for statistical or law enforcement purposes.

In some instances, (e.g., investigation or prosecution of suspected criminal activity) a disclosure may consist of a continuing dialogue between two agencies over a period of weeks or months. In such a situation, it may be appropriate to make a general notation that, as of a specified date, such contact was initiated and will be maintained until the conclusion of the case.

While the accounting of disclosures, when maintained apart from the record, might be considered a system of records under the Act, this could lead to the situation of having to maintain an accounting of disclosures from the original accounting and having to maintain that second accounting for five years, etc. Note that subsection (c)(3) gives an individual a right of access to the accounting which would not have been necessary if the accounting were considered a separate system of record. Therefore, it would seem that the intent was to view the accounting of disclosures as other than a system of records and to conclude that an accounting need not be maintained for disclosures from the accounting of disclosures.

Retaining the Accounting of Disclosures. Subsection (c)(2) "Retain the accounting made under paragraph (1) of this subsection for at least five years or the life of the record, whichever is longer, after the disclosure for which the accounting is made;"

The purposes of the accounting are (1) to allow individuals to learn to whom records about themselves have been disclosed (subsection (c)(3)); (2) to provide a basis for subsequently advising recipients of records of any corrected or disputed records (subsection (c)(4); and (3) to provide an audit trail for subsequent reviews of agency compliance with subsection (b) (conditions of disclosure). As discussed above, with respect to maintaining the accounting, the accounting need not be retained on a record by record basis as long as the procedures adopted by the agency permit it to satisfy these objectives. While the accounting is required to be maintained for at least five years, nothing in the Act requires the retention of the record itself where the record could otherwise lawfully be disposed of sooner.

The accounting is required to be retained for five years from the date of the disclosure unless the record is retained longer. Record retention standards remain as prescribed in applicable law and GSA regulations.

Making the Accounting of Disclosures Available to the Individual. Subsection (c)(3) "Except for disclosures made under subsection (b)(7) of this section, make the accounting made under paragraph (1) of this subsection available to the individual named in the record at his request;"

Upon request of the individual to whom the record pertains an agency must make available to that individual all information in its accounting of disclosures except those pertaining to disclosures to another agency or government instrumentality for law enforcement purposes pursuant to subsection (b)(7) unless the system has been exempted from this provision pursuant to subsections (j) or (k). Agencies may wish to maintain the accounting of disclosure in such a manner that notations of disclosures pursuant to (b)(7) are readily segregable in order to facilitate timely release of the disclosure accounting when requested by the individual. Since the accounting will often not be maintained in a form which is readily comprehensible to the individual, the process of "making the accounting available" may entail some transformation of the accounting by the agency so as to make it intelligible to the individual. This may require the agency to compile, from the accounting, a list of those to whom the record was disclosed.

Informing Prior Recipients of Corrected or Disputed Records. Subsection (c)(4) "Inform any person or other agency about any correction or notation of dispute made by the agency in accordance with subsection (d) of this section of any record that has been disclosed to the person or agency if an accounting of the disclosure was made."

When a record is corrected at the request of an individual acting in accordance with subsection (d)(2) or a statement of dispute is filed as provided in subsection (d)(3), the agency maintaining the record shall notify each agency or person to which the record has been disclosed of the exact nature of the correction or that a notation of dispute has made. If the recipient was another agency, that agency is required, in turn, to notify those to whom it disclosed the record.

This requirement does not apply to disclosures to personnel within the agency with a "need to know" or to the public under the Freedom of Information Act (subsections (b)(1) and (2)) or to disclosures made prior to September 27, 1975 for which no accounting was made. (Note that the language in subsection (c)(4) differs from the corresponding language in H.R. 16373 so that the House report discussion of this provision is no longer applicable).

Given the definition of "record" (a record may be construed to be a part of another record) and the language of subsection (d)(4), below, it would appear that the notification of correction or of the filing of a statement of disagreement is required only to the extent that the correction or disagreement pertains to the information actually disclosed; i.e., recipients of a portion of a record other than the portion which is subsequently corrected or disputed need not be informed. Where there is any doubt as to whether the corrected information was included in or might be relevant to a previous disclosure, agencies should notify the recipients in question.

The language of this subsection explicitly requires only that prior recipients be notified of corrections made pursuant to a request to amend a record by an individual and does not address records corrected for other reasons; e.g., agency staff detects erroneous data or a third party source provides corrected information. Nevertheless, agencies are encouraged to provide corrected information to previous recipients, irrespective of the means by which the correction was made whenever it is deemed feasible to do so if information included in a previous disclosure was changed particularly when the agency is aware that the correction is relevant to the recipient's uses irrespective of the means by which the correction is made.

SUBSECTION (d) ACCESS TO RECORDS

Subsection (d) "Each agency that maintains a system of record shall—"

Individual Access to Records. Subsection (d)(1) "Upon request by an individual to gain access to his record or to any information pertaining to him which is contained in the system, permit him and upon his request, a person of his own choosing to accompany him, to review the record and have a copy made of all or any portion thereof in a form comprehensible to him, except that the agency may require the individual to furnish a written statement authorizing discussion of that individual's record in the accompanying person's presence;"

An agency must, upon request: (1) Inform an individual whether a system of records contains a record or records

pertaining to him, (2) permit an individual to review any record pertaining to him which is contained in a system of records, (3) permit the individual to be accompanied for the purpose by a person of his choosing, and (4) permit the individual to obtain a copy of any such record in a form comprehensible to him at a reasonable cost. This provision it should be noted, gives an individual the right of access only to records which are contained in a system of records. See (a)(5), above.

This language further suggests that the Congress did not intend to require that an individual be given access to information which the agency does not retrieve by reference to his or her name or some other identifying particular. See subsection (a)(5). If an individual is named in a record about someone else (or some other type of entity) and the agency only retrieves the portion pertaining to him by reference to the other person's name (or some organization/subject identifier), the agency is not required to grant him access. Indeed, if this were not the case, it would be necessary to establish elaborate cross-references among records, thereby increasing the potential for privacy abuses. The following examples illustrate some applications of this standard.

1. A record on Joan Doe as an employee in a file of employees from which material is accessed by reference to her name (or some identifying number). This is the simplest case of a record in a system of records and Joan Doe would have a right of access.

2. A reference to Joan Doe in a record about James Smith in the same file. This is also a record within a system but Joan Doe would not have to be granted access unless the agency had devised and used an indexing capability to gain access to her record in James Smith's file.

3. A record about Joan Doe in a contract source evaluation file about her employer, Corporation X, which is not accessed by reference to individuals' names, or other identifying particulars. This is a record which is not in a system of records and, therefore, Joan Doe would not have a right of access to it. If, as in 2, above, an indexing capability were developed and used, however, such a system would become a system of records to which Joan Doe would have a right of access.

Agencies may establish fees for making copies of an individual's record but not for the cost of searching for a record or reviewing it (subsection (f)(5)). When the agency makes a copy of a record as a necessary part of its process of making the record available for review (as distinguished from responding to a request by an individual for a copy of a record), no fee may be charged. It should be noted that this provision differs from the access and fees provisions of the Freedom of Information Act.

The granting of access may not be conditioned upon any requirement to state a reason or otherwise justify the need to gain access.

Agencies shall establish requirements to verify the identity of the requester. Such requirements shall be kept to a minimum. They shall only be established when necessary reasonably to assure that an individual is not improperly granted access to records pertaining to another individual and shall not unduly impede the individual's right of access. Procedures for verifying identity will vary depending upon the nature of the records to which access is sought. For example, no verification of identity will be required of individuals seeking access to records which are otherwise available to any member of the public under 5 U.S.C. 552, the Freedom of Information Act. However, far more stringent measures should be utilized when the records sought to be accessed are medical or other sensitive records.

For individuals who seek access in person, requirements for verification of identity should be limited to information or documents which an individual is likely to have readily available (e.g., a driver's license, employee identification card, Medicare card). However, if the individual can provide no other suitable documentation, the agency should request a signed statement from the individual asserting his or her identity and stipulating that the individual understands that knowingly or willfully seeking or obtaining access to records about another individual under false pretenses is punishable by a fine of up to $5,000. (Subsection (i)(3).)

For systems to which access is granted by mail (by virtue of their location) verification of identity may consist of the providing of certain minimum identifying data; e.g., name, date of birth, or system personal identifier (if known to the individual). Where the sensitivity of the data warrants it; (i.e., unauthorized access could cause harm or embarrassment to the individual), a signed notarized statement may be required or other reasonable means of verifying identity which the agency may determine to be necessary, depending on the degree of sensitivity of the data involved.

NOTE: That section 7 of the Act forbids an agency to deny an individual any right (including access to a record) for refusing to disclose a Social Security Number unless disclosure is required by Federal statute or by other laws or regulations adopted prior to January 1, 1975.

Agencies are also permitted to require that an individual who wishes to be accompanied by another person when reviewing a record furnish a written statement authorizing discussion of his or her record in the presence of the accompanying person. This provision may not be used to require that individuals who request access and wish to authorize other persons to accompany them provide any reasons for the access or for the accompanying person's presence. It is designed to avoid disputes over whether the individual granted permission for disclosure of information to the accompanying person.

Agency procedures for complying with the individual access provisions will necessarily vary depending upon the size and nature of the system of records. Large computer-based systems of records clearly require a different approach than do small, regionally dispersed, manually maintained systems. Nevertheless the basic requirements are constant, namely the right of the individual to have access to a record pertaining to him and to have a copy made of all or any portion of such records in a form which is comprehensible to him. Putting information into a comprehensible form suggests converting computer codes to their literal meaning but not necessarily an extensive tutorial in the agency's procedures in which the record is used.

Neither the requirements to grant access nor to provide copies necessarily require that the physical record itself be made available. The form in which the record is kept (e.g., on magnetic tape) or the context of the record (e.g., access to a document may disclose records about other individuals which are not relevant to the request) may require that a record be extracted or translated in some manner; e.g., to expunge the identity of a confidential source. Whenever possible, however, the requested record should be made available in the form in which it is maintained by the agency and the extraction or translation process may not be used to withhold information in a record about the individual who requests it unless the denial of access is specifically provided for under rules issued pursuant to one of the exemption provisions (subsections (j) and (k)).

Subsection (f)(3) provides that agencies may establish "a special procedure, if deemed necessary, for the disclosure to an individual of medical records, including psychological records, pertaining to him." In addressing this provision the House committee said:

> If, in the judgment of the agency, the transmission of medical information directly to a requesting individual could have an adverse effect upon such individual, the rules which the agency promulgates should provide means whereby an individual who would be adversely affected by receipt of such data may be apprised of it in a manner which would not cause such adverse effects. An example of a rule serving such purpose would be transmission to a doctor named by the requesting individual. (House Report 93-1416, pp. 16-17)

Thus, while the right of individuals to have access to medical and psychological records pertaining to them is clear, the nature and circumstances of the disclosure may warrant special procedures.

While the Act provides no specific guidance on this subject, agencies should acknowledge requests for access to records within 10 days of receipt of the request (excluding Saturdays, Sundays, and legal public holidays). Wherever practicable, that acknowledgement should indicate whether or not access can be granted and, if so, when. When access is to be granted, agencies will normally provide access to a record within 30 days (excluding Saturdays,

Sundays, and legal public holidays) unless, for good cause shown, they are unable to do so, in which case the individual should be informed in writing within 30 days as to those reasons and when it is anticipated that access will be granted. A "good cause" might be the fact that the record is inactive and stored in a records center and, therefore, not as readily accessible. See subsection (l)(1). Presumably, in such cases the risk of an adverse determination being made on the bases of a record to which access is sought and which the individual might choose to challenge is relatively low.

Requests for Amending Records. Subsection (d)(2) "Permit the individual to request amendment of a record pertaining to him and—"

Agencies shall establish procedures to give individuals the opportunity to request that their records be amended. The procedures may permit the individual to present a request either in person, by telephone, or through the mail but the process should not normally require that the individual present the request in person. If the agency deems it appropriate, it may require the requests be made in writing, whether presented in person or through the mail. Instructions for the preparation of a request and any forms employed should be as brief and as simple as possible. If a request is received on other than a prescribed form, the agency should not reject it or request resubmission unless additional information is essential to process the request. In that case, the inquiry to the individual should be limited to obtaining the needed additional information, not resubmission of the entire request. Incomplete or inaccurate requests should not be rejected categorically. The individual should be asked to clarify the request as needed. Requests presented in person should be screened briefly while the individual is still present, wherever possible, to assure that the request is complete so that clarification may be obtained on the spot.

These provisions for amending records are not intended to permit the alteration of evidence presented in the course of judicial, quasi-judicial or quasi-legislative proceedings. Any changes in such records should be made only through the established procedures consistent with the adversary process. These provisions are not designed to permit collateral attack upon that which has already been the subject of a judicial or quasi-judicial action. For example, these provisions are not designed to permit an individual to challenge a conviction for a criminal offense received in another forum or to reopen the assessment of a tax liability, but the individual would be able to challenge the fact that conviction or liability has been inaccurately recorded in his records.

The agency should also require verification of identity to assure that the requestors are seeking to amend records pertaining to themselves and not, inadvertently or intentionally, the records of other individuals.

Acknowledgement of Requests to Amend Records. Subsection (d)(2)(A) "Not later than 10 days (excluding, Saturdays, Sundays, and legal public holidays) after the date of receipt of such request, acknowledge in writing such receipt; and"

A written acknowledgement by the agency of the receipt of a request to amend a record must be provided to the individual within 10 days (excluding Saturdays, Sundays, and legal public holidays). The acknowledgement should clearly describe the request (a copy of the request form may be appended to the acknowledgement) and advise the individual when he or she may expect to be advised of action taken on the request.

No separate acknowledgement of receipt is necessary if the request can be reviewed, processed, and the individual advised of the results of the review (whether complied with or denied) within the 10-day period.

For requests presented in person, written acknowledgement should be provided at the time the request is presented.

Actions Required on Requests to Amend Records. Subsection (d)(2)(B) "Promptly, either

(i) Make any correction of any portion thereof which the individual believes is not accurate, relevant, timely, or complete; or

(ii) Inform the individual of its refusal to amend the record in accordance with his request, the reason for the refusal, the procedures established by the agency for the individual to request a review of the refusal by the head of the agency or an officer designated by the head of the agency, and the name and business address of that official;

In reviewing an individual's request to amend a record, agencies should, wherever practicable, complete the review and advise the individual of the results within 10 days of the receipt of the request. Prompt action is necessary both to assure that records are as accurate as possible and to reduce the administrative effort which would otherwise be involved in issuing a separate acknowledgement of the receipt of the request and subsequently informing the individual of the action taken. If the nature of the request or the system of records precludes completing the review within 10 days, the required acknowledgement (subsection (d)(2)(A) above,) must be provided within ten days and the review should be completed as soon as reasonably possible, normally within 30 days from the receipt of the request (excluding Saturdays, Sundays, and legal public holidays) unless unusual circumstances preclude completing action within that time. (The number of cases on which the agency was unable to act within 30 days will be included in the annual report (subsection (p)). If the expected completion date for the review indicated in the acknowledgement cannot be met, the individual should be advised of that delay and of a revised date when the review may be expected to be completed.

"Unusual circumstances" can be viewed as situations in which records cannot be reviewed through the agency's normal process. By definition, such cases would, statistically, be the exception. A review which entails obtaining supporting data from retired records or from another agency and which could not, therefore be completed within the required time might qualify.

In reviewing a record in response to a request to amend it, the agency should assess the accuracy, relevance, timeliness, or completeness of the record in terms of the criteria established in subsection (e)(5), i.e., to assure fairness to the individual to whom the record pertains in any determination about that individual which may be made on the basis of that record.

With respect to requests to delete information, agencies must heed the criteria established in subsection (e)(1), namely, that the information must be "* * * relevant and necessary to accomplish a statutory purpose of the agency required to be accomplished by law or by executive order of the President." This is not to suggest that agencies may routinely maintain irrelevant or unnecessary information unless it is challenged by an individual, but rather that receipt of a request to delete information should cause the agency to reconsider the need for such information. Reviews in connection with the development of a system, the preparation of the public notice and the description of the purposes for which it is maintained and periodic reviews of the system, to assure that only information which is necessary for the lawful purposes for which the system of records was established is maintained in it will be the primary vehicles for assuring that only relevant and necessary information is maintained.

Agency standards for reviewing records in response to a request to amend them may, at the agency's option, be included as part of the rules promulgated pursuant to subsection (f)(4). Generally, it would seem reasonable to conclude that such standards for review need be no more stringent than is reasonably necessary to meet the general criteria in subsections (e)(1) and (e)(5) for accuracy, relevance, timeliness, and completeness.

Judicial review is available for agency determinations to grant an individual access and to amend or not amend a record pertaining to the individual. While the definite burden of proof for granting access is upon the agency in such judicial review, in the judicial review of the refusal of an agency to amend a record there is no similar burden upon the agency. An analogous standard may be utilized by the agencies in establishing standards for review of individual requests for amendments of records. The burden of going forward could be placed upon the individual who in most instances will know better than the agency the reasons why the record should be amended. It would be appropriate, in agency regulations setting forth the standards they will use upon review of such request, that the individual be required to supply certain information in support of his request for amendment of the record. The request would then be

appropriate for resolution upon determination of preponderance of evidence.

If the agency agrees with the individual's request to amend a record, the agency shall—

Advise the individual;

Correct the record accordingly; and

Where an accounting of disclosures has been made, advise all previous recipients of the record of the fact that the correction was made and the substance of the correction.

If the agency, after its initial review of a request to amend a record, disagrees with all or any portion thereof, the agency shall

To the extent that the agency agrees with any part of the individual's request to amend, proceed as described above with respect to those portions of the record which it has amended.

Advise the individual of its refusal and the reasons therefor including the criteria for determining accuracy which were employed by the agency in conducting the review;

Inform the individual that he or she may request a further review by the agency head or by an officer of the agency designated by the agency head; and

Describe the procedures for requesting such a review including the name and address of the official to whom the request should be directed. The procedures should be as simple and brief as possible and should indicate where the individual can seek advice or assistance in obtaining such a review.

If the recipient of the corrected information is an agency and is maintaining the information which was corrected in a system of records, it must correct its records and, under subsection (c) (4), apprise any agency or person to which it had disclosed the record of the substance of the correction. Subsequent recipient agencies should similarly correct their records and advise those to whom they had disclosed it. Agencies are encouraged to establish in their regulations, time limits by which, except under unusual circumstances, transferees of any amendment to a record.

Requesting a Review of the Agency's Refusal To Amend a Record. Subsection (d) (3) "Permit the individual who disagrees with the refusal of the agency to amend his record to request a review of such refusal, and not later than 30 days (excluding Saturdays, Sundays, and legal public holidays) from the date on which the individual requests such review, complete such review, and make a final determination unless, for good cause shown, the head of the agency extends such 30-day period; and if, after his review, the reviewing official also refuses to amend the record in accordance with the request, permit the individual to file with the agency a concise statement setting forth the reasons for his disagreement with the refusal of the agency, and notify the individual of the provisions for judicial review of the reviewing official's determination under subsection(g) (1) (A) of this section;"

An individual who disagrees with an agency's initial refusal to amend a record may file a request for further review of that determination. The agency head or an officer of the agency designated in writing by the agency head should undertake an independent review of the initial determination. If someone other than the agency head is designated to conduct the review, it should be an officer who is organizationally independent of or senior to the officer or employee who made the initial determination. For purposes of this section, an "officer" is defined to be "* * * a justice or judge of the United States and an individual who is—

(1) Required by law to be appointed in the civil [or military]* service by one of the following acting in an official capacity—

[*It is assumed that, while the language above does not specifically cover it, a military officer otherwise qualified as the reviewing official would be permitted to serve as the reviewing official.]

(A) The President;

(B) A court of the United States;

(C) The head of an Executive agency; or

(D) The Secretary of a military department;

(2) Engaged in the performance of a Federal function under authority of law or an Executive act; and

(3) Subject to the supervision of an authority named by paragraph (1) of this section, or the Judicial Conference of the United States, while engaged in the performance of the duties of his office. (5 U.S.C. 2104(a)).

Delegations must be made in writing. In conducting the review, the reviewing official should use the criteria of accuracy, relevance, timeliness, and completeness discussed above. The reviewing official may, at his or her option, seek such additional information as is deemed necessary to satisfy those criteria; i.e., to establish that the record contains only that information which is necessary and is as accurate, timely, and complete as necessary to assure fairness in any determination which may be made about the individual on the basis of record.

Although there is no requirement for a formal hearing, pursuant to the provisions of 5 U.S.C. 556, the agency may elect generally or on a case by case basis to use such or similar procedures. The procedures elected by the agency, however, should insure fairness to the individual and promptness in the determination. The procedures should provide that as much of the information upon which the determination is based as possible is part of the written record concerning the appeal. The records of the appeal process should be maintained by agencies only as long as is reasonably necessary for purposes of judicial review of the agency's refusal to amend a record upon appeal.

If, after conducting this review, the reviewing official also refuses to amend the record in accordance with the individual's request, the agency shall advise the individual:

Of its refusal and the reasons therefor;

Of his or her right to file a concise statement of the individual's reasons for disagreeing with the decision of the agency;

Of the procedures for filing a statement of disagreement;

That any such statement will be made available to anyone to whom the record is subsequently disclosed together with, if the agency deems it appropriate, a brief statement by the agency summarizing its reasons for refusing to amend the record;

That prior recipients of the disputed record will be provided a copy of any statement of dispute to the extent that an accounting of disclosures was maintained (see subsection (c) (4)); and

Of his or her right to seek judicial review of the agency's refusal to amend a record provided for in subsection (g) (1) (A), below.

If the reviewing official determines that the record should be amended in accordance with the individual's request, the agency should proceed as prescribed in subsection (d) (2) (B) (i), above; namely, correct the record, advise the individual, and inform previous recipients.

A notation of a dispute is required to be made only if an individual informs the agency of his or her disagreement with the agency's determination under subsection (d) (3) (appeals procedure) not to amend a record.

A final agency determination on the individual's request for a review of an agency's initial refusal to amend a record must be completed within 30 days unless the agency head determines that a fair and equitable review cannot be completed in that time. If additional time is required, the individual should be informed in writing of the reasons for the delay and of the approximate date on which the review is expected to be completed. Such extensions should not be routine and should not normally exceed an additional thirty days. Agencies will be required to report the number of cases in which review was not completed within 30 days as part of the annual report (subsection (p)).

Disclosure of disputed information. Subsection (d) (4) "In any disclosure, containing information about which the individual has filed a statement of disagreement, occurring after the filing of the statement under paragraph (3) of this subsection, clearly note any portion of the record which is disputed and provide copies of the statement and, if the agency deems it appropriate, copies of a concise statement of the reasons of the agency for not making the amendments requested, to persons or other agencies to whom the disputed record has been disclosed";

When an individual files a statement disagreeing with the agency's decision not to amend a record, the agency should clearly annotate the record so that the fact that the record is disputed is apparent to anyone who may subsequently access, use, or disclose it. The notation itself should be integral to the record

and specific to the portion in dispute. For automated systems of records, the notation may consist of a special indicator on the entire record or the specific part of the record in dispute.

The statements of dispute need not be maintained as an integral part of the records to which they pertain. They should, however, be filed in such a manner as to permit them to be retrieved readily whenever the disputed portion of the record is to be disclosed.

If there is any question as to whether the dispute pertains to information being disclosed, the statement of dispute should be included.

When information which is the subject of a statement of dispute is subsequently disclosed, agencies must note that the information is disputed and provide a copy of the individual's statement.

Agencies may, at their discretion, include a brief summary of their reasons for not making a correction when disclosing disputed information. Such statements will normally be limited to the reasons stated to the individual under subsection (d)(2)(B)(ii) and (d)(3), above. Copies of the agency's statement need not be maintained as an integral part of the record but will be treated as part of the individual's record for purposes of granting the individual access, subsection (d)(1). However, the agency's statement will not be subject to subsections (d) (2) or (3) (amending records).

Access to Information Compiled in Anticipation of Civil Action. Subsection (d)(5) "Nothng in this section shall allow an individual access to any information compiled in reasonable anticipation of a civil action or proceeding."

This provision is not intended to preclude access by an individual to records which are available to that individual under other procedures (e.g., pre-trial discovery). It is intended to preclude establishing by this Act a basis for access to material being prepared for use in litigation other than that established under other processes such as the Freedom of Information Act or the rules of civil procedure.

Excerpts from the House floor debate on this provision suggest that this provision was not intended to cover access to systems of records compiled or used for purposes other than litigation.

Mr. ERLENBORN. Mr. Chairman, as I understand it, the purpose of the amendment is to protect, as an example, the file of the U.S. attorney or the solicitor that is prepared in anticipation of the defense of a suit against the United States for accident or some such thing?

Mr. BUTLER. That is the subject we have in mind.

Mr. ERLENBORN. I appreciate the gentleman's concern. I think it is a real concern, and that protection ought to be afforded.

The only problem I find with that amendment is this: It would presuppose we intended the defining of "record system" to preclude that type of record. I do not think we did.

If these sorts of records are to be considered a record system under the act, then the agency would have to go through all the formal proceedings of defining the system, its routine uses, and publishing in the FEDERAL REGISTER.

Frankly, I do not think the attorney's files that are collected in anticipation of a lawsuit should be subject to the application of the act in any instance, much less the access provision. It is our concern in the access provision that it may then presuppose it is covered in the other provisions, and I do not think it should be.

Mr. BUTLER. Mr. Chairman, I share the gentleman's concern. When this amendment was originally drafted, it stated "access to any record" and we struck the word, "record," and inserted "information."

So we made it perfectly clear we were not elevating an investigation with the word, "record," to the status of records. We did want to make it clear there was not to be such access, because that access would be within the usual rules of civil procedure.

Mr. ERLENBORN. Mr. Chairman, if the gentleman will yield further, it is the gentleman's contention, under his interpretation of the act, that the other provisions would not apply to the attorney's files as well; is that correct?

Mr. BUTLER. The gentleman is correct. (*Congressional Record*, November 21, 1974 p. H10955).

While the above passage refers primarily to the defense of suits by the government it is, of course, equally applicable to the assembly of information in anticipation of government-initiated law suits.

The mere fact that records in a system of records are frequently the subject of litigation does not bring those systems of records within the scope of this provision. The information must be "compiled in reasonable anticipation of a civil action or proceeding" and therefore the purpose of the compilation governs the applicability of this provision. It would seem that in a suit in which governmental action or inaction is challenged the provision generally would not be available until the initiation of litigation or until information began to be compiled in reasonable anticipation of such litigation. Where the government is prosecuting or seeking enforcement of its laws or regulations, this provision may be applicable at the outset if information is being compiled in reasonable anticipation of a civil action or proceeding. The term civil proceeding was intended to cover those quasi-judicial and preliminary judicial steps which are the counterpart in the civil sphere of criminal proceedings as opposed to criminal litigation. Although this provision could have the effect of an exemption it is not subject to the formal rule-making procedures which govern the exemptions set forth in subsection (j) and (k). Nevertheless, agencies should utilize the specific exemptions set forth in subsections (j) and (k) to the extent that they are applicable before utilizing this provision.

SECTION (e) AGENCY REQUIREMENTS

Section (e) "Each agency that maintains a system of records shall—"

Restrictions on Collecting Information about Individuals. Subsection (e)(1) "Maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or by executive order of the President;"

A key objective of the Act is to reduce the amount of personal information collected by Federal agencies to reduce the risk of intentionally or inadvertently improper use of personal data. In simplest terms, information not collected about an individual cannot be misused. The Act recognizes, however, that agencies need to maintain information about individuals to discharge their responsibilities effectively.

Agencies can derive authority to collect information about individuals in one of two ways:

By the Constitution, a statute, or Executive order explicitly authorizing or directing the maintenance of a system of records; e.g., the Constitution and title 13 of the United States Code with respect to the Census.

By the Constitution, a statute, or Executive order authorizing or directing the agency to perform a function, the discharging of which requires the maintenance of a system of records.

Each agency shall, with respect to each system of records which it maintains or proposes to maintain, identify the specific provision in law which authorizes that activity. While the Act does not specifically require it, where feasible, this statutory authority should also be cited in the annual public notice about the system published pursuant to subsection (e)(4). The authority to maintain a system of records does not give the agency the authority to maintain any information which it deems useful. Agencies shall review the nature of the information which they maintain in their systems of records to assure that it is, in fact, "relevant and necessary". Information may not be maintained merely because it is relevant; it must be both relevant and necessary. While this determination is, in the final analysis, judgmental, the following types of questions shall be considered in making such determinations:

How does the information relate to the purpose (in law) for which the system is maintained?

What are the adverse consequences, if any, of not collecting that information?

Could the need be met through the use of information that is not in individually identifiable form?

Does the information need to be collected on every individual who is the subject of a record in the system or would a sampling procedure suffice?

At what point will the information have satisfied the purpose for which it was collected; i.e., how long is it necessary to retain the information? Consistent with the Federal Records Act and related regulations could part of the record be purged?

What is the financial cost of maintaining the record as compared to the risks/adverse consequences of not maintaining it?

Is the information, while generally relevant and necessary to accomplish a statutory purpose, specifically relevant and necessary only in certain cases? For example in establishing financial need as part of assessing eligibility for a program for which need is a legitimate

criterion, parental income may be relevant only for certain applicants.

Subsection (e)(7), below, provides additional criteria governing the maintenance of records on the activities of individuals in exercising their rights under the First Amendment.

This provision does not authorize agencies to destroy records which they are required to retain under the Federal Records Act.

Agencies shall assess the legality of, need for, and relevance of the information contained or proposed to be contained in each of its systems of records at various times:

In preparing initial public notices (subsection (e)(4)).

In connection with the initial design of a new system of records (subsection (o)).

Whenever any change is proposed in system of records (subsection (o)).

At least annually, as part of a regular program of review of its record-keeping practices. This should be done for each system prior to reissuance of the public notice unless a comprehensive review of the system of records was conducted within the previous year in connection with the initiation of the system or implementation of a change to the system.

This provision does not require that each agency conduct a detailed review of the contents of each record in its possession. Rather, agencies shall consider the relevance of, and necessity for, the general categories of information maintained and, incident to using or disclosing any individual records, examine their content to assure compliance with this provision.

It should be noted that subsection (e) is not intended to interfere with the presentation of evidence by the parties before a quasi-judicial or quasi-legislative body. For example, a quasi-judicial board or commission need not reject otherwise admissible evidence because it is proffered by a part other than the individual to whom it relates or because it is not "necessary" to the decision or is not "complete." The normal rules of evidence would contains to govern in such situations.

Information is to be Collected Directly from the Individual. Subsection (e)(2) "Collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits and privileges under Federal programs;"

This provision stems from a concern that individuals may be denied benefits, or that other adverse determinations affecting them may be made by Federal agencies on the basis of information obtained from third party sources which could be erroneous, outdated, irrelevant, or biased. This provision establishes the requirement that decisions under Federal programs which affect an individual should be made on the basis of information supplied by that individual for the purpose of making those determinations but recognizes the practical limitations of this by qualifying the requirement with the words "to the extent practicable". The notion of protecting the individual against adverse determinations based on information supplied to other agencies for other purposes is also embodied in the provisions of subsection (b) which constrains the transfer of records between agencies; subsection (d)(2), which gives individuals the opportunity to challenge the accuracy of agency records pertaining to them; and subsection (e)(4) which prohibits the keeping of secret files.

Except for certain "statistical records" (subsection (a)(6)), which, by definition, are "not used in whole or in part in making a determination about an individual * * *", virtually any other record could be used, in making a "determination about an individual's rights, benefits, or privileges * * *" including employment. The practical effect of this provision is to require that information collected for inclusion in any system of records, other than "statistical records", should be obtained directly from the individual whenever practicable.

Practical considerations (including cost) may dictate that a third-party source, including systems of records maintained by another agency, be used as a source of information in some cases. In analyzing each situation where it proposes to collect personal information from a third party source, agencies should consider

The nature of the program; i.e., it may well be that the kind of information needed can only be obtained from a third party such as investigations of possible criminal misconduct;

The cost of collecting the information directly from the individual as compared with the cost of collecting it from a third party;

The risk that the particular elements of information proposed to be collected from third parties, if inaccurate, could result in an adverse determination;

The need to insure the accuracy of information supplied by an individual by verifying it with a third party or to obtain a qualitative assessment of his or her capabilities (e.g., in connection with reviews of applications for grants, contracts or employment); and

Provisions for verifying, whenever possible, any such third-party information with the individual before making a determination based on that information.

It should be noted that a determination by Agency (A) that it is in its best interest and consistent with this subsection to obtain information about an individual from Agency (B) instead of directly from the individual does not constitute, in and of itself, sufficient grounds for Agency (B) to release that information to Agency (A). Agency (B) is minimally required to meet the requirements of any statutory constraints on the permissibility of making a disclosure to Agency (A) including the conditions of disclosure, in subsection (b).

The standards and procedures set forth in the Federal Reports Act (44 USC 3501) as they apply to other than individuals as defined by this Act remain the same. When information is sought, however, from ten or more individuals, as defined by the Privacy Act, in response to identical questions, the Federal Reports Act requirement that the reporting burden upon individuals be reduced to a minimum should not be construed to override the later enacted requirement that, to the greatest practicable extent, information pertaining to individuals be collected directly from them.

Informing Individuals from Whom Information is Requested. Subsection (e)(3) "Inform each individual whom it asks to supply information, on the form which it uses to collect the information or on a separate form that can be retained by the individual—"

This provision is intended to assure that individuals from whom information about themselves is collected are informed of the reasons for requesting the information, how it may be used, and what the consequences are, if any, of not providing the information.

Implicit in this subsection is the notion of informed consent since an individual should be provided with sufficient information about the request for information to make an informed decision on whether or not to respond. Note however, that the act of informing the individual of the purpose(s) for which a record may be used does not, in and of itself, satisfy the requirement to obtain consent for disclosing the record. See subsection (b), conditions of disclosure.

The information called for in paragraphs (A) through (D) below, should be included on the information collection form, on a tear-off sheet attached to the form, or on a separate sheet which the individual can retain, whichever is most practical. When information is being collected in an interview, the interviewer should provide the individual with a statement that the individual can retain. However, the interviewer should also orally summarize that information before the interview begins. Agencies may, at their discretion, ask the individuals to acknowledge in writing that they have been duly informed.

While this provision does not explicitly require it, agencies should, where feasible, inform third-party sources of the purposes for which information which they are asked to provide will be used. In addition, the agency may, under certain circumstances, assure a source that his or her identity will not be revealed to the subject of the record (see subsection (k)(2), (5), and (7)). The appropriate use of third-party sources is discussed in subsection (e)(2) above.

In providing the information required by subsections (e)(3)(A) through (D), below, care should be exercised to assure that easily understood language is used and that the material is explicit and informative without being so lengthy as to deter an individual from reading it. Information provided pursuant to this requirement would not, for example, be as extensive as that contained in the system notice (subsection (e)(4)).

It was not the intent of this subsection to create a right the nonobservance of which would preclude the use of the

information or void an action taken on the basis of that information. For example, a failure to comply with this section, in collecting crop yield data from a farmer, was not intended to vitiate a crop import quota based, in part, upon such information. However, such an individual may have grounds for civil action under subsection (g)(1)(D) if he can show harm as a result of that determination.

Subsection (e)(3)(A) "The authority (whether granted by statute, or by executive order of the President) which authorizes the solicitation of the information and whether disclosure of such information is mandatory or voluntary;"

The agency should cite the specific provision in statute or Executive order which authorizes the agency to collect the requested information (see subsection (e)(1) above), the brief title or subject of that statute or order, and whether or not the collecting agency is required to impose penalties for failing to respond or is authorized to impose penalties. Where the system is maintained pursuant to some more general requirement or authority, it should be cited. The question of whether compliance is mandatory or voluntary is different from the question of whether there are any consequences of not providing information; i.e., the law may not require individuals to apply for a benefit but clearly, for some types of voluntary programs, to apply without supplying certain minimal information might preclude an agency from making an informed judgment and thereby prevent an individual from obtaining a benefit. (See subsection (e)(3)(D) regarding the requirements to inform individuals of the effects, if any, of not providing information.)

In some instances it may be necessary to include required and optional information on the same data collection form. This should be avoided to the extent possible since the likely effect on some respondents may be coercive; i.e., they may fear that, even though portions of an information request are voluntary, by failing to respond, they may be perceived to be uncooperative and their opportunities would thereby be prejudiced. (See 44 U.S.C. 3511, the Federal Reports Act.)

Subsection (e)(3)(B) "The principal purpose or purposes for which the information is intended to be used;"

The individual should be informed of the principal purpose(s) for which the information will be used; e.g., to evaluate suitability, to issue benefit payments. The description of purpose(s) must include all major purposes for which the record will be used by the agency which maintains it and particularly those likely to entail determinations as to the individual's rights, benefits, etc. As in all other portions of the information collection process, purposes should be stated with sufficient specificity to communicate to an individual without being so lengthy as to discourage reading of the notice. Generally, the purposes will be directly related to, and necessary for, the purpose authorized by the statute or executive order cited above.

Subsection (e)(3)(C) "The routine uses which may be made of the information, as published pursuant to paragraph (4)(D) of this subsection; and"

"Uses" can be distinguished from "purposes" in that "purposes" describe the objectives for collecting or maintaining information, whereas "uses" are the specific ways or processes in which the information is employed including the persons or agencies to whom the record may be disclosed. For example, the purposes for collecting information may be to evaluate an application for a veterans' benefit and issue checks. Uses might include verification of certain information with the Department of Defense and release of check-issue data to the Treasury Department, or disclosure to the Justice Department that the applicant apparently intentionally provided false or misleading information.

The term "routine use" is defined in subsection (a)(7) to mean the disclosure of a record "* * * for a purpose which is compatible with the purpose for which it was collected." A "routine use" is one which is relatable and necessary to a purpose described pursuant to subsection (e)(3)(B), and involves disclosure outside the agency which maintains the record. "Routine uses" must be included not only in the public notice about the system of records published in accordance with subsection (e)(4), below, but also established in advance by notice in the FEDERAL REGISTER to permit public comment. See subsection (e)(11), below.

The description of "routine uses" provided to the individual at the time information is collected will frequently be a summary of the material published in the public notice pursuant to subsection (e)(4)(D). As with other portions of the notification to the individual, care should be exercised to tailor the length and tone of the notice to the circumstances; i.e., the public notice published pursuant to subsection (e)(4) can be much more detailed than the notice to the individual appended to an information collection form.

Subsection (e)(3)(D) "The effects on him, if any, of not providing all or any part of the requested information";

The intent of this subsection is to allow an individual from whom personal information is requested to know the effects (beneficial and adverse), if any, of not providing any part or all of the requested information so that he or she can make an informed decision as to whether to provide the information requested on an information collection form or in an interview.

The individual should be informed of the effects, if any, of not responding. This should be stated in a manner which relates to the purposes for which the information is collected; e.g., the information is needed to evaluate disabled veterans for special counseling and training and if it is not provided, no additional training will be considered but disability annuities payments will continue. Particular care must be exercised in the drafting of the wording of the notice to assure that the respondent to the information request is not misled or inadvertently coerced.

Publication of the Annual Notice of Systems of Records. Subsection (e)(4) "Subject to the provisions of paragraph (11) of this subsection, publish in the FEDERAL REGISTER at least annually a notice of the existence and character of the system of records, which notice shall include—"

The public notice provision is central to the achievement of one of the basic objectives of the Act; fostering agency accountability through a system of public scrutiny. The public notice provision is premised on the concept that there should be no system of records whose very existence is secret.

The purposes of the notice are to inform the public of the existence of systems of records;

The kinds of information maintained;

The kinds of individuals on whom information is maintained;

The purposes for which they are used; and

How individuals can exercise their rights under the Act.

All systems of records maintained by an agency are subject to the annual public notice requirement. (The general and special exemption sections permit agencies to omit portions of the notice for certain systems. They do not exempt any agency from publishing a public notice on any system of records).

Care must be exercised to assure that the tone, language, level of detail and length of the public notice are considered to assure that the notice achieves the objective of informing the public of the nature and purposes of agency systems of records.

Defining what constitutes a "system" for purposes of preparing a notice will be left to agency discretion within the general guidelines contained herein. (See also subsection (a)(5)). A system can be a small group of records or, conceivably, the entire complex of records used by an agency for a particular program. Several factors bear on the determination by the agency as to what will constitute a system:

If each small grouping of records is treated as a separate system, then public notices and procedures will be required for each. The publication of numerous notices may have the effect of limiting the information value to the public.

If a large complex of records is treated as a single system, only one notice will be required but that notice and the procedures may be considerably more complex.

Agencies can expect to be required to respond to individual requests for access to records pertaining to them at the level of detail in their public notices, i.e., if an agency treats its records for a particular program as a single system, it may be called upon by an individual to be given access to all information in records pertaining to that individual in the system.

The purpose(s) of a system is the most important criterion in determining whether a system is to be treated as a single system or several systems for the purposes of the Act. If each of several groupings of agency records is used for a

unique purpose or set of purposes, as delineated in subsection (e)(3)(B) above, each may appropriately be treated as a separate system. Agencies should keep in mind that a major purpose of the Act is not the restructuring of existing systems of records, but rather the publicizing of what those systems are and how they are used. It does not, of course, preclude such restructuring where otherwise necessary or appropriate such as to reduce the risk of improper access.

Geographic decentralization will not in and of itself be considered a criterion for viewing a system of records as several systems. An agency may treat a decentralized system as a single system and specify several locations and an agency official responsible for the system at each location. See subsections (e)(4)(A) and (F). While the development of central indexes for systems which do not presently require such indexes should be avoided wherever possible, individuals who seek to learn whether a geographically decentralized system of records contains a record pertaining to them (subsection (f)(1)) should not be required to query each location. (In deciding whether or not to construct an index, agencies must weigh the potential threat of misuse posed by making individual records more accessible against the capability to meet the needs of those individuals for access to their records). It may, however, be possible to guide individuals as to which location may have a record pertaining to them; e.g., systems segmented by location of birth, or by range of identification number. In any case, "if a system is located in more than one place, each location must be listed." (House Report 93–1416, p. 15) See subsection (e)(4)(A).

A major criterion in determining whether a grouping of records constitutes one system or several, for purposes of the Act, will be the ability to be responsive to the requests of the individual for access to records and generally to be informed.

Systems, however, should not be subdivided or reorganized so that information which would otherwise have been subject to the act is no longer subject to the act. For example, if an agency maintains a series of records not arranged by name or personal identifier but uses a separate index file to retrieve records by name or personal identifier it should not treat these files as separate systems.

A public notice is required to be published:

For each system in operation on September 27, 1975 on or prior to that date and the notice shall be republished, including any revisions, on or before August 30, each year thereafter.

For new systems, before the system of records becomes operational; i.e., before any information about individuals is collected.

It should be noted that each "routine use" of a system must have been established in a notice published for public comment at least 30 days prior to the disclosure of a record for that "routine use" as specified in subsection (e)(11).

For major changes to existing systems, a revised public notice is required before that change is effective. If the change to an existing system involves changes to "routine uses", they are subject to the 30 day advance notice provisions of subsection (e)(11). The nature of the changes in a system which would require the issuance of a revised public notice before the next annual public notice is described for each element of the public notice in the succeeding paragraphs. Generally, any change in a system which has the effect of expanding the categories of records maintained, the categories of individuals on whom records are maintained, or the potential recipients of the information, will require the publication of a revised public notice before the change is put into effect. In addition, any modification that alters the procedures by which individuals exercise their rights under the Act (e.g., for gaining access) will require the publication of a revised notice before that change becomes effective.

Changes of the type described above will typically also require the preparation of a "Report on New Systems" under subsection (o), below. Any other change will be incorporated into the next annual revision of the notice.

The General Services Administration (Office of the Federal Register) will issue more detailed guidance on the formats to be used by agencies in publishing their public notices. The formats prescribed by GSA are to be used to facilitate the annual compilation of the notices and to assure that notices are produced in a consistent manner to make them more useful to the public.

Describing the Name and Location of the System in the Public Notice. Subsection (e)(4)(A) "The name and location of the system"

Agencies will specify each city/town and site at which the system of records is located. For a geographically dispersed system each location should be listed. A change in the list of locations will not require publication of a revised notice.

While the House report language cited above clearly indicated that the location of each site at which the system is maintained is to be listed, exceptional situations may dictate not including the listing in the body of the notice; e.g., military personnel records which are kept at several hundred installations or certain farmer records which are kept at several thousand county extension agent offices. To include the list of locations in each applicable notice would only serve to inflate the size and thereby reduce the readability of the notice. In these instances, it may be appropriate to publish a single list of field stations, or to refer in the notice for all systems at those sites to a list which is generally available.

Describing Categories of Individuals in the Public Notice. Subsection (e)(4)(B) "The categories of individuals on whom records are maintained in the system;"

"The purpose of this requirement is for an individual to determine if information on him might be in [the] system. The description of the categories should therefore be clearly stated in non-technical terms understandable to individuals unfamiliar with data collection techniques." (House Report 93–1416, p. 15). For example, the notice might indicate that the records are maintained on students who applied for loans under a student loan program, not persons who filed form X or who are eligible under section ABC–000.

Any change which has the effect of adding new categories of individuals on whom records are maintained will require publication of a revised public notice. If, in the absence of a revised notice, an individual who is the subject of a record in the system would not recognize that fact, a revision should be issued before that change is put into effect. A narrowing of the coverage of the system does not require advance issuance of a revised notice.

Describing Categories of Records in the Public Notice. Subsection (e)(4)(C) "The categories of records maintained in the system;"

This portion of the notice should briefly describe the types of information contained in the system; e.g., employment history or earnings records. As with the previous item, non-technical terms should be used. The addition of any new categories of records not within the categories described in the then current public notice will require the issuance of a revised public notice before that change is put into effect. The addition of a new data element clearly within the scope of the categories in the notice would not require the issuance of a revised notice.

Describing Routine Uses in the Public Notice. Subsection (e)(4)(D) "Each routine use of the records contained in the system, including the categories of users and the purpose of such use;"

In describing the "routine uses" of the system in the public notice, the notice should be sufficiently explicit to communicate to a reader unfamiliar with the technical aspects of the system or the agency's program.

For a more extensive discussion of "routine uses," see subsections (a)(7) (definitions), (b)(3) (conditions of disclosure), (e)(3)(C) (notification to the individual), and (e)(11) (notice of routine uses).

Any new use or significant change in an existing use of the system which has the effect of expanding the availability of the information in the system will require publication of a revised public notice. Any such change in a routine use must also be described in a notice in the FEDERAL REGISTER to permit public comment before it is implemented.

Describing Records Management Policies and Practices in the Public Notice. Subsection (e)(4)(E) "The policies and practices of the agency regarding storage, retrievability, access controls, retention, and disposal of the records";

This portion of the public notice should describe how the records are maintained, how they are safeguarded, what categories of officials within the agency are permitted to have access, and how long records are retained both on the agency's premises and at secondary storage sites.

In describing record "storage", the agency should indicate the medium in which the records are maintained (e.g., file folders, magnetic tape). "Retrievability" covers the capabilities in the system of records to index and access a record (e.g., by name, combinations of personal characteristics, identification numbers). "Access controls" describes, in general terms, what measures have been taken to prevent unauthorized disclosure of records (e.g., physical security, personnel screening) and what categories of individuals within the agency have access. "Retention" and "disposal" cover the rules on how long records are maintained, if and when they are moved to a Federal Records Center or to the Archives, if and how they are destroyed. The description shall not describe security safeguards in such detail as to increase the risk of unauthorized access to the records.

Changes in this item will not normally require immediate publication of a revised public notice unless they reflect an expansion in the availability of or access to the system of records.

Identifying Official(s) Responsible for the System in the Public Notice. Subsection (e)(4)(F) "The title and business address of the agency official who is responsible for the system of records";

This portion of the notice must include the title and address of the agency official who is responsible for the policies and practices governing the system described in (e)(4)(E), above. For geographically dispersed systems, where individuals must deal directly with agency officials at each location in order to exercise their rights under the Act (e.g., to gain access), the title and address of the responsible official at each location should be listed in addition to the agency official responsible for the entire system. See discussion of subsection (e)(4)(A), above, for special treatment of certain multiple location systems.

A revised public notice shall be issued before the implementation of any change in the address to which individuals may present themselves in person to inquire whether they are the subject of a record in the system or to seek access to a record or in the address to which individuals may mail inquiries, unless the agency has established internal procedures to assure that mail will be forwarded promptly so that the agency will be able to respond to inquiries within the time constraints established in subsection (d). Generally, changes of this type in the interim between the annual publications of the compilation of notices should be avoided if at all possible. Individuals are more likely to rely upon the annual compilation and are not as likely to be aware of modifications publicized only by means of separate notice in the FEDERAL REGISTER.

Describing Procedures for Determining if a System Contains a Record on an Individual in the Public Notice. Subsection (e)(4)(G) "The agency procedures whereby an individual can be notified at his request if the system of records contains a record pertaining to him;"

This portion of the notice should specify as a minimum, the following:

The address of the agency office to which inquiries should be addressed or addresses of the location(s) at which the individual may present a request in person. Wherever practicable, this list should be the same as the list of officials responsible for the system in subsection (e)(4)(F), above. If this is the case, it need not be reported.

What identifying information is required to ascertain whether or not the system contains a record about the inquirer.

The agency may require proof of identity only where it has made a determination that knowledge of the fact that a record about an individual exists would not be required to be disclosed to a member of the public under section 552 of title 5 of the United States Code (the Freedom of Information Act). For example, an agency may determine that disclosure of a record in a file pertaining to conflicts of interests would be a clearly unwarranted invasion of personal privacy, within the meaning of 5 U.S.C. 552 (b)(6), and in this instance the agency may require proof of identity.

A revised public notice will be issued before effecting any change which meets the criteria outlined in subsection (e)(4)(F), above.

This portion of the notice must be consistent with agency rules promulgated pursuant to subsection (f)(1). Any change in these procedures is subject to the requirements of the Administrative Procedure Act as specified in subsection (f).

Describing Procedures for Gaining Access in the Public Notice. Subsection (e)(4)(H) "The agency procedures whereby an individual can be notified at his request how he can gain access to any record pertaining to him contained in the system of records, and how he can contest its content; and"

This portion of the public notice must include the mailing address(es) and, if possible, the telephone number(s) of official(s) who can provide assistance; and the location of offices to which the individual may go to seek information.

This provision does not specifically require that the actual procedures for obtaining access or for contesting the accuracy of a record be included in the public notice. It only requires that individuals be advised of the means by which they can obtain information on those procedures. However, it should be noted that, pursuant to subsection (f), agencies are required to publish rules which stipulate the procedures whereby the individual can exercise each of these rights and that these rules are required to be incorporated into the annual compilation of notices and rules published by the Office of the Federal Register.

A revised public notice shall be issued before effecting any change about which the individual would have to know in order to exercise his or her rights under the Act. Changes of this type in the interim between the annual publications of the compilation of notices should be avoided if at all possible.

This portion of the notice must be consistent with agency rules promulgated pursuant to subsections (f)(2) and (3). Any change in these procedures is subject to the requirements of the Administrative Procedure Act as specified in subsection (f).

Describing Categories of Information Sources in the Public Notice. Subsection (e)(4)(I) "The categories of sources of records in the system;"

For systems of records which contain information obtained from sources other than the individual to whom the records pertain, the notice should list the types of sources used; e.g.,

Previous employers,

Financial institutions,

Educational institutions attended, or

Peer reviewers (such as in connection with records of the review of proposals for research projects)

The notice should indicate if the individual to whom the records pertain is a source of the information in the record. Otherwise all the notices will appear to be violating the reqiurement that individuals be the main source of information pertaining to them.

Specific individuals or institutions need not be identified. Guidance on when the identity of a source may be withheld is contained in subsection (k)(2), (5) and (7).

Standards of Accuracy. Subsection (e)(5) "Maintain all records which are used by the agency in making any determination about any individual with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in the determination;"

The objective of this provision is to minimize, if not eliminate, the risk that an agency will make an adverse determination about an individual on the basis of inaccurate, incomplete, irrelevant, or out-of-date records that it maintains. Since the final determination as to accuracy is necessarily judgmental, it is particularly critical that this judgment be made with an understanding of the intent of the Act.

The Act recognizes the difficulty of establishing absolute standards of data quality by conditioning the requirement with the language "as is reasonably necessary to assure fairness to the individual * * *." This places the emphasis on assuring the quality of the record in terms of the use of the record in making decisions affecting the rights, benefits, entitlements, or opportunities (including employment) of the individual.

A corollary provision (subsection (e)(6), below) requires that agencies apply the same standard to records which are disclosed, except when they are disclosed to a member of the public under the Freedom of Information Act or to another agency. (An agency would be sub-

ject to the Act and, therefore, would have to apply its own standards of accuracy, etc.)

Agencies may develop tolerances for "accuracy" and "timeliness" giving consideration to the likelihood that errors within those tolerances could result in an erroneous decision with adverse consequences to the individual (e.g., denial of rights, benefits, entitlements, or employment). For example, for its purposes in determining entitlements based on income, it may only be necessary for an agency to record the fact that income was greater than or less than a stipulated level rather than to ascertain and record the precise amount. In questionable instances, reverification of pertinent information with the individual to whom it pertains may be appropriate.

Useful criteria for assuring "relevance" and "completeness" may be somewhat more difficult to develop. The pursuit of "completeness" could result in the collection of irrelevant information which, if taken into account in making an agency determination could prejudice the decision. Agencies must limit their records to those elements of information which clearly bear on the determination(s) for which the records are intended to be used, and assure that all elements necessary to the determinations are present before the determination is made.

Validating Records Before Disclosure. Subsection (e)(6) "Prior to disseminating any record about an individual to any person other than an agency, unless the dissemination is made pursuant to subsection (b)(2) of this section, make reasonable efforts to assure that such records are accurate, complete, timely, and relevant for agency purposes;"

While the Act recognizes that an agency cannot guarantee the absolute accuracy of its systems of records, any record disclosed to a person outside the agency (except another agency) must be as accurate as appropriate for purposes of the agency which maintained the record. (See subsection (e)(5)). The only exceptions to this requirement are for disclosures to another agency or to the public under the Freedom of Information Act which may not be delayed or impeded.

Recognizing that an agency properly disclosing information (pursuant to subsection (b), conditions of disclosure) is often not in a position to evaluate acceptable tolerances of error for the purposes of the recipient of the information, the primary objective of this provision is, nonetheless, to assure that reasonable efforts are made to assure the quality of records disclosed to persons who are not subject to the provisions of subsection (e)(5). The agency must, therefore, make reasonable efforts to assure that a record it discloses is as accurate, relevant, timely, and complete as would be reasonably necessary to assure fairness in any determination that it might make on the basis of that record. It may, for example, be appropriate to advise recipients that the information disclosed was accurate as of a specific date, such as the last date on which a determination was made by the agency on the basis of the record or of other known limits on its accuracy e.g., its source.

Records on Religious or Political Activities. Subsection (e)(7) "Maintain no record describing how any individual exercises rights guaranteed by the First Amendment unless expressly authorized by statute or by the individual about whom the record is maintained or unless pertinent to and within the scope of an authorized law enforcement activity;"

Whereas subsection (e)(1) generally enjoins agencies from collecting information not "relevant and necessary to accomplish a purpose of the agency," this provisions establishes an even more rigorous standard governing the maintenance of records regarding the exercise of First Amendment rights. These include, but are not limited to religious and political beliefs, freedom of speech and of the press, and freedom of assembly and petition.

In determining whether or not a particular activity constitutes the exercise of a right" guaranteed by the First Amendment", agencies will apply the broadest reasonable interpretation.

Records describing the exercise of these rights may be maintained only if one of the following conditions is met:

A statute specifically authorizes it. Specific authorization means that a statute explicitly provides that an agency may maintain records on activities whose exercise is covered by the First Amendment; not merely that the agency is authorized to establish a system of records. However, the statute need not address itself specifically to the maintenance of records of First Amendment activities if it specifies that such activities are relevant to a determination concerning the individual. For example, since the Immigration and Nationality Act makes the possibility of religious or political persecution relevant to a stay of deportation, the information on these subjects may be admitted in evidence, and therefore would not be prohibited by this provision.

The individual expressly authorizes it; e.g., a member of the armed forces may indicate a religious preference so that, if seriously injured or killed while on duty, the proper clergyman can be called. The individual may also volunteer such information and if he does so, the agency is not precluded from accepting and retaining it. Thus, if an applicant for political appointment should list his political affiliation, association memberships, and religious activities, the agency may retain this as part of his application file or include it in an official biography. Similarly, if an individual volunteers information on civic or religious activities in order to enhance his chances of receiving a benefit, such as executive clemency, the agency may consider information thus volunteered. However, nothing in the request for information should in any way suggest that information on an individual's First Amendment activities is required.

The record is required by the agency for an authorized law enforcement function.

In the discussions on the floor of the House regarding the authority to maintain such records for law enforcement purposes, it was stated that the objective of the law enforcement qualification on the general prohibition was "to make certain that political and religious activities are not used as a cover for illegal or subversive activities." However, it was agreed that "no file would be kept of persons who are merely exercising their constitutional rights * * *" and that in accepting this qualification "there was no intention to interfere with First Amendment rights" (*Congressional Record*, November 20, 1974, H10892 and November 21, 1974, H10952)

Notification for Disclosures under Compulsory Legal Process. Subsection (e)(8) "Make reasonable efforts to serve notice on an individual when any record on such individual is made available to any person under compulsory legal process when such process becomes a matter of public record;"

When a record is disclosed under compulsory legal process (e.g., pursuant to subsection (b)(11)), and the issuance of that order or subpoena is made public by the court or agency which issued it, agencies must make reasonable efforts to notify the individual to whom the record pertains. This may be accomplished by notifying the individual by mail at his or her last known address. The most recent address in the agency's records will suffice for this purpose and no separate address records are required. Upon being served with an order to disclose a record, the agency should endeavor to determine whether the issuance of the order is a matter of public record and, if it is not, seek to be advised when it becomes public. An accounting of the disclosure, pursuant to subsection (c)(1), is also required to be made at the time the agency complies with the order or subpoena.

Rules of Conduct for Agency Personnel. Subsection (e)(9) "Establish rules of conduct for persons involved in the design, development, operation, or maintenance of any system of records, or in maintaining any record, and instruct each such person with respect to such rules and the requirements of this section, including any other rules and procedures adopted pursuant to this section and the penalties for noncompliance;"

Effective compliance with the provisions of this Act will require informed and active support of a broad cross section of agency personnel. It is important that all personnel who in any way have access to systems of records or who are engaged in the development of procedures or systems for handling records, be informed of the requirements of the Act and be adequately trained in agency procedures developed to implement the Act. Personnel with particular concerns include, but are not limited to, those engaged in personnel management, paperwork management (reports, forms, records, and related functions), computer systems development and operations, communications, statistical data collec-

tion and analysis, and program evaluation. (The Communications Act of 1934 prescribes standards and penalties for personnel engaged in handling interstate communications and shall also be consulted, where applicable, when agency rules of conduct are being developed).

Activities under this provision will include

The incorporation of provisions on privacy into agency standards of conduct;

The discussion of individual employee responsibilities under the Act in general personnel orientation programs; and

The incorporation of training on the specific procedural requirements of the Act into both formal and informal (on-the-job) training programs.

Concurrently, those agencies with broad policy development and training responsibilities (e.g., the General Services Administration, the Civil Service Commission) will also be revising their programs as appropriate to augment agency activities in this area.

This provision is also important in ensuring that individuals who are potentially criminally liable or whose actions could expose the agency to civil suit (under subsections (i) and (g), respectively) are fully informed of their obligations under the Act.

Administrative, Technical and Physical Safeguards. Subsection (e)(10) "Establish appropriate administrative, technical, and physical safeguards to insure the security and confidentiality of records and to protect against any anticipated threats or hazards to their security or integrity which could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom information is maintained;"

The development of appropriate administrative, technical, and physical safeguards will, necessarily, have to be tailored to the requirements of each system of records and other related requirements for security and confidentiality. The need to assure the integrity of and to prevent unauthorized access to, systems of records will be determined not only by the requirements of this Act but also by other factors like the requirement for continuity of agency operations, the need to protect proprietary data, applicable access restrictions to protect the national security, and the need for accuracy and reliability of agency information.

While the technology of system security (both for computer-based and other systems of records) is well developed as it relates to materials classified for reason of national defense or foreign policy, few standards currently exist to guide the "civil" agency in this area. Until such standards are developed and promulgated, agencies will be required to analyze each system as to the risk of improper disclosure of records and the cost and availability of measures to minimize those risks. The Department of Commerce (National Bureau of Standards) will be issuing guidelines and standards to assist agencies in evaluating various technological approaches to providing security safeguards in their system and for assessing risks.

Notice for New/Revised Routine Uses. Subsection (e)(11) "At least 30 days prior to publication of information under paragraph (4)(D) of this subsection, publish in the FEDERAL REGISTER notice of any new use or intended use of the information in the system, and provide an opportunity for interested persons to submit written data, views, or arguments to the agency."

Agencies are required to publish in the FEDERAL REGISTER a notice of their intention to establish "routine uses" for each of their systems of records. Although this provision is designed to supplant the informal rule-making provisions of 5 U.S.C. 553, the accommodation of the public comments in the judicial review of the rule-making exercise was intended wherever practicable. Agencies should furnish as complete an explanation of the routine uses and any changes made or not made as a result of the public comment as possible so that the public will be fully informed of the proposed use. This is to give the public an opportunity to comment on the appropriateness of those uses before they come into effect. This notice should be published sufficiently in advance of the proposed effective date of the use to permit time for the public to comment and for the agency to review those comments, but in no case may a new "routine use" be used as the basis for a disclosure less than 30 days after the publication of the "routine use" notice in the FEDERAL REGISTER. A revised public notice (subsection (e)(4)) must be published before a "routine use" is put into effect; i.e., before a record is disclosed for such a use.

It is clearly permissible to publish the entire system notice (prescribed by subsection (e)(4)) as the notice of "routine use" provided that such "routine uses" are not put into effect until the required 30 day notice period. If an entire system notice is not published, the notice of "routine use" issued pursuant to subsection (e)(11) must, as a minimum, contain

The name of the system of records for which the "routine use" is to be established;

Where feasible, the authority for the system (see discussion of subsection (e)(1), and the required notice to the individual in subsection (e)(3)(A)), above);

The categories of records maintained;

The proposed "routine use(s)";

And the categories of recipients for each proposed "routine use".

For new "routine uses" of systems for which a public notice under subsection (e)(4) has already been published, reference should be made to that public notice.

A notice in the FEDERAL REGISTER inviting public comment on a proposed new "routine use" is required.

For all existing systems of records not later than August 28, 1975. (Since 30 days advance notice of a "routine use" is required, an agency that fails to publish necessary notices for existing systems on or prior to August 28 may find that it is precluded from making necessary interagency transfers until it has complied with this provision);

For an existing system of records, whenever a new "routine use" is proposed. A new "routine use" is one which involves disclosure of records for a new purpose compatible with the purpose for which the record is maintained or to a new recipient or category of recipients (even if other uses are concurrently curtailed); and

For any new systems of records for which "routine uses" are contemplated.

SECTION (f) AGENCY RULES

Subsection (f) "In order to carry out the provisions of this section, each agency that maintains a system of records shall promulgate rules, in accordance with the requirements (including general notice) of section 553 of this title, which shall—"

Agencies must promulgate rules to implement the provisions of the Act in accordance with the requirements of section 553 of title 5 of the United States Code including publication of the rules in the FEDERAL REGISTER so that interested persons can have an opportunity to comment. A "rule" is defined as "the whole or a part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the organization, procedures, or practice requirements of agency * * *" (5 U.S.C. 551(4)). Formal hearings are not required with respect to rules issued under this section. However, formal hearings are not precluded by this section and, in particular instances, agencies may elect to use the formal hearing procedure.

Two distinct objectives must be satisfied by the rules promulgated pursuant to this subsection:

They must provide the public with sufficient information to understand how an agency is complying with the law; and

They must provide sufficient information for individuals to exercise their rights under the Act.

Rules promulgated under this subsection differ from notices under subsection (e) in several ways:

Rules promulgated under this subsection are subject to requirements of section 553 of the Administrative Procedure Act governing the publication of proposed rules for public comment before issuing them as final rules.

Rules must only be published twice—as notice of rule making and when they are promulgated as final rules-unless they are subsequently modified. (They will, however, be included in an annual compilation published by GSA.)

A separate set of rules need not be published for each system of records that an agency maintains. The development of a single set of agency rules is encouraged wherever appropriate.

Agencies are required to publish proposed rules under this subsection allowing at least 30 days for public comment prior to publishing them as final rules. (For systems which will be in use on September 27, 1975, agencies will have

to publish rules not later than August 28, 1975.) No further republication of agency rules is required (other then their inclusion in the annual compilation published by the office of the Federal Register) unless a change is proposed.

The language of subsection (f) explicitly requires "general notice;" i.e., section 553(b) of title 5 which permits agencies not to publish a general notice if "persons subject thereto are named and either personally served or otherwise have actual notice * * *." shall not apply to rules promulgated under this subsection. Agencies should also be aware of the fact that, although the presumption is of the validity of the proposed rule, judicial review under the Administrative Procedure Act will be available to assure against arbitrary or capricious actions.

Rules for Determining if an Individual is the Subject of a Record. Subsection (f)(1) "Establish procedures whereby an individual can be notified in response to his request if any system of records named by the individual contains a record pertaining to him;"

The procedures for individuals to determine if a system of records contains records pertaining to them should be kept as simple as possible. The published procedures should specify—

To whom the request should be directed. As discussed above (subsection (e)(4)), for geographically decentralized systems, the individual should not be required to query each location unless the individual can reasonably be expected to be able to discern which location would have a record if one existed; e.g., by place of birth, place of employment. While the development of central indexes to satisfy the requirements of this provision is discouraged, such indexes may be necessary in some instances.

The information necessary to identify the record. Where the system employs a specialized identification scheme, the individual should not be required to provide such a number or symbol as an absolute requirement, although the individual might be requested to supply it if he or she can reasonably be expected to know it. Instead, alternative combinations of personal characteristics may be used to identify individuals who may have lost, forgotten, or are unaware of their identification numbers or symbols. For example, the combination of name, date of birth, place of birth, and father's first name may be sufficient to identify an individual without the use of a system identification number. As was suggested above, the development of new retrieval and indexing capabilities is not encouraged, rather agencies should exploit existing capabilities to serve individual needs. Restrictions on the use of the Social Security Number as an identifier established by Section 7 of this Act should also be noted where applicable.

Any requirements for verification of identity. These may only be imposed when the fact of the existence of a record would not be required to be disclosed under the Freedom of Information Act (5 U.S.C. 552).

Agency procedures should provide for acknowledgement of the inquiry within 10 days (excluding Saturdays, Sundays, and legal public holidays).

Rules for Handling Requests for Access. Subsection (f)(2) "Define reasonable times, places, and requirements for identifying an individual who requests his record or information pertaining to him before the agency shall make the record or information available to the individual;"

The development of procedures for individuals to identify themselves for the purposes of gaining access to their records will necessarily vary depending on the nature, location, and sensitivity of the records in the system. Care must be exercised to assure that the requirements for verification of identity are not so cumbersome as to prevent individuals from gaining access to records to which they are entitled to have access. The requirements pertaining to verification of identity contained in subsection (f)(1), above, should also be noted.

"Reasonableness" will be measured in terms of

The risk of access being granted to an individual who is not entitled to access weighed against the probable harm (including embarrassment) to the individual to whom the record pertains which would result from unauthorized access; and

The standards for verification of identity which a typical individual about whom record is maintained could be expected to meet.

When agencies specify that individuals may (or must) present themselves in person to verify their identity, hours and locations specified should take into account the kinds of individuals about whom records are maintained. For example, it may be appropriate to ask a current employee who seeks access to his record to present himself to the agency personnel office during normal working hours. No requirements may be established which would have the effect of impeding an individual in exercising his or her right to access.

Agencies which maintain systems of records on widely dispersed groups of individuals and which have field offices equipped to do so, are encouraged to use those offices as sites at which an individual can present a request for access even though his or her records may not be maintained at any one of those field offices. The information necessary to identify individuals should be kept to the absolute minimum and neither this provision nor any other provision of the Act should be used for the purpose of acquiring and storing additional information about an individual.

The published rules prescribing procedures for verification of identity will include—

A list of the locations and/or mailing addresses of locations to which the request may be presented;

When in-person verification is required or permitted, the hours when those locations are open (including the dates of holidays on which they are closed); and

Documents which the agency will require, if any, to establish the identity of the individual (specifying as many alternatives as possible).

Rules for Granting Access to Records. Subsection (f)(3) "Establish procedures for the disclosure to an individual upon his request of his record or information pertaining to him, including special procedure [sic], if deemed necessary, for the disclosure to an individual of medical records including psychological records, pertaining to him;

Individuals may be granted access to their records either in person or by having copies mailed to them. The nature of the system and of the individuals on whom records are maintained will determine which method is appropriate. If an agency determines that it can grant access to records only by providing a copy of the record through the mail because it cannot provide "reasonable" means for individuals to have access to their records in person, it may not charge a fee for making the copy.

The issue of access to medical records was the subject of extensive discussion during the development of the Act. As written, the Act provides that individuals have an unqualified right of access to records pertaining to them (with certain exceptions specified in subsections (j) and (k), below) but that the process by which individuals are granted access to medical records may, at the discretion of the agency, be modified to prevent harm to the individual. [See subsection (d)(1).]

As a minimum, rules issued pursuant to this subsection shall be consistent with the requirements of subsection (d)(1) and should include—

Some indication, for requests presented in person, as to whether the individual can expect to be granted immediate access to the record and, for written request, the expected time lag, if any, between receipt of a request for access and the granting of that access (see subsection (d)(2) for guidance on maximum response times); and

The locations at which individuals will be granted access to their records or the fact that access will be granted by providing copies by mail;

Notice that an individual when reviewing a record in person, may be accompanied by another individual of his or her choosing and the agency's requirements, if any, for a written statement authorizing that individual's presence. Such authorization statements, if employed, should be as brief as possible.

Rules for Amending Records. Subsection (f)(4) "Establish procedures for reviewing a request from an individual concerning the amendment of any record or information pertaining to the individual, for making a determination on the request, for an appeal within the agency of an initial adverse agency determination, and for whatever additional means may be necessary for each individual to be able to exercise fully his rights under this section;"

Agency procedures for permitting an individual to request amendment of a record shall be consistent with subsec-

tions (d) (2) and (3) and shall as a minimum, specify—

The official(s) to whom the request is to be directed;

The identifying information required to relate the request to the appropriate record;

The official(s) to whom a request for a review of an initial adverse determination on request to amend may be taken; and

Offices/officials from whom assistance can be obtained in preparing a request to amend a record or to appeal an initial adverse determination or to learn further of the provisions for judicial review.

If the agency deems it appropriate to establish (or already has) a formal reviewing mechanism for assessing the accuracy of its records or for reconciling disputes, that mechanism or board should be described in its rules published pursuant to this subsection. This provision does not require the establishment of new, separate review mechanisms where such capabilities exist and are, or can be modified to be, in conformance with this Act.

Rules Regarding Fees. Subsection (f) (5) "Establish fees to be charged, if any, to any individual for making copies of his record, excluding the cost of any search for and review of the record."

Fees may be charged to an individual under this section only for the making of copies of records when requested by the individual. As stated above (subsection (f) (3)), when copies are made by the agency incident to granting access to a record, a fee may not be charged. (It should be noted that the provisions on fees charged to an individual under this Act differ from those governing fees charged to the public. See 5 U.S.C. 552, as amended, the Freedom of Information Act, for guidance on fees for copies of records made available to the public.)

"[An]agency may not charge the individual for time spent searching for requested records or for time spent in reviewing records to determine if they fall within the disclosure requirements of the Act." (House Report 93–1416, p. 17.) When an individual requests a copy of a record, pursuant to subsection (d) (1) (access to records), the fee charged may not exceed the direct cost of making the copy (printing, typing, or photocopying and related personnel and equipment costs) and may not include any cost of retrieving the information. In establishing fee schedules, agencies should also consider the cost of collecting the fee in determining when fees are appropriate.

Annual Publication of Notices and Rules. Subsection (f) (final paragraph—unnumbered) "The Office of the Federal Register shall annually compile and publish the rules promulgated under this section and agency notices published under section (e) (4) of this section in a form available to the public at low cost."

The annual compilation of public notices (subsection (e) (4)) and agency rules (subsection (f) (1) through (5)) will be produced in a form which promotes the exercise of individual rights under this Act.

The General Services Administration will issue guidance on the format and timing for submission of rules and notices to reduce the cost of preparing and publishing the rules and notices, to minimize redundancy wherever possible, and otherwise to enhance the utility of these publications. For example, the various provisions of subsection (e) (4) and (f) (1) through (4) calling for lists of names and addresses need not be treated as separate portions of the annual notice for each system.

Subsection (g) Civil Remedies

This subsection prescribes the circumstances under which an individual may seek court relief in the event that a Federal agency violates any requirement of the Privacy Act or any rule or regulation promulgated thereunder, the basis for judicial intervention, and the remedies which the courts may prescribe. It should be noted that an individual may have grounds for action under other provisions of the law in addition to those provided in this section. For example—

An individual may seek judicial review under other provisions of the Administrative Procedure Act (APA).

An individual may file a complaint alleging possible criminal misconduct under section (i), below.

A Federal employee may file a grievance under personnel procedures. It should also be noted that an agency/employee responsible for an adverse action against an individual may be personally subject to civil suit, particularly where the agency/employee acted in a manner that was intentional or willful.

Judgments, costs, and attorney's fees assessed against the United States under this subsection would appear to be payable from the public funds rather than agency funds. 28 U.S.C. 2414 and 31 U.S.C. 724a (Payment of Judgments); 28 U.S.C. 1924 (Costs). While it is not the purpose of these guidelines to discuss the jurisdiction of the district courts or the procedures in such cases, it should be noted that most cases arising under subsection (g) will be handled by the General Litigation Section of the Civil Division of the Department of Justice. In these cases, upon receipt of a copy of the summons and complaint served upon the Attorney General and notification of its filing by the United States Attorney (see Rule 4, Federal Rules of Civil Procedure), the General Litigation Section will request the agency to furnish a litigation report.

Some agencies are authorized to conduct their own litigation. Where its authority permits, the agency may decide to handle its own cases under this Act. In view of the general litigation responsibility which the Department of Justice has for all other departments and agencies in the executive branch, it is important that agencies handling their own litigation under this Act keep the Department of Justice currently informed of their progress, and forward to the Civil Division copies of significant documents which are filed in such cases.

Each agency should maintain a complete and careful record of the administrative procedures followed in processing this statute. The record should be maintained so that it can be readily certified as the complete administrative record of the procedings as a basis for possible use in litigation.

Grounds for Action. Subsection (g) (1) "Civil Remedies. Whenever any agency"

The subsection authorizing civil actions by individuals is designed to assure that an individual who (1) was unsuccessful in an attempt to have an agency amend his or her record; (2) was improperly denied access to his or her record or to information about him or her in a record; (3) was adversely affected by an agency action based upon an improperly constituted record; or (4) was otherwise injured by an agency action in violation of the Act will have a remedy in the Federal District courts.

Refusal to Amend a Record. Subsection (g) (1) (A) "Makes a determination under subsection (d) (3) of this section not to amend an individual's record in accordance with his request, or fails to make such review in conformity with that subsection;"

An individual may seek judicial review of an agency's determination not to amend a record pursuant to a request filed under subsection (d) (2) under either one of two conditions—

The individual has exhausted his or her recourse under the procedures established by the agency pursuant to subsection (d) (3) (appeals on the agency's refusal to amend) and the reviewing official has also refused to amend the record, or

The individual contends that the agency has not considered the request to review in a timely manner or otherwise has not acted in a manner consistent with the requirements of subsection (d) (3). Such an action could presumably involve a challenge either to the agency's procedures published under subsection (f) (4) or to the agency head's decision to extend the period of review "for good cause shown" under subsection (d) (3).

An individual may also bring a civil action based on allegedly inaccurate records if it can be shown that a decision adverse to the individual resulted from that inaccuracy. See subsection (g) (1) (C). However, no test of injury is required to bring an action under subsection (g) (1) (A).

The basis for judicial review and the available remedies in actions brought under this subsection are found in subsection (g) (2).

Denial of Access to a Record. Subsection (g) (1) (B) "Refuses to comply with an individual request under subsection (d) (1) of this section;"

Under this subsection, individuals may challenge a decision to deny them access to records to which they consider themselves entitled (under subsection (d) (1)). The action giving rise to the suit may be the agency head's determination (pursuant to subsection (k), specific exemptions) to exempt a system of records from the requirements that individuals be granted access. "Since access to a file

is the key to insuring the citizen's right of accuracy, completeness, and relevancy, a denial of access affords the citizen the right to raise these issues in court. This would be the means by which a citizen could challenge any exemption from the requirements of [the Act]." (Senate Report 93–1183, p. 82). It should be noted that systems of records covered under subsection (j) (general exemptions) are permitted to be exempted from this provision.

This provision is also the one by which individuals may contest an agency's refusal to grant access as a result of its interpretation of the definitions in the Act as they apply to information maintained by an agency and for the exclusion set forth in subsection (d)(5), denial of access to records compiled in reasonable anticipation of litigation. No test of injury is required to bring action under subsection (g)(1)(B). The basis for judicial review and available remedies are found in subsection (g)(3).

Failure to Maintain a Record Accurately. Subsection (g)(1)(C) "Fails to maintain any record concerning any individual with such accuracy, relevance, timeliness, and completeness as is necessary to assure fairness in any determination relating to the qualifications, character, rights, or opportunities, of, or benefits to the individual that may be made on the basis of such record, and consequently a determination is made which is adverse to the individual;" or

An individual may bring an action under this subsection only if it can be shown that the deficiency in the record resulted in an adverse determination by the agency which maintained the record, on the basis of the record. "An action also lies if the agency makes an adverse determination based upon a record which is inaccurate, untimely, or incomplete. However, in order to sustain such action, the individual must demonstrate the causal relationship between the adverse determination and the incompleteness, inaccuracy, irrelevance or untimeliness of the record." (House Report 93–1416, p. 17)

An adverse action is one resulting in the denial of a right, benefit, entitlement, or employment by an agency which the individual could reasonably have been expected to have been given if the record had not been deficient. This provision, in essence, allows an individual to test the agency's compliance with subsection (e)(5).

It should also be noted that, under this subsection, an agency may be liable as a consequence of its failure to maintain a record accurately only if it is shown that its failure has been "intentional or willful" (subsection (g)(4)). (No such test is required under the provisions of subsection (g)(1)(A), above, under which an individual can seek a review of the accuracy of a record.)

Neither this subsection nor subsection (g)(1)(A) was intended to permit an individual collaterally to attack information in records pertaining to him which has already been the subject of or for which adequate judicial review is available. For example, these provisions were not designed to afford an individual an alternate forum in which he can challenge the basis for a criminal conviction or an asserted tax deficiency.

The basis for judicial review and available remedies are found in subsection (g)(4).

Other Failures to Comply with the Act. Subsection (g)(1)(D) "Fails to comply with any other provision of this section, or any rule promulgated thereunder, in such a way as to have an adverse effect on an individual,"

In addition to the grounds specified in subsections (g)(1)(A) through (C) above, an individual may bring an action for any other alleged failure by an agency to comply with the requirements of the Act or failure to comply with any rule published by the agency to implement the Act (subsection (f)) provided it can be shown that—

The action was "intentional or willful";

The agency's action had an "adverse effect" upon the individual; and

The "adverse effect" was causally related to the agency's actions.

The basis for judicial review and available remedies provided by this Act are found in subsection (g)(4).

Basis for Judicial Review and Remedies for Refusal to Amend a Record. Subsection (g)(2) "(A) In any suit brought under the provisions of subsection (g)(1)(A) of this section, the court may order the agency to amend the individual's record in accordance with his request or in such other way as the court may direct. In such a case the court shall determine the matter de novo.

"(B) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this paragraph in which the complainant has substantially prevailed."

When an individual seeks judicial review of the accuracy, timeliness, completeness, or relevance of a record either as a result of a challenge to the agency's refusal to amend a record or because the individual alleges that the agency's process for review does not conform to subsection (d)(3), the court is required to review the matter as if it were an initial determination (de novo). Such a review may extend to the agency's criteria established in conformance with subsections (e)(1) and (5) for "accuracy, relevance, timeliness, and completeness" as they relate to the purposes for which the agency maintains the record.

Unlike the judicial review of a denial of access to a record, in a review of refusal to amend a record the burden to justify its action is not expressly placed upon the agency by the Privacy Act. This was intended to result in placing the burden of challenging the accuracy of the record upon the individual. As a result, agencies should not maintain additional records solely for the purpose of validating the accuracy, timeliness, and completeness or relevance of other records they maintain.

If the court finds for the individual against the agency it may

Direct the agency to amend the record or to take such other steps as it deems appropriate.

Require the agency to pay court costs and attorney fees. "It is intended that such award of fees not be automatic, but rather, that the courts consider the criteria as delineated in the existing body of law governing the award of fees." (House Report 93–1416, p. 17).

Basis for Judicial Review and Remedies for Denial of Access. Subsection (g)(3)"(A) In any suit brought under the provision (g)(1)(B) of this section, the court may enjoin the agency from withholding the records and order the production to the complainant of any agency records improperly withheld from him. In such a case the court shall determine the matter de novo, and may examine the contents of any agency records in camera to determine whether the records or any portion thereof may be withheld under any of the exemptions set forth in subsection (k) of this section, and the burden is on the agency to sustain its action.

(B) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this paragraph in which the complainant has substantially prevailed.

In conducting its review,

"[T]he court is required to determine such matters *de novo! mloe and the burden of proof is upon the agency to sustain the exemption." (House Report 93–1416, p. 17) In view of the sensitivity of some of the records to which access may be sought, the court, in examining those records may do so in camera. "A person seeking access to a file which he has reason to believe is being maintained on him for the purposes of determining its accuracy and completeness, for example, or to takc advantage of the rights afforded him * * * could raise the question of the propriety of the exemption which denies him access to his files. In deciding whether the citizen has a right to see his file or to learn whether the agency has a file on him, the court would of necessity have to decide the legitimacy of the agency's reasons for the denial of access, or refusal of an answer. The Committee intends that any citizen who is denied a right of access under the Act may have a cause of action, without the necessity of having to show that a decision has been made on the basis of it, and without having to show some further injury, such as loss of job or other benefit, that might stem from the denial of access." (Senate Report 93–1183, p. 82.)*

If the court finds for the individual against the agency, it may—

Direct the agency to grant the individual access as provided under subsection (d)(1), above.

Require the agency to pay court costs and attorney fees. "It is intended that such award of fees not be automatic, but rather, that the courts consider the criteria as delineated in the existing body of law governing the award of fees." (House Report 93–1416, p. 17)

Basis for Judicial Review and Remedies for Adverse Determination and Other Failures to Comply. Subsection (g)(4) "In any suit brought under the

provisions of subsection (g)(1)(C) or (D) of this section in which the court determines that the agency acted in a manner which was intentional or willful, the United States shall be liable to the individual in an amount equal to the sum of—

"(A) Actual damages sustained by the individual as a result of the refusal or failure, but in no case shall a person entitled to recovery receive less than the sum of $1,000; and

"(B) The costs of the action together with reasonable attorney fees as determined by the court."

In any action brought for failure to comply with the provisions of the Act, other than those covered in subsection (g)(1)(A) and (B) (refusal to amend a record or denial of access) it must be shown that—

The failure of the agency to comply was "intentional or willful;"

There was injury or harm to the individual; and

The injury was causally related to the alleged agency failure.

As indicated above, these criteria do not apply to suits brought to amend a record pursuant to subsection (g)(1)(A) so that an individual may, under certain circumstances, properly bring an action either under subsections (g)(1)(A) or (g)(1)(C).

When the court finds that an agency has acted willfully or intentionally in violation of the Act in such a manner as to have an adverse effect upon the individual, the United States will be required to pay

Actual damages or $1,000, whichever is greater

Court costs and attorney fees.

Unlike subsections (g)(2) and (3) above, which make the award of court costs and attorney fees discretionary in successful suits brought under subsections (g)(1)(A) and (B), such awards are required to be made in actions in which the individual has prevailed under subsections (g)(1)(C) and (D). See House Report 93–1416, pp. 17–18 and the *Congressional Record*, December 18, 1974, P.H. 122445 for further discussion of this point.

Jurisdiction and Time Limits. Subsection (g)(5) "An action to enforce any liability created under this section may be brought in the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia, without regard to the amount in controversy, within two years from the date on which the cause of action arises, except that where an agency has materially and willfully misrepresented any information required under this section to be disclosed to an individual and the information so misrepresented is material to establishment of the liability of the agency to the individual under this section, the action may be brought at any time within two years after discovery by the individual of the misrepresentation. Nothing in this section shall be construed to authorize any civil action by reason of any injury sustained as the result of a disclosure of a record prior to the effective date of this section."

Action may be brought in the district court for the jurisdiction in which the individual resides, or has a place of business, or in which the agency records are situated, or in the District of Columbia.

"The statute of limitations is two years from the date upon which the cause of action arises, except for cases in which the agency has materially or willfully misrepresented any information required to be disclosed and when such misrepresentation is material to the liability of the agency. In such cases the statute of limitations is two years from the date of discovery by the individual of the misrepresentation." (House Report 93–1416, p. 18)

A suit may not be brought on the basis of injury which may have occurred as a result of an agency's disclosure of a record prior to September 27, 1975; e.g., disclosure without the consent of the individual or an adverse action resulting from a disclosure. This language is intended to preclude agencies from being held liable, under this law, for actions taken prior to its effective date.

Subsection (h). Rights of Legal Guardians

Subsection (h) "For the purposes of this section, the parent of any minor, or the legal guardian of any individual who has been declared to be incompetent due to physical or mental incapacity or age by a court of competent jurisdiction, may act on behalf of the individual."

This section is intended to ensure that minors or individuals who have been declared to be legally incompetent have a means of exercising their rights under the Act. It also has the effect of making individuals acting in loco parentis to minors, parents, legal guardians, and custodians the same as the individual for purposes of giving consent for disclosure (subsection (b)) and being informed of the purposes for which records are maintained (subsection (e)(3)).

It should be noted that this provision is discretionary and that individuals who are minors are authorized to exercise the rights given to them by the Privacy Act or, in the alternative, their parents or those acting in loco parentis may exercise them in their behalf.

(i) Criminal Penalties

This subsection establishes criminal sanctions for three possible violations

Unauthorized disclosure.

Failure to publish a public notice or a system of records subject to the Act.

Obtaining access to records under false pretenses.

The first two are directed at actions of officers and employees of Federal agencies and (pursuant to subsection (m)) certain contractor personnel. Agencies should ensure that all personnel are informed of the requirements of the Act and, pursuant to subsection (e)(9), rules of conduct, are given periodic training in this area.

Criminal Penalties for Unauthorized Disclosure. Subsection (i)(1) "Any officer or employee of an agency, who by virtue of his employment or official position, has possession of, or access to, agency records which contain individually identifiable information the disclosure of which is prohibited by this section or by rules or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than $5,000."

It is a criminal violation of the provisions of the Act if an employee, knowing that disclosure is prohibited, willfully discloses a record without the written consent of the individual to whom it pertains, at his or her request, or for one of the reasons set forth in subsections (b)(1) through (11), conditions of disclosure.

Criminal Penalties for Failure To Publish a Public Notice. Subsection (i)(2) "Any officer or employee of any agency who willfully maintains a system of records without meeting the notice requirements of subsection (e)(4) of this section shall be guilty of a misdemeanor and fined not more than $5,000."

As was discussed in connection with subsection (e)(4), above, a basic objective of the Act is to assure that there is no system of records whose very existence is kept secret. An agency is required to publish a public notice about each system of records which it maintains. It is a criminal violation of the Act willfully to maintain a system of records and not to publish the prescribed public notice. The exemption provisions, subsections (j) and (k), do not allow an agency head to exempt any system of records from the requirement to publish a public notice of its existence, although that notice may be somewhat abbreviated. (See subsections (a)(5), definitions, and (e)(4), public notice, for guidelines on what constitutes a system.) It should be noted that, under agency procedures, the officer or employee who maintains the system may not be the one who is responsible for publishing the notice. Agency procedures should make the responsibilities of each clear. The officer or employee who maintains the system has an obligation to notify the one responsible for publishing the notice. Similarly the officer or employee responsible for publishing the notice, once notified of the existence of a system, must make that fact public.

Criminal Penalties for Obtaining Records under False Pretenses. Subsection (i)(3) "Any person who knowingly and willfully requests or obtains any record concerning an individual from an agency under false pretenses shall be guilty of a misdemeanor and fined not more than $5,000."

This provision makes it a criminal act knowingly and willfully to request or gain access to a record about an individual under false pretenses. It is likely that the principal application of this provision will be to deter individuals from

making fraudulent requests under subsection (d)(1), access to records.

SUBSECTIONS (j) AND (k) EXEMPTIONS

The drafters of the Act recognized that the application of all of the requirements of the Act to certain categories of records would have had undesirable and often unacceptable effects upon agencies in the conduct of necessary public business.

Two categories of exemptions are established: General exemptions (subsection (j)) and specific exemptions (subsection (k)). The principal difference between the two categories is that systems of records exempted under subsection (j) may be exempted from more provisions of the Act than those exempted under subsection (k). Exemptions under subsection (j) may be exempted from the civil remedies provision and, in particular, the judicial review under subsections (g)(1)(B) and (g)(3), civil remedies.

In applying any of the exemption provisions of the Act, it is important to recognize the following:

No system of records is automatically exempt from any provision of the Act. To obtain an exemption for a system from any requirement of the Act, the head of the agency that maintains the system must make a determination that the system falls within one of the categories of systems which are permitted to be exempted, and publish the determination as a rule in accordance with the requirements (including general notice) of section 553 of the Administrative Procedure Act. That notice must include the specific provisions from which the system is proposed to be exempted and why the agency considers the exemption necessary.

The requirement to publish a public notice (subsection (e)(4), above) applies to all systems of records maintained by an agency. Certain other provisions such as conditions of disclosure (b), accounting for disclosures ((c)(1) and (2)) and restrictions on maintaining records on First Amendment activities ((e)(7)) also apply to all systems of records. Agencies may not exempt any system, as defined in subsection (a)(5) from any of these requirements.

In some instances, systems may contain records which are subject to exemption under more than one subsection in subsections (j) or (k). In those cases the notices claiming exemption should, if possible, specify which types of records are subject to which exemption.

Agency records which are part of an exempted system may be disseminated to other agencies and incorporated into their non-exempt records systems. The public policy which dictates the need for exempting records from some of the provisions of the Act is based on the need to protect the contents of the records in the system—not the location of the records. Consequently, in responding to a request for access where documents of another agency are involved, the agency receiving the request should consult the originating agency to determine if the records in question have been exempted from particular provisions of the Act. A copy of the request may be forwarded to the originating agency for handling of its documents where such a procedure would result in a more rapid response to the request for access but the agency receiving the request remains responsible for assuring a prompt response.

Agencies which elect to invoke exemptions are encouraged to adopt procedures similar to those prescribed by the Act wherever appropriate. For example, it may be appropriate to seek an exemption from the access provision ((d)(1)) for certain prisoner records because they contain court controlled pre-sentence reports, but a more limited access procedure may be appropriate.

SUBSECTION (j)—GENERAL EXEMPTIONS—APPLICABILITY AND NOTICE REQUIREMENTS

Subsection (j) "The head of any agency may promulgate rules, in accordance with the requirements (including general notice), of sections 553 (b) (1), (2), and (3), (c), and (e) of this title, to exempt any system of records within the agency from any part of this section except subsections (b), (c) (1) and (2), (e)(4) (A) through (F), (e) (6), (7), (9), (10), and (11), and (i) if the system of records is—

"(1) * * *

"(2) * * *

"At the time rules are adopted under this subsection, the agency shall include in the statement required under section 553(c) of this title, the reasons why the system of records is to be exempted from a provision of this section."

This section permits agency heads to exempt systems of records which are maintained by the Central Intelligence Agency or for criminal law enforcement purposes, as further discussed in subsections (j) (1) and (2), below, from all provisions of the Act except the—

Conditions of disclosure, ((b));

Accounting for disclosures and retention of the accounting, ((c) (1) and (2));

Annual public notice except for procedures for identifying a record, gaining access to it, contesting its accuracy, and identifying the sources of records, ((e)(4) (A) through (F));

Obligation to check the accuracy, relevance, timeliness, and completeness of records before disclosing them to a person other than another agency or to the public under the Freedom of Information Act, ((e)(6));

Restrictions on maintaining records on First Amendment activities, ((e)(7));

Establishment of rules of conduct and administrative, technical, and physical safeguards, ((e) (9) and (10), respectively);

Publication of "routine use" notices ((e)(11)); and

Criminal penalties, ((i)).

When the head of an agency determines that a system of records maintained by the agency should be exempted from certain provisions of the Act, a notice must be published in the FEDERAL REGISTER which specifies, as a minimum:

The name of the system (This should be the same as that given in the annual public notice under subsection (e)(4)); and

The specific provisions of the Act from which the system is to be exempted and the reasons therefor. A separate reason need not be stated for each provision from which the system is being exempted, where a single explanation will serve to explain the entire exemption.

The agency head's determination is considered to be a rule under the Administrative Procedure Act (APA) and is subject to the requirements of general notice and public comment of that Act, 5 U.S.C. 553. While general notice of a proposed rule is not required under the APA when "persons subject thereto are named and either personally served or otherwise have actual notice thereof * * *;" the use of the phrase "including general notice" means that individual notifications will not suffice.

The systems of records and the number of records (i.e., individuals) in each, which were exempted from any of the provisions of the Act under this subsection will be required to be included in the annual report prepared as required by subsection (p). It should be emphasized that the exemption provisions are permissive; i.e., an agency head is authorized, but not required, to exempt a system from all or any portion of selected provisions of the Act when he or she deems it to be in the best interest of the government and consistent with the Act and these guidelines. In commenting on this provision, the House Committee noted:

> The Committee also wishes to stress that this section is not intended to require the C.I.A. and criminal justice agencies to withhold all their personal records from the individuals to whom they pertain. We urge those agencies to keep open whatever files are presently open and to make available in the future whatever files can be made available without clearly infringing on the ability of the agencies to fulfill their missions. (House Report 93-1416, p. 19)

To the extent practicable, records permitted to be exempted from the Act should be separated from those which are not. Further, while the language permits agency heads to exempt systems of records, agencies should exempt only portions of systems wherever it is possible.

General Exemption for the Central Intelligence Agency. Subsection (j)(1) "Maintained by the Central Intelligence Agency; or"

General Exemption for Criminal Law Enforcement Records. Subsection (j)(2) "Maintained by an agency or component thereof which performs as its principal function any activity pertaining to the enforcement of criminal laws, including police efforts to prevent, control, or reduce crime or to apprehend criminals, and the activities of prosecutors, courts, correctional, probation, pardon, or parole authorities, and which consists of (A) information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of crim-

inal charges, sentencing, confinement, release, and parole and probation status; (B) information compiled for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable individual; or (C) reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision."

SUBSECTION (k) SPECIFIC EXEMPTIONS

Applicability and Notice Requirements. Subsection (k) "The head of any agency may promulgate rules, in accordance with the requirements (including general notice) of sections 553(b) (1), (2), and (3), (c), and (e) of this title, to exempt any system of records within the agency from subsections (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I) and (f) of this section if the system of records is—"

"(1) * * *

* * * * *

"(7) * * *

"At the time rules are adopted under this subsection, the agency shall include in the statement required under section 553(c) of this title, the reasons why the system of records is to be exempted from a provision of this section."

This subsection permits agency heads to exempt systems of records from a limited number of provisions of the Act. In addition to the provisions from which no system may be exempted under subsection (j), a system which falls under any one of the seven categories listed in this subsection may not be exempted from the following provisions:

Informing prior recipients of corrected or disputed records, ((c)(4));

Collecting information to be used in determinations about an individual directly from the individual to whom it pertains, ((e)(2));

Informing individuals asked to supply information of the authority by and purposes for which it is collected and whether or not providing the information is mandatory, ((e)(3));

Maintaining records with such accuracy, completeness, timeliness, and relevance as is reasonable for the agency's purposes, ((e)(5));

Notifying the subjects of records disclosed under compulsory process, ((e)(8)); and

Civil remedies, (g).

As with subsection (j), upon determining that a system is to be exempted under this section, the agency head is required to publish that determination as a rule under the Administrative Procedure Act subject to public comment. That notice must, as a minimum, specify

The name of the system (as in the annual notice under subsection (e)(4)); and

The specific provisions of the Act from which the system is to be exempted and the reason therefor.

The agency head's determination is considered to be a rule under the Administrative Procedure Act (APA) and is subject to the requirements of general notice and public comment of that Act, 5 U.S.C. 553. While general notice of a proposed rule is not required under the APA when "persons subject thereto are named and either personally served or otherwise have actual notice thereof * * *", the language "including general notice" means that individual notification will not suffice.

In addition, the systems of records and the number of records in each, which were exempted from any of the provisions of the Act under this section will be required to be included in the annual report required by subsection (p).

It should also be noted that the exemption provisions are permissive; i.e., an agency head is authorized, but not required, to exempt a system when he or she deems it to be in the best interest of the government and consistent with the Act and these guidelines. "Also as with section (j) records, the Committee urges agencies maintaining section (k) records to open those documents to the individuals named in them insofar as such action would not impair the proper functioning of those agencies." (House Report 93–1416, p. 20)

In the process of utilizing any of these exemptions, agencies should, wherever practicable, segregate those portions of systems for which an exemption is considered necessary so as to hold to the minimum the amount of material which is exempted. While the language permits agency heads to exempt entire systems of records, the language of certain of the specific provisions below suggests that it may, in some instances, be appropriate to exempt only portions of systems where it is not possible to segregate entire systems. For example, records containing classified material to which access may be denied under (k)(1) should be screened to permit access to unclassified material, and only these portions of investigative material which meet all of the criteria in (k)(2) or (5) should be withheld. However, in the case of records which are permitted to be exempted to the extent that their disclosure would reveal the identity of a confidential source, extreme care should be exercised to ensure that the content of any records being segregated does not disclose the identity of the source.

Exemption for Classified Material. Subsection (k)(1) "Subject to the provisions of section 552(b)(1) of this title;"

This subsection permits agency heads to exempt, from certain provisions of the Act, those systems of records which are "(A) specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified pursuant to such Executive Order." (5 U.S.C. 552(b)(1), as amended by Public Law 93–502)

The Freedom of Information Act, as amended by P.L. 93–502, authorizes de novo judicial review of an agency's decision to classify a document, including in camera examination of the document when the court deems it necessary to resolve a dispute as to whether a document is properly being withheld under the provisions of subsection (b)(1) of the Freedom of Information Act. See the Conference Report on H.R. 12471, House Report 93–1380, pp 8–9.

Useful guidance in the application of this provision is found in the Senate Committee report discussion of a similar provision on classified materials:

> The potential for serious damage to the national defense or foreign policy could arise if the notice describing any information system included categories or sources of information * * * or provided individuals access to files maintained about them * * *
>
> The Committee does not by this legislation intend to jeopardize the collection of intelligence information related to national defense or foreign policy, or open to inspection information classified pursuant to Executive Order 11652 to persons who do not have an appropriate security clearance or need to know.
>
> This section is not intended to provide a blanket exemption to all information systems or files maintained by an agency which deal with national defense and foreign policy information. Many personnel files and other systems may not be subject to security classification or may not cause damage to the national defense or foreign policy simply by permitting the subjects of such files to inspect them and seek changes in their contents under this Act. (Senate Report 93–1183, p. 74)

Exemption for Investigatory Material Compiled for Law Enforcement Purposes. Subsection (k)(2) "Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection (j)(2) of this section: *Provided, however,* That if any individual is denied any right, privilege, or benefit that he would otherwise be entitled by Federal law, or for which he would otherwise be eligible, as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence;

This provision allows agency heads to exempt a system of records compiled in the course of an investigation of an alleged or suspected violation of civil laws, including violations of the Uniform Code of Military Justice and associated regulations, except to the extent that the system is more broadly exempt under the provision covering records maintained by an agency whose principal function pertains to the enforcement of criminal laws (subsection (j)(2)). This exemption was drafted because "[i]ndividual access to certain law enforcement files could impair investigations, particularly those which involve complex and continuing patterns of behavior. It would alert subjects of investigations that their activities are being scrutinized, and thus allow them time to take measures to prevent detection of illegal action or escape prosecution." (House Report 93–11416, p. 19.)

The phrase "investigatory material compiled for law enforcement purposes" is the same phrase as opened exemption (b)(7) to the Freedom of Information Act prior to its recent amendment (Public Law 93–502), with the exception of the use of the word "material" in the Privacy Act for the word "files" in the now amended Freedom of Information Act exemption. The intent was to have the same meaning given to this phrase in the Privacy Act as had been given to it in the Freedom of Information Act except that the phrase would apply to material as opposed to entire files. The case law, then, which had interpreted "investigatory" and "compiled" and "law enforcement purposes" for the now amended portions of exemption (b)(7) of the Freedom of Information Act should be utilized in defining those terms as they appear in subsection (k)(2) of the Privacy Act.

It was further recognized that "due process" in both civil action and criminal prosecution will assure that individuals have a reasonable opportunity to learn of the existence of, and to challenge, investigatory records which are to be used in legal proceedings.

To the extent that such an investigatory record is used as a basis for denying an individual any right, privilege, or benefit (including employment) to which the individual would be entitled in the absence of that record, the individual must be granted access to that record except to the extent that access would reveal the identity of a confidential source.

The language permitting an agency to withhold records used as a basis for denying a benefit to the extent that the record would reveal the identity of an individual who furnished information in confidence is very narrowly drawn and must be treated carefully (see also subsections (k) (5) and (7), below). For information collected on or subsequent to the effective date of this section (September 27, 1975) a record may only be withheld to protect the identity of a source if

An express guarantee was made to the source that his or her identity would not be revealed. (Such guarantees should be made on a selective basis; i.e., individuals from whom information is solicited for law enforcement purposes should be advised that their identity may be disclosed to the individual to whom the record pertains unless a source expressly requests that his or her identity not be revealed as a condition of furnishing the information.); and

The record, if stripped of the identity of the source would nontheless by its content reveal the identity to the subject.

It was recognized that the type of investigatory record covered by subsection (k)(2) currently contains substantial information which was obtained with the tacit understanding that the identity of the source would not be revealed. For this reason the Act provides that information in such records that was collected prior to the effective date of the Act may be withheld from the individual to whom it pertains to the extent that it was collected under an implied promise that its source would not be revealed and disclosing it would reveal the identity of the source.

The phrase "to the extent that" is particularly important. As implied above, if a record can be disclosed in such a way as to conceal its source, a promise of confidentiality to the source is not sufficient grounds for withholding it. Obviously, the content of certain records is such that it reveals the identity of the source even if the name of the source or other identifying particulars are removed; e.g., the record contains information that could only have been furnished by one individual known to the subject. Only in those cases, may the substance of the record be withheld to protect the identity of a source and then only to the extent necessary to do so. It is recognized, however that it may in some instances be very difficult for an agency to know whether the content of a record would, in and of itself, reveal its source. Therefore, it may be appropriate in light of the intent underlying this exemption, to exempt a record when any reasonable doubt exists as to whether its disclosure would reveal the identity of a confidential source.

Additional guidance on the circumstances under which an agency may withhold a record on the grounds that its disclosure would reveal the identity of a source who provided information under a pledge of confidentiality is found in Senator Ervin's statement on the compromise bill on the floor of the Senate.

> The compromise provision for the maintenance of information received from confidential sources represents an acceptance of the House language after receiving an assurance that in no instance would that language deprive an individual from knowing of the existence of any information maintained in a record about him which was received from a "confidential source." The agencies would not be able to claim that disclosure of even a small part of a particular item would reveal the identity of a confidential source. The confidential information would have to be characterized in some general way. Theface of the item's existence and a general characterization of that item would have to be made known to the individual in every case.
>
> Furthermore, the acceptance of this section in no way precludes an individual from knowing the substance and source of confidential information, should that information be used to deny him a promotion in a government job or access to classified information or some other right, benefit or privilege for which he was entitled to bring legal action when the government wished to base any part of its legal case on that information.
>
> Finally, it is important to note that the House provision would require that all future promises of confidentiality to sources of information be expressed and not implied promises. Under the authority to prepare guidelines for the administration of this act it is expected that the Office of Management and Budget will work closer with agencies to insure that Federal investigators make sparing use of the ability to make express promises of confidentiality. (Congressional Record, December 17, 1974, p. S 21816)

The foregoing discussion with respect to confidentiality of sources is also applicable to the provisions of subsections (k)(5) and (7), below.

Exemption for Records Maintained To Provide Protective Services. Subsection (k)(3) "Maintained in connection with providing protective services to the President of the United States or other individuals pursuant to section 3056 of title 18;"

This exemption covers records which are not clearly within the scope of law enforcement records covered under subsection (k)(2) but which are necessary to assuring the safety of individuals protected pursuant to 18 U.S.C. 3056.

It was noted that "access to Secret Service intelligence files on certain individuals would vitiate a critical part of Secret Service work which was specifically recommended by the Warren Commission that investigated the assassination of President Kennedy and funded by Congress." (House Report 93–1416, p. 19)

Exemption for Statistical Records. Subsection (k)(4) "Required by statute to be maintained and used solely as statistical records;"

A "statistical record" is defined in subsection (a)(6) as "a record in a system of records maintained for statistical research or reporting purposes only and not used in whole or in part in making any determination about an identifiable individual, except as provided by section 8 of title 18."

It is the intent of this provision to permit exemptions for those systems of records which by operation of statute cannot be used to make a determination about an individual.

This provision permits an agency head to exempt a system of records which is used only for statistical, research, or program evaluation purposes, and which is not used to make decisions on the rights, benefits, or entitlements of individuals except as permitted by section 8 of Title 13. The use of the language "required by statute to be maintained * * * only" suggests that systems of records which qualify to be exempted under this provision are those composed exclusively of records that by statute are prohibited from being used for any purpose involving the making of a determination about the individual to whom they pertain; not merely that the agency does not engage in such uses.

> Disclosure of statistical records [to the individual] in most instances would not provide any benefit to anyone, for these records do not have a direct effect on any given individual; it would, however, interfere with a legitimate, Congressionally-sanctioned activity. (House Report 93–1416, p. 19)

Exemption for Investigatory Material Compiled for Determining Suitability for Federal Employment or Military Service. Subsection (k)(5) "Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the

source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence";

This provision permits an agency to exempt material from the individual access provision of the Act which would cause the identity of a confidential source to be revealed only if all of the following conditions are met:

The material is maintained only for purposes of determining an individual's qualifications, eligibility or suitability for military service, employment in the civilian service or on a Federal contract, or access to classified material. By implication, employment would include appointments to Federal advisory committees or to membership agencies, whether or not salaried;

The material is considered relevant and necessary to making a judicious determination as to qualifications, eligibility or suitability and could only be obtained by providing assurance to the source that his or her identity would not be revealed to the subject of the record; e.g., for "critical sensitive positions;" and

Disclosure of the record with the identity of the source removed would likely reveal the identity of the source; e.g., the record contains information which could only have been furnished by one of several individuals known to the subject.

(Since information collected prior to the effective date of the Act may have been gathered under an implied promise of confidentiality, that pledge may be honored and those records exempted if the other criteria are met.)

See subsection (k)(2), above, for a more extensive discussion of the circumstances under which records may be withheld to protect the identity of a confidential source.

This language was included to take into account the fact that the screening of personnel to assure that only those who are properly qualified and trustworthy are placed in governmental positions will, from time to time, require information to be collected under a pledge of confidentiality. Such pledges will be limited only to the most compelling circumstances; i.e.,

Without the information thus obtained, unqualified or otherwise unsuitable individuals might be selected; or

The potential source would be unwilling to provide needed information without a guarantee that his or her identity will not be revealed to the subject; or

To be of value in the personnel screening and often highly competitive assessments in which it will be used, the information must be of such a degree of frankness that it can only be obtained under an express promise that the identity of its source will not be revealed.

The Civil Service Commission and the Department of Defense (for military personnel) will issue regulations establishing procedures for determining when a pledge of confidentiality is to be made and otherwise to implement this subsection. These regulations and any implementing procedures will not provide that all information collected on individuals being considered for any particular category of positions will automatically be collected under a guarantee that the identity of the source will not be revealed to the subject of the record.

This provision has been among the most misunderstood in the Act. It should be noted that it grants authority to exempt records only under very limited circumstances. "It will not be the customary thing to make these promises of confidentiality, so that most all of the information [in investigatory records] will be made available." (Congressional Record, November 20, 1974, p. 10887.)

The term "Federal contracts" covers investigatory material on individuals being considered for employment on an existing Federal contract as well as investigatory material complied to evaluate the capabilities of firms being considered in a competitive procurement.

Exemption for Testing or Examination Material. Subsection (k)(6) "Testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service the disclosure of which would compromise the objectivity or fairness of the testing or examination process;"

This provision permits an agency to exempt testing or examination material used to assess the qualifications of an individual for appointment or promotion in the military or civilian service only if disclosure of the record to the individual would reveal information about the testing process which would potentially give an individual an unfair competitive advantage. For example, the Civil Service Commission and the military departments give written examinations which cannot be revised in their entirety each time they are offered. Access to the examination questions and answers could give an individual an unfair advantage. This language also covers certain of the materials used in rating individual qualifications. This subsection permits the agency to withhold a record only to the extent that its disclosure would reveal test questions or answers or testing procedures.

It was not the intent of this subsection to permit exemptions of information which are required to be made available to employees or members or are, in fact, made available to them as a matter of current practice. The presence of exemption (k)(7) is an indication of the intended narrow coverage of the exemptions set forth in (k)(6) and, similarly, the exemptions of (k)(7) and (k)(6) indicate the intended narrow coverage of the exemption set forth in subsection (k)(5).

Exemption for Material Used To Evaluate Potential for Promotion in the Armed Services. Subsection (k)(7) "Evaluation material used to determine potential for promotion in the armed services, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence."

The discussions of subsection (k)(2) and (5), above, should be reviewed in applying this provision. The same rationale regarding when and how the confidentiality of sources may be protected applies here.

The military departments will publish regulations specifying those categories of positions in the Armed Services for which pledges of confidentiality may be made when obtaining information on an individual's suitability for promotion. These categories will be narrowly drawn.

SUBSECTION (l) ARCHIVAL RECORDS

This subsection addresses the maintenance of those records which are transferred to the General Services Administration. It should be noted that there is a substantial difference between

Records which have been placed in records centers operated by the Administrator of General Services for "storage processing and servicing" pursuant to Section 3103 of Title 44; and

Records which are accepted by the Administrator of General Services "for deposit in the National Archives of the United States [because they] have sufficient historical or other value to warrant their continued preservation by the United States Government" pursuant to Section 2103 of Title 44.

The former, those for which the General Services Administration is essentially a custodian, are addressed in subsection (l)(1). The latter, archival records which have been transferred to the Archives and are maintained by the Archivist, are addressed in subsections (l)(2) and (l)(3).

Records Stored in GSA Records Centers. Subsection (l)(1) "Each agency record which is accepted by the Administrator of General Services for storage, processing, and servicing in accordance with section 3103 of title 44 shall, for the purposes of this section, be considered to be maintained by the agency which deposited the record and shall be subject to the provisions of this section. The Administrator of General Services shall not disclose the record except to the agency which maintains the record, or under rules established by that agency which are not inconsistent with the provisions of this section."

Records which are sent to the General Services Administration for storage as a result of determination by the agency head that to do so would "effect substantial economies or increase operating efficiency," (44 U.S.C. 3103), are deemed to be part of the records of the agency which sent them and are subject to the Act to the same extent that they would be if maintained on the agency's premises.

This language, in effect, constitutes a clarification of the term "maintain" (subsection (a)(3)) with respect to records which have been physically

transferred to GSA for storage. While records are stored in a records center, the agency which sent them to storage remains accountable for them and the General Services Administration effectively functions as an agent of that agency and maintains them pursuant to rules established by that agency.

Records stored in records centers often constitute the inactive portion of systems of records, the remainder of which are kept on agency premises; e.g., agency payroll and personnel records. Whenever practicable, these inactive records should be treated as part of the total system of records and be subject to the same rules and procedures. In no case may they be subject to rules which are inconsistent with the Privacy Act.

To assure the orderly and effective operation of the records center and consistent with its authority to issue regulations governing Federal agency records management policies (under title 44 of the United States Code), the Privacy Act and these guidelines; the General Services Administration shall issue general guidelines to the agencies on preferred methods for handling systems of records stored in Federal records centers. In view of the intent underlying this provision, agencies may consider that the records stored in Federal records centers are transferred intra-agency and need not publish notice of "routine uses" to enable these transfers.

Records Archived Prior to September 27, 1975. Subsection (l) (2) "Each agency record pertaining to an identifiable individual which was transferred to the National Archives of the United States Government as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, prior to the effective date of this section, shall, for the purposes of this section, be considered to be maintained by the National Archives and shall not be subject to the provisions of this section, except that a statement generally describing such records (modeled after the requirements relating to records subject to subsections (e) (4) (A) through (G) of this section) shall be published in the FEDERAL REGISTER."

Records transferred to the Archives for "preservation" pursuant to 44 U.S.C. 2103, prior to September 27, 1975 are considered to be maintained by the Archives but are not subject to other provisions of the Act.

However, the National Archives is required to issue general notices describing its current holdings which cover, to the extent applicable, the elements specified in subsection (e) (4). These should include, as a minimum—

The categories of individuals on whom records are maintained;

The types of information in those records; and

Policies governing access and retrieval.

"It is intended that the notice provision not be applied separately and specifically to each of the many thousands of separate systems of records transferred to the Archieves prior to the effective date of this Act, but rather that a more general description be provided which pertains to meaningful groupings of record systems." (Congressional Record, December 18, 1974, p. H12245)

If, for any reason, a record currently in the Archives is disclosed to an agency for use by that agency in making a determination as to the rights, benefits, or entitlements of an individual, it becomes subject to the provisions of the Act to the same extent as any other record maintained by that agency.

Records Archived On or After September 27, 1975. Subsection (1) (3) "Each agency record pertaining to an identifiable individual which is transferred to the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, on or after the effective date of this section, shall, for the purposes of this section, be considered to be maintained by the National Archives and shall be exempt from the requirements of this section except subsections (e) (4) (A) through (G) and (e) (9) of this section."

Records transferred to the Archives pursuant to 44 U.S.C. 2103 (for "preservation") on or after September 27, 1975 are considered to be maintained by the Archives for purposes of the Act but are only subject to selected provisions of the Act. "[They] are subject only to those provisions of this Act requiring annual public notice of the existence and character of the information systems maintained by the Archives, establishment of appropriate safeguards to insure the security and integrity of preserved personal information, and promulgation and implementation of rules to insure the effective enforcement of those safeguards." (Congressional Record, December 18, 1974, p. H 12245.)

The notice required for these records is on a system by system basis. "Since the records would already have been organized in conformity with the requirements of this section by the agency transferring them to the Archives, maintaining them in continued conformity with this law would not require any special effort." (House Report 93–1416, p. 20.)

The exclusion of archival records from the provisions of the Act establishing the right to have access or to amend a record was also discussed in the House Report:

Records under the control of the Archives would not, however, be subject to the provisions of this law which permit changes in documents at the request of the individual named in them. A basic archival rule holds that archivists may not remove or amend information in any records placed in their custody. The principle of maintaining the integrity of records is considered one of the most important rules of professional conduct. It is important because historians quite properly want to learn the true condition of past government records when doing research; they frequently find the fact that a record was inaccurate is at least as important as the fact that a record was accurate.

The Committee believes that this rule is eminently reasonable and should not be breached even in the case of individually identifiable records. Once those documents are given to the Archives, they are no longer used to make any determination about any individual, so amendment of them would not aid anyone. Furthermore, the Archives has no way of knowing the true state of contested information, since it does not administer the program for which the data was collected; it cannot make judgments as to whether records should be altered. (House Report 93–1416, p. 21).

The Archivist is required to establish rules of conduct for GSA personnel to assure that records in the Archives are used only in a manner consistent with 44 U.S.C. 2103 and that Archives personnel are properly instructed in the rules governing access to and use of archival records.

However, when a record which has been deposited in the Archives is disclosed to an agency and becomes part of any agency's records which could be used in making a determination about an individual, that record would again be subject to the other applicable provisions of the Act.

SUBSECTION (m) GOVERNMENT CONTRACTORS

Subsection (m) "When an agency provides by a contract for the operation by or on behalf of the agency of a system of records to accomplish an agency function, the agency shall, consistent with its authority, cause the requirements of this section to be applied to such system. For purposes of subsection (i) of this section any such contractor and any employee of such contractor, if such contract is agreed to on or after the effective date of this section, shall be considered to be an employee of an agency."

The extent to which the provisions of the Act would apply to records other than those physically maintained by Federal agency personnel was one of the principal areas of difference between the Senate and House privacy bills (S. 3418 and H.R. 16373).

The Senate bill would have extended its provisions outside the Federal government only to those contractors, grantees or participants in agreements with the Federal government, where the purpose of the contract, grant or agreement was to establish or alter an information system. It addressed a concern over the policy governing the sharing of Federal criminal history information with State and local government law enforcement agencies and for the amount of money which has been spent through the Law Enforcement Assistance Administration for the purchase of State and local government criminal information systems.

The compromise amendment would now permit Federal law enforcement agencies to determine to what extent their information systems would be covered by the Act and to what extent they will extend that coverage to those with which they share that information or resources.

At the same time it is recognized that many Federal agencies contract for the operation of systems of records on behalf of the agency in order to accomplish an agency function. It was provided therefore that such contracts if agreed to on or after the effective date of this legislation shall provide that those contractors and any employees of those contractors shall be considered to be employees of an agency and subject to the provisions of the legislation. (Congressional Record, Dec. 17, 1974, p. S21818)

It was also agreed that the Privacy Protection Study Commission should be directed to study the applicability of the provisions of the Privacy Act to the private sector and make recommendations to the Congress and the President (See subsection 5(b) of the Act).

The effect of this provision is to clarify, further, the definition of the term "maintain" as it establishes agency accountability for systems of records. (See subsection (a)(3)). It provides that systems operated under a contract which are designed to accomplish an agency function are, in effect, deemed to be maintained by the agency. It was not intended to cover private sector record keeping systems but to cover de facto as well as de jure Federal agency systems.

"Contract" covers any contract, written or oral, subject to the Federal Procurement Regulations (FPR's) or Armed Services Procurement Regulations (ASPR's), but only those which provide "* * * for the operation by or on behalf of the agency of a system of records to accomplish an agency function * * *" are subject to the requirements of the subsection. While the contract need not have as its sole purpose the operation of such a system, the contract would normally provide that the contractor operate such a system formally as a specific requirement of the contract. There may be some other instances when this provision will be applicable even though the contract does not expressly provide for the operation of a system; e.g., where the contract can be performed only by the operation of a system. The requirement that the contract provide for the operation of a system was intended to ease administration of this provision and to avoid covering a contractor's system used as a result of his management discretion. For example, it was not intended that the system of personnel records maintained by large defense contractors be subject to the provisions of the Act.

Not only must the terms of the contract provide for the operation (as opposed to design) of such a system, but the operation of the system must be to accomplish an agency function. This was intended to limit the scope of the coverage to those systems actually taking the place of a Federal system which, but for the contract, would have been performed by an agency and covered by the Privacy Act. Information pertaining to individuals may be maintained by an agency (according to subsection (e)(1)) only if such information is relevant and necessary to a purpose of the agency required to be accomplished by statute or Executive order of the President. Although the statute or Executive order need not specifically require the creation of a system of records from this information, the operation of a system of records required by contract must have a direct nexus to the accomplishment of a statutory or Presidentially directed goal.

If the contract provides for the operation of a system of records to accomplish an agency function, then "* * * the agency shall, consistent with its authority, cause the requirements of this section to be applied to such system."

The clause "* * * consistent with its authority * * *" makes it clear that the subsection does not give an agency any new authority additional to what it otherwise uses. The subsection clearly imposes new responsibilities upon an agency but does not confer any new authority to implement it. Although the method by which agencies cause the requirements of the section to be applied to systems is not set forth, the manner of doing so must be consistent with the agency's existing authority. The method of causing was envisioned to be a clause in the contract, but as with the "Buy America" provision in Government contracts, the breach of the clause was not necessarily intended to result in a termination of the contract. In addition, several of the requirements of the Privacy Act are simply not applicable to systems maintained by contractors, and this clause was a method of indicating that an agency was not required to impose those new standards. Agencies were given some discretion in determining the method or methods by which they would cause the otherwise applicable requirements to be applied to a system maintained under contract. This subsection does not merely require that an agency include provisions consistent with the Privacy Act in its contracts. It requires, in addition, that the agency cause the requirements of the Act to be applied, limited only by its authority to do so. Because of this agency accountability—which underlies many of the provisions of the Privacy Act—there should be an incentive for an agency to cause its contractors who are subject to this subsection to apply the requirements of the section in a manner which is enforceable. Otherwise, the agencies may end up performing those functions in other to satisfy the activity of the "cause" requirement.

The decision as to whether to contract for the operation of the system or to perform the operation "in-house" was not intended to be altered by this subsection. Furthermore, this subsection was not intended to significantly alter GSA and OMB authority under the Brooks Act (P.L. 89–306) or Executive Order No. 11717 dated May 9, 1973, concerning the method of ADP procurement. The principles concerning reliance upon the private sector in OMB Circular No. A–76, and related provisions were also not intended to be changed.

The provisions would apply to all systems of records where, for example—

The determinations on benefits are made by Federal agencies;

The records are maintained for administrative functions of the Federal agency such as personnel, payroll, etc; or

Health records being maintained by an outside contractor engaged to provide health services to agency personnel.

The provisions would not apply to systems of records where:

Records are maintained by the contractor on individuals whom the contractor employs in the process of providing goods and services to Federal government.

An agency contracts with a state or private educational organization to provide training and the records generated on contract students pursuant to their attendance (admission forms, grade reports) are similar to those maintained on other students and are commingled with their records on other students.

When a system of records is to be operated by a contractor on behalf of an agency for an agency function, the contractual instrument must specify, to the extent consistent with the agency's authority to require it, that those records be maintained in accordance with the Act. Agencies will modify their procurement procedures and practices to ensure that all contracts are reviewed before award to determine whether a system of records within the scope of the Act is being contracted for and, if so, to include appropriate language regarding the maintenance of any such systems.

For systems operated under contracts awarded on or after September 27, 1975, contractor employees may be subject to the criminal penalties of subsections (i)(1) and (2) (for disclosing records the disclosure of which is prohibited by the Act or for failure to publish a public notice). Although the language is not clear on this point, it is arguable that such criminal liability only exists to the extent that the contractual instrument has stipulated that the provisions of the Act are to be applied to the contractually maintained system. However, an agency which fails, within the limits of its authority, to require that systems operated on its behalf under contracts, may be civilly liable to individuals injured as a consequence of any subsequent failure to maintain records in conformance with the Act. The reference to contractors as employees is intended only for purposes of the requirements of the Act and not to suggest that, by virtue of this language, they are employees for any other purposes.

Subsection (n) Mailing Lists

Section (n) "An individual's name and address may not be sold or rented by an agency unless such action is specifically authorized by law. This provision shall not be construed to require the withholding of names and addresses otherwise permitted to be made public."

The language in this section is susceptible of various interpretations and must be read in the context of relevant legislative history. It is clear, however, that this provision seeks to reach the sale or rental of lists of names and addresses for commercial or other solicitation purposes not related to the purposes for which the information was collected.

Language included in the legislation would prohibit the sale or rental of mailing lists, names and addresses, by Federal agencies maintaining them. The philosophy behind this amendment is that the Federal Government is not in the mailing list business; and it should not be Federal policy to make a profit from the routine business of government, particularly when the release of such lists has been authorized under the Freedom of Information Act. In other words, such lists can not be withheld by an agency, unless it determines that the release would constitute

a clearly unwarranted invasion of privacy under section 552(b)(6) of title 5, United States Code.

Thus, the language of the bill before us does not ban the release of such lists where either sale or rental is not involved. (Congressional Record, December 18, 1974, p. H12246).

While the reference to the FOIA speaks only of "a clearly unwarranted invasion of personal privacy" (see 5 U.S.C. 552 (b)(6)) agencies may presumably withhold lists of names and addresses from the public under any of the exemptions to the FOIA (5 U.S.C. 552(b)) when they deem it appropriate to do so.

It is apparent that what is prohibited is "sale or rental" of such lists and the language may be read to prohibit "the sale or rental of lists of names and addresses by Federal agencies unless the sale or rental is specifically authorized by law. [emphasis added]." (Senate Report 93–1183, p. 31)

The Senate report, when read in combination with the House floor discussion cited above, suggests that agencies may not sell or rent mailing lists for commercial or solicitation purposes unless they are authorized specifically by law to sell or rent such lists. It is equally apparent that this language in no way creates an authority to withhold any records otherwise required to be disclosed under the Freedom of Information Act (5. U.S.C. 552). It is problematic whether the language "may not be sold or rented" precludes the changing of fees authorized under the Freedom of Information Act. It would seem reasonable to conclude that fees permitted to be charged for materials required to be disclosed under the Freedom of Information Act are not precluded and that lists, such as agency telephone directories, which are currently sold to the public by the Superintendent of Documents can continue to be sold.

Finally, this provision appears not to have been intended to reach the disclosure of names and addresses to agencies or other organizations other than for commercial or solicitation purposes. Other disclosure (e.g., the disclosures of names and addresses for a statistical study or to issue checks) would be subject to the requirements of section (b).

SECTION (o) REPORT ON NEW SYSTEMS

Section (o) "Each agency shall provide adequate advance notice to Congress and the Office of Management and Budget of any proposal to establish or alter any system of records in order to permit an evaluation of the probable or potential effect of such proposal on the privacy and other personal or property rights of individuals or the disclosure of information relating to such individuals, and its effect on the preservation of the constitutional principles of federalism and separation of powers."

This subsection is intended to assure that proposals to establish or modify systems of records are made known in advance so that

There is a basis for monitoring the development or expansion of agency record-keeping activity,

The Commission established by section 5 can review trends in the use of personal information and the application of technology.

This provision resulted from the discussions surrounding the need for an independent agency to regulate and oversee the implementation of the Act:

The compromise amendment still would require that agencies provide adequate advance notice to the Congress and to the Office of Management and Budget of any proposal to establish or alter a system of records in order to permit an evaluation of the privacy impact of that proposal. In addition to the privacy impact, consideration should be given to the effect the proposal may have on our Federal system and on the separation of powers between the three branches of government. These concerns are expressed in connection with recent proposals by the General Services Administration and Department of Agriculture to establish a giant data facility for the storing and sharing of information between those and perhaps other departments. The language in the Senate report reflects the concern attached to the inclusion of this language in S.3418. (Senate Report 93–1183, page 64–66).

The acceptance of the compromise amendment does not question the motivation or need for improving the Federal government's data gathering and handling capabilities. It does express a concern, however, that the office charged with central management and oversight of Federal activities and the Congress have an opportunity to examine the impact of new or altered data systems on our citizens, the provisions for confidentiality and security in those systems and the extent to which the creation of the system will alter or change interagency or intergovernmental relationships related to information programs. (Congressional Record, December 17, 1974, p. S 21818)

A report is required to be submitted for each proposed new system of records and for changes to existing systems. The criteria for determining what constitutes a change in an existing system requiring the preparation of a report under this subsection are substantially the same as those discussed under subsection (e)(4), the public notice; namely any change which:

Increases the number or types of individuals on whom records are maintained;

Expands the type or amount of information maintained;

Increases the number or categories of agencies or other persons who may have access to those records;

Alters the manner in which the records are organized so as to change the nature or scope of those records; e.g., the combining of two or more existing systems;

Modifies the way in which the system operates or its location(s) in such a manner as to alter the process by which individuals can exercise their rights under the Act; e.g., to seek access or request amendment of a record; or

Changes the equipment configuration on which the system is operated so as to create the potential for greater access; e.g., adding a telecommunications capability.

The reports required under this section are to be submitted to the Congress, to the Director of the Office of Management and Budget (Attn: Information Systems Division) and to the Privacy Protection Study Commission.

The Office of Management and Budget will issue, under separate cover, more detailed guidance on the format, timing, and content of the reports.

SUBSECTION (p) ANNUAL REPORT

Subsection (p) "The President shall submit to the Speaker of the House and the President of the Senate, by June 30 of each calendar year, a consolidated report, separately listing for each Federal agency the number of records contained in any system of records which were exempted from the application of this section under the provisions of subsections (j) and (k) of this section during the preceding calendar year, and the reasons for the exemptions, and such other information as indicates efforts to administer fully this section."

This subsection provides that the President submit to the Congress a list of systems exempted from the Act under the terms of section (j) or (k). "Also to be included in the annual report would be the reasons for such exemptions and other information indicating efforts to comply with the law. It is hoped that all such information would be made public. If, however, the nature of any such exemption requires a security classification marking, it should be placed in a separate part of the report so as not to affect the remainder of the annual report." (House Report 93–1416, p. 21.)

Agencies will be required to prepare reports to the Office of Management and Budget (Attn: Information Systems Division) by April 30 of each year (beginning April 30, 1976) covering their activities under the Act during the preceding calendar year. The Office of Management and Budget will analyze data contained in the agency reports and prepare the required Presidential report to the Congress. The information required in the individual agency reports will include not only the minimum information required for inclusion in the report to Congress but also such information as is needed to evaluate the overall effectiveness of the Privacy Act implementation, identify areas in which implementing policies or procedures should be changed, and assess the impact of Federal data management activities.

Agency reports shall include but not be limited to the following:

Summary—A brief management summary of the status of actions taken to comply with the Act, the results of these efforts, any problems encountered and recommendations for any changes in legislation, policies or procedures.

Accomplishments—A summary of major accomplishments; i.e., improvements in agency information practices and safeguards.

Plans—A summary of major plans for activities in the upcoming year, e.g., area of emphasis, additional securing of facilities planned.

Exemptions—A list of systems which are exempted during the year from any

of the operative provisions of this law permitted under the terms of subsections (j) and (k), whether or not the exemption was obtained during the year, the number of records in each system exempted from each specific provision and reasons for invoking the exemption.

Number of systems—A brief summary of changes to the total inventory of personal data systems subject to the provisions of the Act including reasons for major changes; e.g. the extent to which review of the relevance of an necessity for records has resulted in elimination of all or portions of systems of records or any reduction in the number of individuals on whom records are maintained. Agencies will also be requested to provide OMB with a detailed listing of all their systems of records, the number of records in each and certain other data to facilitate oversight of the implementation of the Act. (Detailed reporting procedures will be issued under separate cover.)

Operational Experiences—A general description of operational experiences including estimates of the number of individuals (in relation to the total number of records in the system) requesting information on the existence of records pertaining to them, refusing to provide information, requesting access to their records, appealing initial refusals to amend records, and seeking redress through the courts.

More extensive data will be requested on those cases where the agency was unable to comply with the requirements of the Act or these quidelines; e.g., access was not granted or a request to amend could not be acknowledged within prescribed time limits.

More detailed instructions on the format, content and timing of these reports will be issued by OMB.

SECTION (q) EFFECT OF OTHER LAWS

Subsection (q) "No agency shall rely on any exemption contained in section 552 of this title to withhold from an individual any record which is otherwise accessible to such individual under the provisions of this section."

This provision makes it explicit that an individual may not be denied access to a record pertaining to him under subsection (d)(1), access to records, because that record is permitted to be withheld from members of the public under the Freedom of Information Act. The only grounds for denying an individual access to a record pertaining to him are the exemptions stated in this Act, subsections (j) and (k), and subsection (l) archival records. In addition consideration may have to be given to other statutory provisions which may govern specific agency records.

[FR Doc.75-17774 Filed 7-8-75;3:00 pm]

federal register

WEDNESDAY, JULY 9, 1975

WASHINGTON, D.C.

Volume 40 ■ Number 132

PART IV

DEPARTMENT OF LABOR

Office of the Secretary

■

PROGRAMS UNDER THE COMPREHENSIVE TRAINING ACT

Migrant and Other Seasonally Employed Farmworkers Programs

Title 29—Labor

SUBTITLE A—OFFICE OF THE SECRETARY OF LABOR

PART 94—GENERAL PROVISIONS FOR PROGRAMS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

PART 97—SPECIAL FEDERAL PROGRAMS AND RESPONSIBILITIES UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Migrant and Other Seasonally Employed Farmworker Programs

On Tuesday, August 6, 1974, the Department of Labor published in the FEDERAL REGISTER (39 FR 28400) regulations for Title III, section 303 of the Comprehensive Employment and Training Act of 1973 as amended (Pub. L. 93–203, 87 Stat. 839 and Pub. L. 93–567, 88 Stat. 1845). At that time, the Department invited interested persons to submit comments on the regulations, and stated comments would be evaluated to determine whether the regulations should, in any respect, be amended.

Numerous comments were received by the Department pursuant to this invitation. The Department studied these comments carefully, and considered each of them on its own merits and in relation to other comments received on the same or similar subjects.

The purpose of this issuance is to amend Part 97, Subpart C in certain aspects in response to comments received. These amendments are described below and are incorporated in the set of revised regulations published today. In addition, the consolidated Table of Contents in Part 94 is revised to reflect changes in Part 97.

Since these regulations constitute revision of the August 6, 1974, regulations, for which comments were invited and received, and since most of the changes in this revision are the results of comments received since August 6, 1974, and since it is necessary that interested parties be informed of the rules applicable to grants for Fiscal Year 1976, I find it would be contrary to the public interest to delay the effective date of this revised Subpart C in order to receive further comments.

These revised regulations will become effective August 8, 1975; they are not applicable, however, with one exception, to programs funded in Fiscal Year 1975. Those programs will continue to be governed by the regulations published August 6, 1974. The one exception relates to the requirement contained in these revised regulations requiring public disclosure of the names of program participants and staff (§ 97.265). That requirement will also apply to Fiscal Year 1975 programs.

These revised regulations are being published in their final form in this FEDERAL REGISTER. However, due to the major changes in the regulations and the length of time since this publication for comment on August 6, 1974, the Department will consider comments submitted until August 8, 1975. If warranted, revisions will be made based on the comments.

Persons interested in submitting comments should send them to: Assistant Secretary for Manpower, United States Department of Labor, 6th and D Streets, NW., Washington, D.C. 20213. Attention: Pierce A. Quinlan, Associate Manpower Administrator for Manpower Development Programs.

A description of the amendments with a short explanatory statement follows:

In § 97.202 *Scope and purpose of this subpart,* the list of titles of the Act has been amended to be consistent with the provisions of the Emergency Jobs and Unemployment Assistance Act of 1974 (Pub. L. 93–567, 88 Stat. 1845) which established a new Title VI for the Comprehensive Employment and Training Act, and renumbered the previous Title VI as Title VII. Appropriate changes have been made throughout the regulations to reflect the change of Title VI to Title VII.

A specific reference to the regulations for the Act published in the FEDERAL REGISTER on May 23, 1975, has been included.

In § 97.203 *Definitions,* the following additions and changes have been made:

A definition for the term "allocation" was added.

A definition for the term "appropriate amount" has been added to specify the commitment of resources required of Title I prime sponsors eligible to apply for section 303 funds.

The definitions for the terms "cooperative" and "compensation" were deleted since the terms are not used in this revision.

The definition of the term "eligible applicant" was revised to add public agencies and to require Title I prime sponsors applying for section 303 funds to commit an appropriate amount of Title I or Title II funds for eligible farmworkers.

A definition for "emergency assistance" has been added to clarify the specific activity.

In lieu of the definitions of the terms "farmworker" and "seasonal basis," this regulation contains new definitions of "farmwork" and "seasonal farmworkers." This change was made to assure consistency in the definitions used by different units of the Manpower Administration.

A definition for the term "planning estimate" was added to describe the funding levels to be published on or about July 1 of each year.

The definitions for the terms "program of demonstrated effectiveness" and "qualified applicant" were deleted.

A definition for the term "relocation assistance" was added.

A definition for the term "residential support" was added.

A definition for the term "supportive services" was added to indicate that supportive services activities unrelated to manpower training are allowable.

In § 97.204 *Allocation of funds,* the language in paragraph (b) was amended to delete the word "contingency" throughout, and to delete the terms High School Equivalency Program, College Assistance Migrant Programs, "programs of demonstrated effectiveness," and the reference to OMB Circular A–102. Language was added to specify that private profitmaking organizations will not be awarded grants and to specify which section of the regulations apply to National Account programs.

The references to the Economic Opportunity Act Title III–B and Manpower Development and Training Act Migrant Worker Program funds, and permanent housing, emergency food and medical services, high school equivalency projects, college assistance migrant programs, and the National Migrant Clearinghouse were deleted from paragraph (c)(2). Additional language was added to paragraph (c)(2) to give the Secretary the right to suspend the provisions of paragraphs (1) and (2) in the event that the funds appropriated during any fiscal year are less than the previous year's appropriation.

The language of paragraph (c)(3) concerning allocation exceptions was changed to allow the Secretary to decide not to grant funds to States receiving an allocable amount less than $50,000. The amendment to this paragraph requires the Secretary to make the decision on allocation of funds to a State with less than $50,000 of allocable funds on or about July 1 of each fiscal year.

The language on transition funding was deleted from paragraph (c)(3) and the specifics for the notification of termination were clarified.

The funding cycle was changed to delete mention of the deadline for submission of the Qualifications Statement, which is no longer required, to add a due date for a preapplication form, and to allow more time for submission of the Funding Requests and negotiations after a decision has been made on potential grantees.

In § 97.205 *Eligibility for allocable funds,* the language describing Title I prime sponsor eligible applicants was changed to conform to the definition of eligible applicants in § 97.203. The requirements for Title I prime sponsors was amended to require concurrence from other prime sponsors in the State in whose jurisdiction they propose to operate and to allow interstate programs.

In § 97.211 *Announcement of State planning estimates and invitation to submit Funding Requests,* the heading for this section was changed to reflect the elimination of the Qualifications Statement process. The date of the Secretary's announcement of State planning estimates was changed to "on or about July 1". Reference to the Qualifications Statement was changed to the Funding Request.

Language was added to require eligible applicants to notify the Secretary of their intention to apply for a State allocation.

A review and comment section was added which requires the Department to publish on August 20 of each year a list of all eligible applicants which notified the Department by August 1 of their intention to apply for allocable funds. All eligible applicants wishing to review and comment on the Funding Request of another applicant in its State may request

a copy of the Funding Request from that applicant. Comments on Funding Requests are to be submitted to the Secretary before October 8 of each year.

In § 97.212 *Submission of Qualifications Statement,* the language requiring submission of the Qualifications Statement was eliminated.

Section 97.213 *Review of Qualifications Statement,* was eliminated.

Section 97.214. *Notification of qualified applicants,* was deleted.

Section 97.212 *Preapplication for Federal Assistance,* replaces the original § 97.212, *Submission of Qualifications Statement.*

Language was added to require the submission of the Preapplication for Federal Assistance form, Part I, contained in Federal Management Circular 74–7 in order to be eligible to submit a funding request.

In § 97.213, *Content and description of Funding Request,* (§ 97.215 in the August 6, 1974, FEDERAL REGISTER), language was added to include the eligibility documentation originally required under the Qualifications Statement. The requirement of compliance with OMB Circular A–95 was added to the Assurances and Certifications.

Language describing the Project Operating Plan was replaced with language describing the Program Planning Summary and Budget Information Summary.

In § 97.214, *Submission of Funding Requests,* (§ 97.214 in the August 6, 1974, FEDERAL REGISTER), language was added to require that copies of the Funding Request shall be sent to State clearinghouses and eligible applicants within a State who request a copy. Language was added to require comments on Funding Requests by eligible applicants and State clearinghouses be submitted to the Secretary before October 8, 1975; however, all reviewers will be allowed at least thirty days to submit comments.

In § 97.215, *Review of Funding Requests,* (§ 97.217 in the August 6, 1974, FEDERAL REGISTER) language was added to allow a review by the Department of Health, Education, and Welfare and to allow the Secretary to conditionally designate potential grantees.

The rating criteria were revised to assign a maximum of 50 points for the proposed program and a maximum of 50 points for the applicant's experience in providing CETA-type services.

In § 97.216, *Notification of selection,* (§ 97.218 in the August 6, 1974, FEDERAL REGISTER), language was added to allow the Secretary to invite new applications if no potential grantee is selected in a State, and to require the Secretary to notify State clearinghouses of the decision(s) on selection.

In § 97.218, *Grant award,* (§ 97.220 in the August 6, 1974, FEDERAL REGISTER), language was added to specify the documents which shall constitute the grant agreement.

In § 97.219, *Annual competition,* (§ 97.221, *Option to renew* in the August 6, 1974, FEDERAL REGISTER), language was added to require the Secretary to invite Funding Requests every year in each State except in unusual circumstances.

In § 97.220, *Modification of grant agreement,* (§ 97.222 in the August 6, 1974, FEDERAL REGISTER), language was added to provide consistency with regulations for Title I of the Act on modification of grant agreement.

In § 97.221 *Modification of the Comprehensive Plan for Farmworkers* (was § 97.223 in the August 6, 1974, FEDERAL REGISTER), language was added to provide consistency with the regulations for Title I of the Act relating to modification of the Comprehensive Plan.

In § 97.232, *Eligibility for participation in section 303 programs,* language was added to require that participants be legally able to accept employment in the occupations in which they are receiving training and that they be legally in the country. Also, language was added to allow concurrent enrollment in programs funded under different titles and sections of the Act.

In § 97.233 *Types of program activities available,* language on extended education as a separate activity was deleted and was added under classroom training and other activities. Language was also added to allow post-placement services.

Sections 97.234 *Training allowances,* 97.235 *Wages, Minimum duration of training, and reasonable expectation of employment,* 97.236, *General benefits for program participant's,* were moved to Grant Administration and renumbered § 97.256.

In § 97.237, *Performance Standards,* (§ 97.243 in the August 6, 1974, FEDERAL REGISTER), language was added to make the performance standards in this section bench mark guidelines rather than minimum levels of performance.

In § 97.250, *Grant Administration in general,* the language was revised to clarify which sections apply to public agencies and which to private nonprofit organizations.

In § 97.253, *Reporting requirements,* the language concerning the Project Operating Plan was revised to reflect the two new reporting forms required in its place: the Program Status Summary and the Financial Status Report.

This section combines §§ 97.252, 97.253, 97.254 in the August 6, 1974, FEDERAL REGISTER.

In § 97.255, *Allowable Federal costs,* language on travel restrictions similar to those in Title I of the Act was added to this section. The travel restrictions previously in § 97.259(i) were deleted. The revised travel regulations do not require prior approval for out-of-State travel.

In § 97.2356, *Allowances, wages, and general benefits for program participants,* the language combines §§ 97.234, 97.235 and 97.236 of the August 6, 1974, regulations.

In § 97.259, *Basic personnel standards for grantees and subgrantees,* language was added to emphasize that these standards apply only to private nonprofit organizations. The travel reimbursement restrictions were revised and placed in § 97.255. The language on wages and salaries was revised to allow grantees authority to administer their own salary and wage structure without having to request salary waivers in most circumstances.

In § 97.261, *Grantee contracts and subgrants,* the language was changed to reference procurement standards in regulations for Title I of the Act as well as those in these regulations and to require subgrantees and contractors to comply with these regulations.

In § 97.265, *Maintenance and retention of records,* the language in the regulations for Title I of the Act making participant and staff names public information has been incorporated by reference into this section.

In § 97.269, *Allowances and reimbursement for board and advisory council members,* language was added to allow grantees to reimburse board and advisory council members whose income falls within the OMB poverty guidelines for lost wages.

Additionally, editorial, stylistic and technical changes were made in this revision.

Title 29 is amended as follows:

1. Section 94.3 of Part 94 is revised by deleting the present Table of Contents for Part 97, Subpart C, and substituting therefor the new Table of Contents for Part 97, Subpart C, so that the revised section reads as follows:

§ 94.3 Consolidated Table of Contents for Parts 94–99.

* * * * *

PART 97—SPECIAL FEDERAL PROGRAMS AND RESPONSIBILITIES UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

SUBPART C—MIGRANT AND OTHER SEASONALLY EMPLOYED FARMWORKER PROGRAMS

GENERAL

GRANT PLANNING AND APPLICATION PROCEDURES

PROGRAM OPERATIONS

* * * * *

Part 97, Subpart C, is revised to read as set forth below.

* * * * *

Subpart C—Migrant and Other Seasonally Employed Farmworker Programs

GENERAL

AUTHORITY: Comprehensive Employment and Training Act of 1973, as amended (Pub. L. 93–203, 87 Stat. 839; Pub. L. 93–567, 88 Stat. 1845), secs. 702(a) and 303, unless otherwise noted.

GENERAL

§ 97.201 Scope and purpose of Title III, section 303 Programs.

(a) It is the purpose of Title III section 303, of the Act to provide manpower and other services for those individuals who suffer chronic seasonal unemployment and underemployment in the agriculture industry, which has been substantially affected by recent advances in technology and mechanization. These individuals constitute a substantial portion of the nation's rural manpower problem and substantially affect the entire national economy.

(b) Because of the special nature of the problem faced by migrant and seasonal farmworkers, the programs developed and implemented under this section of the Act shall be administered by the Manpower Administration at the national level. Such programs will be flexible in design and shall have these primary objectives:

(1) *Alternatives to agricultural labor.* Provision of services to migrant and other seasonally employed farmworkers and their families who wish to seek alternative job opportunities to seasonal farmwork, which will equip them to compete in other labor markets and to secure stable year-round employment providing an income above the poverty level.

(2) *Improved agricultural life style.* Provision of services necessary to improve the well-being of migrants and other seasonally employed farmworkers and their families who remain in the agricultural labor market and/or to upgrade their skills to enable them to take advantage of job opportunities created by changing agricultural technology.

§ 97.202 Scope and purpose of this subpart.

(a) The regulations promulgated to carry out the Act are set forth in 29 CFR Parts 94–99 as published in the FEDERAL REGISTER on May 23, 1975 (40 FR 22674). As each substantive title of the Act provides for the establishment of a specific type of program, the regulations promulgated in Parts 94 through 99 provide a separate part for each basic type of activity, and two parts deal with general matters relating to the Act. This subpart deals with all matters pertaining to the implementation and operation of Migrant and Seasonal Farmworker Manpower Programs pursuant to section 303 of the Act. It is designed to contain in itself all the regulatory material under the Act necessary for the operation of section 303 programs except where specific reference is made to other parts of this title. When the provisions of this subpart conflict with the provisions of other regulations under the Act, the provisions of this subpart shall prevail.

(b) Statutory authority for the regulations contained in this Subpart C may be found in sections 303.and 702(a) of the Act, as amended as well as in other substantive provisions of the Act.

§ 97.203 Definitions.

A listing of definitions of terms used in the regulations promulgated to implement the Act is set forth in § 94.4 of this subtitle. Those definitions applicable only to section 303 or having special significance to section 303 are the following:

"Allocation" shall mean the distribution of funds among programs in states according to the procedures specified in § 97.204(c).

"Appropriate amount" for the purposes of committing Title I and/or II funds for farmworkers shall mean an amount proportional to the significance of the farmworkers in the prime sponsor's population; for example, the amount whose ratio to the total Title I funds available to the prime sponsor is equivalent to the ratio of the number of farmworkers to the total number of low-income workers in the prime sponsor's jurisdiction.

"Eligible Applicant," for purposes of receiving funds allocable pursuant to § 97.204(c) of this title, shall mean:

(a) A recognized prime sponsor under CETA Title I having within its jurisdiction a significant segment of migrant and other seasonally employed farmworkers for whom it has committed funds provided under Title I and/or II of the Act in an appropriate amount; or a public agency designated by such prime sponsor to receive section 303 funds;

(b) A private nonprofit organization authorized by its charter or articles of incorporation to provide manpower or such other services as may be funded under this subpart.

"Emergency assistance" shall mean temporary services on an emergency basis which are not immediately available from non-section 303 sources.

"Establishment" shall mean an economic unit, generally at a single physical location, where business is conducted (For example: Farm, orchard, ranch). For the purposes of the "seasonal farmworker" definition, farm labor contractors and crew leaders are not considered establishments; it is the organizations to which they supply the workers that are the establishments.

"Farmwork" shall mean work performed for wages in agricultural production or agricultural services (as defined in the most recent edition of the Standard Industrial Classification (SIC) Code definitions included in industries 01, 02 (excluding 027), and 07 excluding 074, 0752, 0761, and 078).

"Farmworker organization" shall mean a private nonprofit organization directed principally by farmworkers.

"Funding Request" shall mean a formal proposal submitted by an applicant which detail the type and extent of services to be provided to farmworkers and their dependents for consideration by the Secretary for funding under section 303.

"Health care" shall include but is not limited to preventive and clinical medical treatment for farmworkers and their dependents.

"Manpower services" shall mean such services as: (a) Outreach; (b) intake and assessment; (c) orientation; (d) counseling; (e) job development; (f) referral; (g) job placement; (h) transportation; (i) follow-up.

"Migrant farmworker" shall mean a seasonal farmworker who performs or has performed during the preceding twelve months agricultural labor which requires travel such that the worker is unable to return to his/her domicile (accepted place of residence) within the same day.

"Nutritional assistance" shall mean services including but not limited to assisting farmworkers and their dependents to obtain food stamps and vouchers, access to other food programs, fair hearings and limited direct cash purchases of food.

"Planning estimates" shall mean the preliminary allocations announced for the purpose of providing target funding levels for each State.

"Relocation assistance" shall mean the activities necessary to arrange for a family to move to a new abode for the purpose of receiving services and/or training which will lead to alternative job opportunities to seasonal farmwork. Activities may include but are not limited to: Necessary manpower services; the costs of the actual transfer of goods and property including mileage for the families' travel; emergency assistance; rent subsidies; and other supportive services.

"Residential support" shall mean the provision of temporary housing for families receiving training, supportive services, or post-placement services. The grantee may offer such housing in several ways including but not limited to directly operating a residential facility with all necessary services or through the grantee's subsidizing all or part of the rental and utility costs for an enrolled family.

"Seasonal farmworker" shall mean a person who during the preceding twelve months worked at least 25 days in farm work and worked less than 150 consecutive days at any one establishment. "Seasonal farmworker" includes both migratory and nonmigratory farmworkers, but does not include nonmigratory individuals who are full-time students, or supervisors or other farmworkers.

"Section 303" shall mean the Migrant and Seasonal Farmworker Manpower Programs, section 303, Title III of the Comprehensive Employment and Training Act of 1973 (Pub. L. 93–203, 87 Stat. 839).

"State" includes the Commonwealth of Puerto Rico.

"Supportive Services" shall mean such services as health and medical service, child care, emergency assistance, relocation assistance, residential support, nutritional services, and legal services, designed to improve the well being of those remaining as seasonal farmworkers as well as such services described in § 94.4 (ddd) of this subtitle.

"Target area" shall mean a geographic area to be served by a section 303 grant. Such an area may be a county, multicounty area, a state, or a multi-state area.

"Target population" shall mean farmworkers and their dependents who meet the eligibility criteria set forth in § 97.232.

§ 97.204 Allocation of funds.

(a) *Available funds.* For the purpose of implementing this subpart and pursuant to section 303 of the Act, the Secretary shall reserve, from funds available for Title III programs, funds to serve migrants and other seasonally employed agricultural workers in an amount equal to not less than 5 percent of the amount allocated pursuant to section 103 (a)(1) of the Act.

(b) *National Account.* (1) No more than twenty percent (20%) of the statutory reserve for section 303 activities will be set aside for the National Account, to be used at the discretion of the Secretary for experimental programs; clearing house activity; labor market information; interstate programs; special needs, including but not limited to projects such as permanent housing; programs to meet the needs of emergency situations and changing agricultural technology; and other programs.

(2) Funds from the National Account may be obligated by the Secretary by means of either contracts or grants to private nonprofit agencies or contracts to private profit making organizations. National Account funds obligated to states and local units of government shall be awarded through grants.

(3) The Secretary shall fund programs from the National Account according to procedures deemed advisable by the Secretary, but all National Account programs shall include performance standards specifically designed for those programs.

(4) The provisions of this Subpart C apply in their entirety to programs funded from the National Account, with the exception of §§ 97.205, (Eligibility for Allocable Funds), 97.211 (Allocations), 97.213–97.215 (Selection of Potential Grantees) and paragraph (b) of § 97.237 (Performance Standards).

(c) *State allocations (allocable funds).* (1) No less than eighty percent (80%) of the funds reserved for section 303 activities shall be allocated for farmworker programs in individual states in an equitable manner using the best data available as determined by the Secretary.

(2) *Hold harmless clause.* No state shall be allocated an amount which is less than 90 percent of the amount of allocable section 303 funds obligated in the prior fiscal year for use in that state. If during any fiscal year the appropriation for section 303 is less than that appropriated in the previous fiscal year, the Secretary reserves the right to suspend the provision's of paragraphs (c)(1) and (2) of this section.

(3) *Allocation Exceptions.* (i) The Secretary reserves the right not to allocate any funds for use in a State whose allocation is less than $50,000. The Secretary will announce which state(s) will not be allocated funds on or about July 1 of each fiscal year. If the State allocation would be an amount less than $50,000, the Secretary may allocate $50,000 for programs in that State.

(ii) Currently funded programs which are unsuccessful applicants for grant funds shall be given notice of termination and at least ninety-days lead time to phase out their operations, but such notice will not bind the Secretary to obligate additional funds. The notification of non-selection shall be the notice of termination and the requirements of § 97.264 are to be followed.

(4) *Funding cycle.* All projects funded through State allocations shall be funded beginning January 1 of each year in accordance with the following funding cycle:

(i) On or about July 1: Announcement of State planning estimates and the invitation to submit Funding Requests for State(s) or area(s) open for competition as provided in § 97.219.

(ii) August 1: Deadline for submission of Preapplication Forms for Federal Assistance forms (3 p.m., e.d.t.).

(iii) September 1: Deadline for submission of Funding Requests (3 p.m., e.d.t.).

(iv) On or about November 1: Notification of selection as potential grantees.
(v) January 1: Commencement of grant awards.

If the Secretary deems it advisable to alter the funding cycle provided herein a revised funding cycle shall be published in the FEDERAL REGISTER on or about July 1 of any fiscal year.

§ 97.205 Eligibility for allocable funds.

The following organizations and units of government shall be eligible to receive allocable funds available under section 303:

(a) A recognized prime sponsor under CETA Title I having within its jurisdiction a significant segment of migrant and other seasonally employed farmworkers for whom it has committed funds provided under Title I and/or II of the Act in an appropriate amount; or a public agency within such a prime sponsor's geographic boundaries designated by that eligible prime sponsor to receive section 303 funds in its place.

(1) An applicant eligible under paragraph (a) of this section which wishes to apply for consideration for grant funds to operate programs in an area outside the area in which it is eligible to operate under CETA Title I may do so only with the concurrence of the Title I prime sponsor for that area so affected. Such concurrence may be accomplished by means of an agreement that provides for a subgrant from the applicant prime sponsor to the affected Title I prime sponsor or by letter from the affected prime sponsor authorizing the applicant prime sponsor to operate programs in the affected area.

(b) A private nonprofit organization authorized by its charter or articles of incorporation to provide manpower or such other services as are permitted by this subpart.

(c) An organization which wishes to be considered for grant funds to operate programs in more than one State shall submit separate Funding Requests for each state for which it wishes to be considered for funding. An applicant eligible under paragraph (a) of this section which wishes to operate programs in an area outside of its State may do so only with the concurrence of the Title I prime sponsor for that area.

GRANT PLANNING AND APPLICATION PROCEDURES

§ 97.210 Grant planning and application procedures in general.

Sections 97.210–97.220 provide procedures for obtaining and modifying a grant to operate programs under section 303 of the Act. Specifically, these sections describe the procedures in the grant award process from the announcement of invitation to submit Funding Requests, through the grant application process, to review by the Department and approval of the grant.

§ 97.211 Announcement of State planning estimates and invitation to submit Funding Requests.

(a) *Announcements.* (1) *State planning estimates.* On or about July 1 of each fiscal year the Secretary shall announce State planning estimates of resources available to implement section 303 programs.

(2) *States or areas open for competition under section 303.* On or about July 1 of each fiscal year the Secretary shall announce a list of States and/or areas open for competition under section 303 as provided in § 97.219.

(3) *Invitation to submit funding requests.* On or about July 1 of each fiscal year, the Secretary shall invite eligible applicants as defined in § 97.203 interested in receiving funding under section 303 to submit a Funding Request. The invitation will cover only those areas designated by the Secretary as open for competition.

(4) These announcements shall be made in the FEDERAL REGISTER and through the appropriate Assistant Regional Director for Manpower.

(b) *Intention to apply.* (1) Any eligible applicant intending to apply for funds from a State allocation must submit a Preapplication for Federal Assistance form to the Secretary by August 1, of each fiscal year.

(c) *Opportunity for review and comment:* (1) On or about August 20, of each fiscal year, the Secretary shall publish in the FEDERAL REGISTER a list of all eligible applicants which have submitted preapplications for all or part of each State allocation: (2) Eligible applicants wishing to review and comment on the Funding Request of any eligible applicant within their State as listed in the FEDERAL REGISTER pursuant to paragraph (c)(1) of this section must request a copy of the Funding Request from the eligible applicant so listed.

(3) Eligible applicants submitting a Funding Request to the Secretary to be considered for all or part of a State's allocable funds must send a copy of the Funding Request to all other eligible applicants within the State which have requested a copy of the Funding Request pursuant to paragraph (c)(2) of this section.

(4) These copies must be submitted to requesting organizations at the same time the Funding Request is submitted to the Secretary. Funding Requests sent by mail to requesting organizations pursuant to paragraph (c) (2) and (3) of this section shall be sent by registered or certified mail with return receipt requested or if a Funding Request is delivered by hand, the recipient eligible applicant shall provide a written receipt bearing the time and date of delivery.

(5) Comments of Funding Requests shall be submitted to the Secretary at the address provided in § 97.214, within 30 days of receipt of the Funding Request, but no later than October 8, of each fiscal year. A copy of all comments must also be sent to the concerned eligible applicant by registered mail at the same time.

§ 97.212 Preapplication for Federal Assistance.

(a) An applicant eligible to receive allocable funds available under section 303 shall submit a preapplication to the Secretary. The preapplication will consist of the Preapplication for Federal Assistance form, Part I, contained in Federal Management Circular (FMC) 74–7 (formerly OMB Circular A–102), with an attachment identifying the target area by State and Counties.

(b) Preapplication for Federal Assistance form, Part I, shall be submitted to the offices identified in § 97.214 (a) and (b). If an organization does not submit a Preapplication for Federal Assistance form by August 1, its Funding Request shall not be considered.

§ 97.213 Content and description of Funding Request.

(a) *General.* (1) This section describes the Funding Request forms which applicants shall use to apply for funds under section 303.

(2) Forms and instructions are contained in the Forms Preparation Handbook and its section 303 supplement and are available from the Secretary upon request.

(3) The Funding Request consists of four parts: The Application for Federal Assistance; the Eligibility documentation; the Comprehensive Plan for Farmworkers; and the Assurances and Certifications form.

(b) *Funding Request forms.* (1) *Application for Federal Assistance.* This identifies the applicant and the amount of funds requested. It provides information concerning the area to be served and the number of farmworkers expected to benefit from the program. The form provided in Federal Management Circular 74–7, Part I, grant application for nonconstruction programs, shall be used with such other forms, as may be required.

(2) *Eligibility documentation.* The following documents shall be submitted by an applicant to meet the eligibility requirements for section 303. In addition, the Secretary shall develop a form to be used by incumbent section 303 grantees and by applicants considered eligible in the previous fiscal year, which will indicate and briefly describe changes in eligibility documentation.

(i) A statement indicating the legally constituted authority under which the organization functions;

(ii) An employer identification number from the Internal Revenue Service; and, for private nonprofit applicants, proof of their tax-exempt status;

(iii) A certification by the chief fiscal officer of a public organization or by a CPA for private nonprofit organizations attesting to the adequacy of the applicant's accounting system, if applicable (refer to § 97.251 to determine applicability);

(iv) A copy of the Comprehensive Manpower Plan component which describes CETA Titles I and/or II services to be made available to farmworkers for the fiscal year for which funds are requested (for CETA prime sponsor applicants only) pursuant to § 97.205(a).

(v) Documentation of concurrences from affected prime sponsor(s), as described in § 97.205(a) (for CETA prime sponsor applicants only).

(3) *Comprehensive Plan for Farmworkers.* The Comprehensive Plan for Farmworkers is a detailed explanation of how the applicant proposes to use section 303 funds for farmworkers within its target area. Upon incorporation into the grant agreement, the amended Comprehensive Plan for Farmworkers will become the basis for programmatic and fiscal accountability of the section 303 grant. The Comprehensive Plan for Farmworkers consists of the Narrative Description of the Program, the Program Planning Summary, and Budget Information Summary described below:

(i) *Narrative description of program.* The Narrative Description of the Program analyzes the manpower and social problems of the target population within the target area to set priorities and goals, describes proposed program activities and delivery systems to meet those goals, proposes performance standards for all program activities, and projects the results which may be expected from the program. The Narrative Description of the Program requires a detailed justification and description of each program activity, including the following specific items (the Forms Preparation Handbook is a guide for completing these items):

(A) Objectives and needs for assistance:

(*1*) Policy statement on purpose of program;

(2) Description of economic conditions;

(*3*) Analysis of labor market and social service situation;

(*4*) Statement of number of farmworkers and dependents to be served; and

(*5*) Goals and priorities.

(B) Program design and results expected:

(*1*) Statement of strategy for accomplishing goals;

(2) Detailed description of each program activity and service, including costs, manner of delivery, specific objectives, and performance standards; and

(*3*) Enumeration of objectives and performance standards related to goals identified in Part A of the Narrative Description of Program.

(C) Approach:

(*1*) Description of the planning system, participation of and role of the governing board or advisory councils in planning and implementation;

(*2*) A copy of the by-laws or other official documents showing the structure of pertinent Boards, Area Councils, or Advisory bodies;

(*3*) Description of the delivery system;

(*4*) Description of recruitment and eligibility verification methods;

(*5*) Description of the applicant's administrative system;

(*6*) Resumes of key management staff;

(*7*) Justification of section 303 funded administrative costs as defined in § 97.255, in excess of 20 percent;

(*8*) Documentation of past experience; and

(*9*) A description of linkages with other manpower programs, other social service programs, and farmworker organizations, including letters of commitment for all services to be provided section 303 participants at no cost to section 303.

(D) Geographic location served. Description of the geographic locations within the target area in which the applicant has operated and in which the proposed program will operate, and in which it will recruit and refer participants.

(E) Detailed Budget. For each program activity, section 303 grantees will be required to submit an itemized budget of allowable costs, as defined in §§ 97.255 and 97.257. The CETA and the non-CETA share of the total costs shall be noted for each program activity. For all section 303 funds requested, personnel and nonpersonnel costs shall be itemized for each program activity proposed and for the cost category of administration. This itemization shall include individual operational staff salaries, staff fringe benefits, staff travel, equipment purchases, etc.

(ii) *Program planning summary.* The Program Planning Summary requires an applicant to provide a quantitative statement of enrollment levels, the number of participants to be served by each program activity (classroom training, on-the-job training, work experience, services to participants, and other activities), and outcomes for program participants. It also requires identification of the number of individuals to be served within the target population.

(iii) *Budget information summary.* The Budget Information Summary requires an applicant to provide a quantitative statement of planned expenditures and obligations. It requires an applicant to indicate yearly planned expenditures by cost category (administration, allowances, wages, fringe benefits, training, and services); the applicant is to reflect planned quarterly obligations and expenditures by program activity.

(4) *Assurances and certifications.* The Assurances and Certifications form is a signature sheet on which the applicant assures and certifies that it will comply with the Act, the regulations of the Department, other applicable laws, and applicable Federal Management Circulars from the General Services Administration (GSA). Signature of the Assurances and Certifications form by private nonprofit section 303 Eligible Applicants and Grantees shall mean that section 303 funds shall be expelled in compliance with Federal Management Circulars 74–4 and 74–7; provided that if a Federal Management Circular applicable to the administration of grants to non-profit organizations becomes effective before the grant period, such Circular shall supersede any provisions of FMC 74–4 and 74–7 (made applicable to private nonprofit organizations by this subpart) which conflict with the provisions of such Circular. The Assurances and Certifications form is contained in the Forms Preparation Handbook. The following is a summary of the items which are described in detail on that form:

(i) Compliance with the Act and regulations issued under the Act

(ii) Compliance with Federal Management Circulars 74–4 and 74–7 and OMB Circular A–95;

(iii) Legal authority to apply for a section 303 grant;

(iv) Nondiscrimination (section 703 (i));

(v) Compliance with Title VI and VII of the Civil Rights Act of 1964;

(vi) Compliance with the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970;

(vii) Compliance with the Hatch Act and restrictions on political activities (as applicable);

(viii) Prohibition on use of position for private gain;

(ix) Access of Comptroller General and Secretary to records and documents pertaining to the Act;

(x) Nonsupport of religious facilities;

(xi) Maintenance of required health and safety standards;

(xii) Provision of appropriate worker's compensation to participants;

(xiii) Use of funds under the Act to supplement rather than supplant funds otherwise available, prohibition on displacement of employed workers by participants employed under the Act, and prohibition on impairment of existing contracts for services;

§ 97.214 Submission of Funding Request.

(a) An eligible applicant shall submit three copies of the Funding Request to the address listed below:

U.S. Department of Labor
Manpower Administration
Patrick Henry Building—Room 7122
601 D Street, NW.
Washington, D.C. 20213
ATTN: Chief, Migrant and Seasonal Farmworker Division

(b) Two copies of the Funding request shall also be submitted directly to the appropriate Assistant Regional Director for Manpower at the same time the three copies are submitted to the above address and labeled: Funding Request for CETA 303 Farmworker Program.

(c)(1) Copies of the Funding Request shall also be submitted to the appropriate State and/or area clearinghouse(s) and eligible applicant(s) which request an opportunity for review and comment as provided in § 97.211(c) at the same time the Funding Request is submitted to the above address.

(2) All comments from clearinghouses and other reviews shall be submitted to the above address by October 8. However, no notification of selection of potential grantee(s) for a State or area

will be made until all clearinghouses and other reviews have had at least 30 days from receipt of the Funding Request from that State or area to submit comments.

(d) Funding Requests sent by mail to the address provided in paragraphs (a) and (c) of this section must be registered or certified with return receipt requested. In order to be considered to be submitted on time by the Manpower Administration, the following conditions must be met:

(1) The Funding Request must be registered or certified by the Postal Service on or before 3 p.m. September 1. In the event that September 1 falls on a Sunday, on a holiday, or at any other time during which the Postal Service is not operational, it shall be the responsibility of the applicant to properly register and certify the Funding Request so that it will bear a post mark prior to 3:00 p.m. September 1. No deviation in this condition will be made by the Manpower Administration, and all Funding Requests received bearing postmarks after 3:00 p.m. September 1, shall be returned without consideration.

(e) Funding Requests delivered by hand must be taken to the address given in paragraph (a) of this section. All applicants who deliver a Funding Request will be given a receipt bearing a time and date of delivery. Funding Requests will be accepted daily between the hours of 8:15 a.m., and 4:45 p.m., Washington, D.C. time, except Saturdays, Sundays, and holidays. Funding Requests will not be received after 3 p.m., e.d.t., on September 1. In the event that September 1 falls on a Saturday, Sunday or, holiday, it shall be the responsibility of the applicant to deliver the Funding Request so that it will be received prior to 3 p.m., e.d.t., September 1. No deviation in this condition will be made by the Manpower Administration and no Funding Request delivered after 3 p.m., e.d.t., September 1 shall be accepted.

§ 97.215 Review of Funding Requests.

(a) *Standards for reviewing Funding Requests for allowable funds.* Funding Requests submitted by applicants shall be reviewed and evaluated by the Secretary to determine those judged to be most qualified to receive a grant under section 303 for program operations in a particular target area according to the procedures outlined in paragraph (a) of this section. In addition, when appropriate under section 306 of the Act, Funding Requests shall be reviewed by the Secretary of the Department of Health, Education, and Welfare (DHEW) or his/her designee in accordance with section 306 of the Act.

(1) *Determination of eligibility.* The Secretary shall review the documentation described in § 97.213(b)(2) to determine the eligibility of each applicant and shall: (i) Designate the organization as eligible under section 303; or (ii) determine that the organization is conditionally eligible pending submission of further documentation; or (iii) determine that the organization is ineligible under section 303. An organization determined to be ineligible shall not be reviewed further.

(2) *Review of Comprehensive Plan for Farmworkers.* The Comprehensive Plans for Farmworkers submitted by applicants shall be reviewed and evaluated by the Secretary to determine those applicants which will be designated potential grantees for a particular target area.

(i) Factors for evaluating Plans. Plans shall be evaluated by the Secretary based on the criteria listed in this paragraph.

(ii) Each of the following factors is assigned a numerical range which shall be used to rank Plans. A separate rating within the identified range for each factor shall be assigned to each Plan based on information provided in the Plan. The sum of the ratings shall constitute the overall rating of the Plan. The following factors shall be considered in assigning ratings:

(A) *Program development.—Range* 0–10. The program development factor is a rating of the proposed program's potential impact on the full range of farmworker needs and its fulfillment of the intent of section 303. The rating will consider the following elements:

(1) *Training.* The proposed program provides alternatives for farmworkers to leave farmwork by offering training in a number of occupations providing a wage above the poverty level into which participant can be successfully placed within the existing economic and labor market conditions in the target area. The proposed program provides alternatives for farmworkers to secure full time agriculture work providing an income above the poverty level.

(2) *Services.* The proposed program provides supportive services which are necessary to assist farmworkers in leaving seasonal farmwork and/or provides services which will improve the living and working conditions of farmworkers remaining in agriculture.

(3) *Program impact.* The proposed program will directly impact on the problems and needs of farmworkers in the particular target area. The highest rating of 10 shall be awarded to an organization which has adequately analyzed the economic situation of the target area and identified the social and economic needs of the target population, and has developed a program based on this analysis and identification, which provides service including training and supportive services that can be successfully implemented within the existing target area economic and labor market situations to meet these needs.

(B) *Delivery system—Range 0–10.* The delivery system factor is a rating of the applicant's system for delivering the comprehensive program services and its potential ability to provide effective and timely services to farmworkers. This rating shall include the potential effectiveness of subgrantees and contractors in providing services specifically for farmworkers.

(1) The highest rating of 10 shall be awarded to an organization whose delivery system is efficiently integrated and whose subgrantees' and contractors' delivery systems are coordinated with the applicant's into a functioning unit.

(C) *Administrative capability.—Range* 0–10. The administrative capability factor is a rating of the applicant's management experience and efficiency. The rating shall include consideration of the managerial expertise of the organization's present and proposed staff in managerial and decisionmaking positions. This factor shall also consider administrative efficiency based on comparative administrative cost. The highest rating of 10 shall be awarded to organizations which can demonstrate the capability to administer efficiently a multi-activity delivery system with comparatively low administrative costs.

(D) *Responsiveness to farmworkers.—Range* 0–10. The responsiveness to farmworkers factor is a rating of the organization's active and visible involvement of farmworkers in its planning and the proposed involvement of farmworkers in implementation of its proposed program of services. The rating will also consider the sensitivity of the organization's present and proposed staff in program positions. The rating will consider the following elements:

(1) *Involvement of Farmworker Boards/Advisory Councils.* This factor is a rating of the involvement of farmworkers on applicant's governing boards and advisory councils in the planning, implementation and operation of the proposed program. This involvement shall be manifested by the responsibilities incorporated in the board's or advisory council's by-laws and the farmworker representation on these bodies. The highest rating of seven shall be awarded to organizations whose boards or advisory councils have responsibility for reviewing and making recommendations on section 303 plans, monitoring section 303 program operations, recommending corrective action, and having established mechanisms for effecting necessary corrective actions, and whose membership includes farmworkers.

(2) *Staff sensitivity.* The sensitivity factor is a rating of the ability of the organization's staff to relate to farmworkers and be responsive to their needs. The highest rating of 3 shall be awarded to those organizations whose staffing includes ex-farmworkers and reflects the ethnic, racial, and sexual composition of the target population.

(E) *Linkages and coordination.—Range* 0–10. The linkages and coordination factor is a rating of an organization's demonstrated and documented programmatic ties with appropriate State and local agencies, private nonprofit organizations, and other groups providing resources and services to farmworkers. The highest rating of 10 shall be awarded to applicants which would operate programs incorporating services at no cost to section 303 from other agencies for the purpose of providing manpower and other services to participants and whose Funding Request includes letters of commitment for these services.

(F) *Review of experience.—Range* 0–50. The organization's past experience in providing a comprehensive program of manpower and other services shall be reviewed and evaluated by the Secretary to determine those judged to be most qualified to receive a grant under section 303 for program operations in a particular target area. A numerical range of 0–50 shall be used to rank the experience of applicants.

(i) *Existing section 303 grantees.* For existing section 303 grantees competing as eligible applicants, the review of experience will be based on the record of performance in delivering section 303 services. The Secretary shall review and evaluate the grantee's performance through review of reports, monitoring and/or auditing of the program. The highest rating of 50 may be awarded to a grantee which has provided an effective program of services for farmworkers; the factors in this ratio shall include but not be limited to (A) exceeding all of the individual grant performance standards in its Comprehensive Plan for Farmworkers; (B) meeting planned performance levels on its Program Planning Summary, and Budget Information Summary for the prior fiscal year (or on its Project Operating Plan); and (C) having met the requirements for program operations and grant administration of this Subpart C.

(ii) *Other eligible applicants.* For applicants who are not section 303 grantees, the review of experience will be based on information submitted in the Funding Request. In order to receive a rating for experience, an applicant must have adequately identified the funding source(s) to which it was accountable. The assertions of success should be adequately substantiated and documented in the Funding Request, including official evaluations, if available. The Secretary reserves the right to verify the information submitted in the Funding Request and to obtain additional information if the information submitted is not adequate for the purpose of this review. The following factors shall be considered in assigning ratings:

(A) *Program experience, regardless of nature of clientele.—Range* 0–40.

(*1*) The organization has operated an effective comprehensive program of services, including but not limited to the program activities and supportive services described in paragraphs (c) through (g) of § 97.233.

(2) The organization has provided training and other manpower services effectively.

(3) The organization has met the stated objectives for program performance of all program activities it has provided.

(*4*) The organization has effectively administered a multi-activity delivery system, if applicable.

(*5*) The administration and management of the program has conformed to acceptable management standards, including but not limited to those set forth in the Grant Administration sections of this Subpart C and Part 98 of this subtitle.

(B) *Farmworker experience.—Range* 0–10. The organization or its subgrantee(s) has provided services specifically for farmworkers. A maximum rating of 10 shall be awarded for farmworker clientele. The highest rating of 50 shall be awarded to an organization which has operated a comprehensive multi-activity program of manpower and other services, whose assertions of effectiveness are supported by individuals from the funding source(s) and/or by an official evaluation, and has served farmworkers. The highest rating of 50 shall also be awarded to prime sponsors whose experience meets the standards presented above and whose subgrantees include farmworker organization(s).

(b) *Selection of potential grantees.* As a result of the procedures set forth in paragraph (a) of this section, of consideration of the potential effectiveness and efficiency of the proposed programs, and of comments received pursuant to § 97.214(c) the Secretary shall designate potential grantees to receive a grant under section 303 for program operations in a designated target area. The consideration of the potential effectiveness and efficiency of the proposed programs includes but is not limited to the following: (1) Cost effectiveness and, (2) service delivery consideration.

The Secretary may conditionally designate organizations as potential grantees, pending resolution of their eligibility status, submission of additional documentation, or changes in the proposed program.

§ 97.216 Notification of selection.

(a)(1) Potential grantees selected as a result of the procedures set forth in § 97.215 shall be so notified by the Secretary. The notification shall invite each potential grantee to negotiate the final terms and conditions of the grant, shall establish the time and place of the negotiation, and shall indicate the State or area to be covered by the grant. Changes in the proposed program's target area and/or funding level are not appealable under the provision of §§ 97.290–97.292.

(2) In addition, clearinghouses submitting comments on the application will be notified of the selection of the potential grantee. Where a clearinghouse has recommended against the selection of the potential grantee, the notification will include an explanation as to the reasons that the recommendations addressed to substantive merits of the proposal could not be accepted.

(b) In the event that no Funding Requests are received for a specific State or area or that those received are deemed to be unacceptable, or where a grant agreement is not successfully negotiated, the Secretary reserves the right to invite submission of new proposals for that State or area. Such invitation shall be announced in the FEDERAL REGISTER. In the event of a second invitation, the review criteria for allocable funds need not apply, and funds may be awarded at the discretion of the Secretary.

(c) An applicant whose Funding Request is not selected by the Secretary to receive section 303 grant funds shall be notified in writing and shall be provided the names and addresses of potential grantees for its State.

(d) Applicants who submit Funding Requests which have been rejected may resubmit a new Funding Request when the State(s) or area(s) in which they are interested in providing services is announced by the Secretary as open for recompetition.

(e) Any applicant whose Funding Request is considered and rejected by the Secretary for a section 303 grant may request an administrative review as provided in § 97.290 and § 97.292.

§ 97.217 Negotiation of final grant.

(a) Notice of selection as a potential grantee does not constitute approval of the totality of the Funding Request, the funding level sought, nor of the target area requested.

(b) Prior to the actual award of a grant, representatives of the potential grantee and of the Secretary shall enter into negotiations. The subjects of negotiations shall include but shall not be limited to: (1) Program components; (2) subgrantees; (3) funding levels; (4) program objectives; (5) performance levels and standards; and (6) administrative systems.

(c) The Secretary reserves the right to decline to fund any program component(s) or subgrantee(s) or contractor(s) listed in a potential grantee's Funding Request, to add subgrantees, and to modify the target area to be served.

(d) In the event that the negotiations do not result in an acceptable negotiated grant for a section 303 program in a State or area, the Secretary reserves the right to terminate the negotiation and (1) decline to provide funds for section 303 programs in that State or area for that fiscal year or (2) invite submission of new proposals for the State or area. The invitation to submit new proposals shall be announced in the FEDERAL REGISTER.

§ 97.218 Grant Award.

(a) At the conclusion of negotiations a grant document which incorporates the results of all negotiations shall be prepared in conformity with FMC 74–7.

(b) The Secretary shall make a grant award by providing the grantee with a grant agreement consisting of the Grant Signature Sheet, the Assurances and Certification form, the Program of Work, the Program Planning Summary, Budget Information Summary, and Grant Conditions.

(1) The Grant Signature Sheet specifies the amount obligated by the Department, delineates the terms of the grant, and contains the signatures of the Secretary and the grantee official.

(2) The Assurance Certification form is described in § 97.213(b)(4).

(3) The Program of Work shall be a summary statement of the Comprehensive Plan for Farmworkers and shall incorporate the amended Comprehensive Plan for Farmworkers by reference.

(4) Grant Conditions are special restrictions placed on the grant by the Secretary.

(c) The grant agreement becomes effective upon signature by the Secretary.

(d) In signing the Grant Signature Sheet, the grantee official indicates the grantee's acceptance of the grant and of all grant conditions incorporated therein. The grant agreement becomes operational upon signature by both the Secretary and the grantee official.

§ 97.219 Annual competition.

A section 303 grant obtained on the basis of competition will generally be recompleted the following fiscal year. However, in a limited number of circumstances, the Secretary may determine not to reopen competition. The Secretary reserves the right to renew a grant for an additional 12-month period. No grant shall be operated in any State or area for a period of more than 24 months without recompetition.

§ 97.220 Modification of Grant Agreement.

(a) A modification to the grant agreement is required when there is a change in (1) the terms of the grant, (2) the amount funded by the grant, or (3) the assurances and certifications included in the grant agreement. The procedures for modification of the grant agreement shall be undertaken as described in paragraph (b) of this section.

(b) The grant signature sheet shall be used as the instrument to modify an existing grant agreement when there is a change in (1) the terms of the grant, (2) the amount funded by the grant, or (3) the assurances and certification included in the grant agreement.

(c) When the terms or amount funded by the grant are changed, the grantee shall also submit the revised portion of its Comprehensive Plan for Farmworkers to specifically identify the changes. Modifications of the Comprehensive Plan for Farmworkers are described in § 97.221.

§ 97.221 Modification of Comprehensive Plan for Farmworkers.

(a) *General.* Grantees may make three types of modifications to Comprehensive Plans for Farmworkers: Major, minor, and narrative. The Secretary also may require a modification as described in paragraph (e) of this section.

(b) *Major plan modification.* (1) When a plan modification falls into any of the following categories, it will be considered to be a major plan modification:

(i) The cumulative transfer of funds among program activities or cost categories exceeds $10,000 or 5 percent of the total grant budget whichever is greater; except as provided in § 97.255(e)(5)(i); or

(ii) The cumulative number of participants to be served, planned enrollment levels for program activities, planned placement terminations, or participants to be served is to be increased or decreased by 15 percent or more.

(iii) The addition or termination of any subgrantee, contractor, or program operators.

(2) A grantee desiring a major modification shall submit a revised Program Planning Summary, Budget Information Summary, and a narrative explanation of the proposed changes as appropriate to the Secretary, with a copy to the appropriate ARDM.

(c) *Minor plan modification.* A grantee may make any change in its Program Planning Summary or Budget Information Summary which is not a major modification as described in paragraph (b) of this section without prior approval, but shall show any such change in the first Program Status Summary or Financial Status Report as appropriate submitted to the Department after the change has been made. At the same time that this report is submitted, an updated Program Planning Summary or Budget Information Summary shall also be submitted to the Secretary with a copy to the appropriate ARDM; only those lines and columns affected by the modification need to be shown.

(d) *Narrative Modification.* (1) Except as provided in paragraph (d)(2) of this section, when a grantee chooses to replan and to change a portion of its narrative description which does not necessitate a commensurate change on the Program Planning Summary or Budget Information Summary, it may submit such a change to the Secretary with a copy to the appropriate ARDM for incorporation into its plan without prior approval.

(2) A narrative modification requires prior approval of the Secretary under the following circumstances:

(i) The proposal of any change from the approved plan in the allowance payment system including but not limited to, the conditions for waiver; or

(ii) The proposal of any substantial changes in program design including but not limited to changes in the design in program activities or changes in target area(s).

(e) *Secretary required modification.* (1) Modification or further conditions may be required by the Secretary as necessary to assure compliance with the regulations and the approved plan.

(2)(i) A grantee is responsible for assuring that its programs are responsive to the changing economic situation in its target area and for requesting modifications to its Comprehensive Plan for Farmworkers which reflect these changes. Such changes shall be considered major, minor, or narrative modifications as described in paragraphs (b), (c), and (d) of this section.

(ii) Procedures pertaining to each kind of modification as specified in paragraphs (b), (c), and (d) of this section shall be followed when that modification is initiated under this paragraph. Each request for a modification pursuant to this paragraph must contain adequate documentation and analysis to support the request.

PROGRAM OPERATIONS

§ 97.230 General.

Sections 97.230–97.237 set forth the program operation requirements for grantees under section 303. The utilization of funds under section 303 is conditioned upon adherence to the Act, terms and conditions of the grant, the regulations under the Act and other applicable law.

§ 97.231 Basic responsibilities of grantees under section 303.

A grantee shall be responsible for: (a) Compliance with plans and assurances, Grant Conditions, and official written communications from the Department;

(b) Compliance with the Grant Administration sections of this Subpart C;

(c) Designing training which is, to the maximum extent feasible, consistent with every participant's fullest capabilities and will lead to employment opportunities enabling every participant to become economically self-sufficient;

(d) Designing program activities which will, to the maximum extent feasible, contribute to the occupational development and upward mobility of every participant;

(e) Providing services only to eligible farmworkers as defined in § 97.232 and their dependents;

(f) Providing training only to participants who are legally able to accept employment in the occupation for which training is being provided;

(g) Advising every participant of his or her rights and responsibilities prior to entering the program and granting the opportunity for an informal hearing as provided in § 97.234; and

(h) Making maximum efforts to achieve the goals set forth in the Program of Work.

§ 97.232 Eligibility for participation in section 303 programs

(a) Eligibility for participation in section 303 programs is limited to farmworkers and their dependents who have, during the 18 months preceding their application for enrollment: (1) Received at least 50 percent of their total earned income as agricultural workers (see § 97.203 "Definitions—Farmworker" and paragraph (a)(2) of this section) during any consecutive 12-month period; and

(2) Been employed in agriculture on a seasonal basis (time spent and income earned by agricultural workers while employed in food processing establishments may be counted as agriculture-related employment for eligibility purposes); and

(3) Been identified as economically disadvantaged as defined below:

(i) Member of a family which receives cash welfare payments; or

(ii) Member of a family whose annual family income in relation to family size does not exceed the poverty level determined in accordance with criteria established by the Office of Management and Budget (OMB). The "nonfarm family"

tables shall be used in determining the poverty level for farmworker families.

(b) It shall be the responsibility of the grantee to establish the necessary procedures to ensure that participants meet the above eligibility criteria. Application forms will be completed for all participants, and the forms must contain sufficient information to determine whether or not the applicants meet the prescribed eligibility criteria.

(c) Citizenship shall not be used as a criterion to prevent permanent resident aliens from participating in a program to the extent consistent with applicable State or local law. However, no services shall be provided to illegal aliens.

(d) Participants in programs authorized under CETA Titles I, II, and VI and under other sections of Title III who met the eligibility criteria for section 303 at the time of their enrollment may also be transferred into or enrolled concurrently in the section 303 programs. Section 303 participants who met eligibility criteria for Title I at the time of their enrollment may also be transferred into or enrolled concurrently in the Title I program (§ 95.32(f) of this title).

§ 97.233 Types of program activities available.

(a) A grantee may provide any type of activity consistent with the purpose of section 303 of the Act. Such activities include but are not limited to the placement of farmworkers and their dependents in jobs above the poverty level, training, education, and other services needed to enable a farmworker to improve his or her well-being and economic self-sufficiency. A program funded under section 303 may include any activity described in paragraphs (c), (d), (e), (f), (g), and (h) of this section.

(b) A program funded under section 303 may not utilize section 303 funds to implement public service employment programs as described in Part 96 and 99 of this title or to publish a newsletter in violation of the provisions of § 98.23 of this Subtitle.

(c) *Classroom training.* (1) This program activity is any training conducted in an institutional setting designed to provide individuals with the technical skills and information required to perform a specific job or group of jobs. It may also include training designed to enhance the employability of individuals by upgrading basic skills, including GED (General Education Development) opportunities to earn the equivalent of a high school diploma for farmworkers who dropped out of school; and the provision of other courses, for example, remedial education. Grantees whose target populations include a significant number of persons of limited English-speaking ability should include provisions for training in the primary language of such persons and/or training in English-as-a-second-language or both.

(2) Occupational training shall be designed for occupations in which skills shortages exist (sec. 105(a)(6) and for which there is reasonable expectation of employment (sec. 703(10)). In making these determinations, a grantee shall utilize available community resources such as the local SESA office, the National Alliance of Businessmen, and similar organizations.

(3) *Allowances.* Allowances and other benefits as provided in § 97.256 may be paid to participants receiving training or education provided that such allowances shall not be paid for any course having a duration of 2 weeks or less or more than 104 weeks.

(4) *Training agreements.* Vocational classroom training may be supported with section 303 funds. In order to obtain such classroom services, grantees may negotiate either financial or nonfinancial agreements on either a class size or individual referral basis with local educational institutions or boards.

(d) *On-the-job training.* (1) On-the-job training (OJT) is training conducted in a work environment designed to enable individuals to learn a bonafide skill and/or qualify for a particular occupation through demonstration and practice. Such training should be conducted on a "hire first, train later" basis, or with reasonable assurance of ultimate placement with an employer other than the training organization. Training shall be designed to lead to the maximum development of participants' potentials and to their economic self-sufficiency.

(2) *Inducements to employers.* Grantees may provide payments or other inducements to public or private employers for the bona fide training and related costs of enrolling individuals in the program; provided that payments to employers organized for profit are only made for the costs of recruiting, training and supportive services which are over and above those normally provided by the employer. Direct subsidization of wages for participants employed by private employers organized for profit is not an allowable expenditure (sec. 101(5)).

(3) *Labor organization consultation.* Appropriate labor organizations shall be consulted in the design and conduct of on-the-job training programs where collective bargaining agreements exist with the employer.

(4) *Participant benefits.* Wages and other benefits provided to OJT participants shall be in accordance with conditions specified in § 97.256.

(e) *Work experience.* (1) Work experience is a work assignment with a public or private nonprofit employing agency. It shall be designed to enhance the potential of participants in obtaining a planned occupational goal.

(2) Program outcomes for work experience participants include (i) return to school; (ii) enrollment in post-secondary education; (iii) enlistment in the military services; (iv) enrollment in manpower training; and (v) placement in subsidized or unsubsidized employment.

(3) Work experience in the private for profit sector is prohibited.

(4) *Participant benefits.* Each participant in a work experience activity shall receive wages. Wages shall be commensurate with such factors as the types of work performed, the geographical region of the program, and the skill proficiency of the participant, provided that a participant's hourly rate of pay shall be at least the highest of (i) the minimum wage prescribed by State or local law for similar employment or (ii) the minimum hourly wage set out under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended. Wages in the Commonwealth of Puerto Rico, shall be consistent with the Federal, State, or local law otherwise applicable. Participants in work experience activities shall be provided workmen's compensation and other fringe benefits as specified in § 97.256.

(f) *Services to participants.* This program activity is designated to provide those services which are needed: (1) To enable farmworkers and their dependents to obtain or retain employment or to participate in other program activities leading to their eventual placement in unsubsidized non-seasonal agricultural employment; or (2) To assist those farmworkers, who remain as seasonal agricultural employees, in improving their well-being.

(3) Such services may include, but are not limited to, the following:

(i) *Manpower Services*

(A) Outreach;
(B) Intake and assessment;
(C) Orientation;
(D) Counseling;
(E) Referral to non-303 funded training;
(F) Job development;
(G) Job placement;
(H) Transportation; and
(I) Follow-up.

(ii) *Supportive Services* (Training and non-training related.)

(A) Health and medical services;
(B) Child care;
(C) Emergency assistance;
(D) Relocation assistance;
(E) Residential support;
(F) Nutritional services;
(G) Assistance in securing bonds;
(H) Adult basic education;
(I) Family counseling;
(J) Family planning services, *Provided,* That such services are made available only on a voluntary basis and are not to be a prerequisite for participation in or receipt of any service of benefit from the program; and
(K) Legal services.

(iii) *Post-placement service.* Manpower and supportive services as described in paragraphs (f)(3) (i) and (ii) of this section may be provided as appropriate to terminated participants who have been placed in unsubsidized employment. These services shall be provided at the discretion of the grantee and shall enable the terminated participant to retain employment. Such service may be provided during the 30-day period following a participant's termination from the program.

(iv) *Participant benefits.* Allowances as described in § 97.256 may be paid to participants enrolled in manpower services as described in this paragraph (f)(3) of this section when such services are

a component of another activity as described in § 97.233 or when such services are regularly scheduled as the only activity in which the participant is enrolled.

(g) *Other activities.* (1) These activities are manpower activities which are not described in the catgeories above or manpower-related activities designed to enhance the economic self-sufficiency of individuals who are eligible to participate in programs funded under section 303. This activity includes but is not limited to high school equivalency programs (HEP) and to tuition assistance projects (extended tuition support programs and other opportunities in post-secondary education). No individual may be a participant in a tuition support program for more than 2 years.

(2) The approved Comprehensive Plan for Farmworkers must describe the basic design, and provide performance standards and a detailed budget for each of the "Other Activities" to be undertaken.

(3) *Participant benefits.* Allowances as described in § 97.256 may be paid to a participant enrolled in "Other Activities" as described in this paragraph (g) of this section when such activities are a component of another activity described in § 97.233 or when such activities are regularly scheduled as the only activity in which the participant is enrolled and are described in the approved Comprehensive Plan for Farmworkers.

(h) *Combined activities.* A participant enrolled in any activity funded under the Act may be enrolled simultaneously in any other activity as a component of the participant's primary activity. The primary activity constitutes any activity in which the participant is enrolled for more than 50 percent of the scheduled time.

§ 97.234 Complaint procedure.

(a) Each grantee shall establish a complaint or grievance procedure for resolving any issue arising between it (including any subgrantee or contractor) and a participant or an individual denied participation under section 303.

(b) Such procedure shall include an opportunity for an informal hearing, and a prompt determination of any issue which has not been resolved in an informal manner. When the grantee proposes to take an adverse action against a participant, such procedures shall also include a written notice setting forth the grounds for any adverse action proposed to be taken by the grantee and giving the participant an opportunity to respond. Final determinations made after an opportunity to respond shall be so identified and provided to the participant in writing.

(c) Any person subject to the issue resolution requirements of this section may initiate the procedures provided in § 97.291(b) only after all remedies provided under paragraphs (a) and (b) of this section have been exhausted.

§ 97.235 Training for low wage industries; relocation of industries.

No participant may be enrolled in any activity or service under this Act in any low wage industry in jobs where prior skill or training is typically not a prerequisite to hiring and where labor turnover is high, nor may any authority conferred by this Act be used to assist in any relocation of an establishment from one area to another unless the Secretary determines that such relocation will not result in an increase in unemployment in the area of original location or any other area where the business entity conducts operations (sec. 704(a)).

§ 97.236 Cooperative relationships between grantee and other manpower agencies.

(a) Each grantee shall, to the extent feasible, establish cooperative relationships or linkages with other manpower and manpower-related agencies in the area within its jurisdiction, in particular, with agencies operating programs funded through the Department (sec. 105(a)(3)(D)).

(b) The establishment of such cooperative relationships or linkages shall include, at a minimum, contacting all appropriate Title I Prime Sponsor(s) and farmworker programs, if any, in the target area prior to implementing the section 303 program of services and developing working relationships with them.

(c) Grantees shall, to the extent feasible, notify the appropriate apprenticeship agency of training activities in apprenticeable occupations (sec. 105(a)(3)(D)).

(d) Any grantee which intends to provide services under the Act to recipients of Aid to Families with Dependent Children (AFDC) should coordinate such services with the local sponsor of the Work Incentive Program, if any, to assure that the delivery of services under this Act is consistent with the WIN requirements. The provision of comprehensive manpower services to recipients of AFDC who are required to register for the WIN program may be affected by provisions of Title IV of the Social Security Act. Limitations on length of training, requirements to accept work in lieu of training, and other regulatory requirements may affect the AFDC recipient's participation in programs under the Act.

§ 97.237 Performance Standards.

(a)(1) The purpose of this section is to establish comparative standards of performance for projects and activities funded under section 303. The Secretary will develop comparative performance standards, which will set national guidelines to serve as bench marks for the development and negotiation of individual grant performance standards in the grant agreement. The comparative performance standards will include, but are not limited to, the standards set forth in paragraph (b) of this section. The Secretary shall apply these standards when evaluating the quality and effectiveness of the components of section 303 programs.

(2) The performance standards contained in the individual grant agreement shall constitute the performance standards for that grant. For those projects and activities for which no comparative performance standards are provided in paragraph (b) of this section, the grant agreement shall specify levels of performance. Individual grants may include performance standards, developed by the grantee and approved by the Secretary, which will be in lieu of one or more of the comparative performance standards set forth in paragraph (b) of this section. In addition, the comparative performance standards are not intended to cover fully the requirements of local program operations so that most grant agreements should contain additional performance standards tailored to the specific goals and objectives of that grant. If the grant agreement does not contain performance standards, any comparative performance standard(s) applicable to the program activity or service funded shall apply after such standards are published in the FEDERAL REGISTER.

(3) Grantees shall maintain the documentation necessary for adequate demonstration of actual performance. This documentation shall be made available to the Secretary for the purposes of monitoring, evaluation, and auditing.

(4) It is the responsibility of the grantee to notify the Secretary if the grantee anticipates that performance standards may not be met and to request technical assistance in a timely manner. In order to do so, a grantee shall establish at least quarterly bench mark projections which will enable it to predict the likelihood of meeting its applicable performance standards.

(b) *Comparative performance standard for programs funded from allocable funds.* (1) *Administration.* Cost for administration not to exceed 20 percent of the total amount of the grant.

(2) *Referral.* (i) 100 percent of the goal identified in the grant achieved.

(ii) Followup completed on 85 percent of all those participants referred to other agencies for services.

(3) *Training and employment.* (i) 100 percent of enrollment, and referral goals identified in the grant achieved.

(ii) 80 percent of placement goals identified in the grant achieved.

(iii) 100 percent of all placements will be employed at a wage at or above the Federal or State minimum wage, whichever is higher.

(iv) 90 percent of all placements will be employed at a wage at or above the prevailing rate for the particular occupation in the geographic area.

(v) 75 percent of those placed continue to be on the job 90 days after placement in unsubsidized employment.

(4) *Classroom training and on-the-job training.* (i) 100 percent of enrollment goals identified in the grant be achieved.

(ii) 90 percent of enrollees in classroom training and on-the-job training and their families receive services.

(iii) 60 percent of those enrolled in classroom training are placed in unsubsidized employment after training either by their own efforts or through program efforts.

(iv) 75 percent of those placed in on-the-job training continue to be on the job 90 days after the completion of their training period.

(v) At least one-third of classroom training and OJT enrollees are placed in jobs paying at least $1.00 per hour above the Federal or State minimum wage, whichever is higher.

(5) *Day care.* (i) 90 percent capacity is maintained.

(ii) Cost per child for day care operations serving 0–5 year old children for an extended day of more than 8 hours of operation do not exceed a total cost of $200 per month. This cost will be based on total cost of operation including funds from sources other than section 303 grants.

(iii) Day care programs shall meet Federal Interagency Day Care Standards and comply with applicable state standards including State licensing requirements.

(6) *Medical services.* Average cost per family not to exceed $250. This average cost is obtained by dividing the amount of funds available for this service by the number of families receiving this service. The maximum cost for any single family not to exceed $500.

(7) *Emergency Assistance.* Average cost per family not to exceed $75. This average cost is obtained by dividing the amount of funds available for this service by the number of families receiving this service.

(8) *Relocation Assistance.* Average cost per family not to exceed $600. This average cost is obtained by dividing the total amount of funds allowable for this component (set forth in the definition of relocation assistance in § 97.203) by the number of families in the relocation component. The maximum cost for any single family not to exceed $1,000.

(9) *Residential Support.* Average cost per family not to exceed $500. This average cost is obtained by dividing the total amount of funds allowable for this component (set forth in the definition of residential support in § 97.203) by the number of families in the residential component. The maximum cost for any single family not to exceed $700.

GRANT ADMINISTRATION

§ 97.250 Grant Administration in general.

(a) Sections 97.250–97.269 describe Federal requirements relating to the administration by grantees of grants under section 303 of the Act.

(b) In general, administration of section 303 grants shall be governed by Part 98, Subpart A, "Grant Administration," of this Subtitle.

(c) Sections 97.251, 97.259, and § 97.267 relate to grantees which are nongovernmental organizations and set forth requirements applicable only to such organizations. Sections 97.252, 97.257, and §§ 97.260, 97.266(a) set forth exception and variations from 29 CFR Part 98, Subpart A, which are applicable to all section 303 grantees. Sections 97.258 and §§ 97.266(b)–97.269 provide additional grant administration requirements applicable to all section 303 grants.

(d) In Part 98, Subpart A of this Subtitle, (1) All reference to the "ARDM" shall read "the Secretary" when applicable to section 303 programs.

(2) FMC 74–4 and FMC 74–7, designed for public agencies, are hereby made applicable to private nonprofit section 303 grantees. At such time that GSA issues comparable FMC's for private nonprofit organizations, they shall supersede the above Federal Management Circulars.

§ 97.251 Private nonprofit organizations; financial management systems.

For private nonprofit organizations the requirements for financial management systems set forth in § 98.5 of this Subtitle shall apply in their entirety, and in addition the following requirements shall be observed:

(a) *Certification of accounting systems.* Before funds are released to a grantee receiving an initial DOL grant or to a grantee any of whose nongovernmental subgrantees has never administered DOL funds the grantee shall submit a statement to DOL certifying that its accounting system and/or that of the subgrantee(s) meets the standards set in paragraphs (1), (2), and (3) of this section.

(1) Prior to the release of funds of an initial DOL grant, the grantee shall have its accounting system surveyed and evaluated by an auditor. On the basis of the auditor's findings and conclusions, the Secretary shall determine whether the accounting system meets DOL's standard and, if not, whether to suspend the grant.

(2) The accounting system certification shall state that the grantee and/or the subgrantee(s) have established adequate accounting systems with appropriate internal controls to safeguard assets, to check the accuracy and reliability of their accounting data, to promote operating efficiency, and to encourage compliance with prescribed management policies and any additional fiscal responsibilities and accounting requirements established by DOL.

(3) The certification may be furnished by an independent certified public accountant, or an independent state-licensed public accountant.

(b) *Subgrantees.* A grantee shall not release or commit any grant funds to a new subgrantee unless it has received from the proposed subgrantee an accounting system certification appropriately modeled after those required in paragraphs (a)(1), (2) and (3) of this section. These certifications are to be obtained by the grantee from its subgrantees for retention among the grantee's records and need not be transmitted to DOL unless DOL requests them. DOL may disallow as a charge against the grant any funds released in violation of the requirement stated in this paragraph.

(c) The cost incurred by the grantee or subgrantee in providing certifications of accounting systems is not an allowable cost under section 303 unless such cost is approved as part of the Comprehensive Plan for Farmworkers.

§ 97.252 Audit.

The requirements for audit shall be as described in § 98.6 of this subtitle, except that the following special provisions shall apply:

(a) The term "prime sponsor" in § 98.6 of this Subtitle for the purposes of section 303 shall mean grantee.

(b) The requirement for access to books, documents, papers, and records described in paragraph (a) of § 98.6 of this Subtitle shall apply to all section 303 grantees, subgrantees, contractors and other program operators.

(c) Audits conducted under the provisions of § 98.6(e) of this Subtitle shall be subject to prior approval by the Secretary.

§ 97.253 Reporting requirements.

"Reporting requirements in general," set forth in § 98.7 of this Subtitle shall be superseded as follows:

(a) Each grantee will be required to submit four periodic reports which will be used by the Secretary to assess its performance in carrying out the objectives of the Act. These four reports are: (1) The Program Status Summary; (2) The Financial Status Report (These two reports replace the Quarterly Progress Report); (3) The Quarterly Summary of Participant Characteristics; and (4) The Report of Federal Cash Transactions. In addition, grantees may from time to time be required to prepare and submit reports requested by other Federal agencies for the performance of the legislative responsibilities of these agencies.

(b) *Program Status Summary and Financial Status Report:* The Program Status Summary and Financial Status Report requirements set forth in § 98.8 (a) and (b) of the Subtitle shall be applicable.

(c) *Quarterly Summary of Participant Characteristics:* The Quarterly Summary of Participant Characteristics requirements set forth in § 98.9 of this Subtitle shall be applicable.

(d) *Report of Federal Cash Transactions:* The Report of Federal Cash Transactions requirement set forth in § 98.10 of this Subtitle shall be applicable.

(e) In addition, special reports may be required by the Secretary.

(f) The reports required by paragraphs (b) and (c) of this section shall be prepared to coincide with the ending dates of Federal Fiscal Year quarters. These reports shall be sent by the grantee to be received by the Secretary no later than 30 days after the end of the reporting period. If a grantee's grant period ends on a date other than the end of a Federal fiscal quarter, a fifth set of reports covering the entire grant period will be required.

(g) Accountability must be maintained by the grantee for each of the activities authorized under the various Titles of the Act. Therefore, separate reports will be required for the section 303 grants.

(h) The Secretary reserves the right to require the submission of these reports by grantees more frequently than quarterly in cases where there appears to be a major negative deviation from the

Program Planning Summary or the Budget Information Summary.

(i) Detailed descriptions of the forms required by paragraphs (c) and (d) are in the Forms Preparation Handbook and supplement.

(j) All required reporting shall be submitted directly to the Secretary at the following address:

U.S. Department of Labor
Manpower Administration
Patrick Henry Building—Room 7122
601 D Street, NW
Washington, D.C. 20213
Attention: Chief, Migrant and Seasonal Farmworkers Division

Copies of the reports required by paragraphs (a), (b), (c), and (d) of this section shall be sent to the appropriate ARDM at the time of submission to the National Office.

§ 97.254 Reallocation of funds.

The requirements regarding reallocation of funds set forth in § 98.11 of this Subtitle shall be superseded as follows:

(a) *General.* The Secretary may reallocate funds from a grantee under the circumstances and in accordance with the procedures described in this section.

(b) *Reallocation based on nonperformance.* (1) When the Secretary considers through review of the grantee's reports, monitoring, or auditing of the program that its performance may be inadequate or that it may have failed to comply with the Act or regulations, notice shall be given and opportunity shall be allowed for an administrative review as provided in § 97.292.

(2) If the Secretary then decides to reallocate funds based on a ground set forth in paragraph (b)(1) of this section:

(i) The grantee's plan for the area shall be revoked in whole or in part;

(ii) No further payments shall be made under this Act to the grantee, to the extent which the Secretary deems necessary; and

(iii) The grantee shall be notified of the amount of funds which shall be returned from unexpended funds paid to the grantee during that fiscal year.

(3) The Secretary shall make provision for the reallocation of funds to be used by an alternative grantee to service the area which was served by the grantee before the reallocation or the Secretary may serve such an area directly.

(c) *Reallocation based on need.* (1) In a limited number of circumstances, the Secretary may determine that the unobligated portion of a grantee's grant shall be reallocated to another area because the funds are not needed where they were originally allocated.

(2) Before reallocating funds as set forth in paragraph (c)(1) of this section, the Secretary shall determine that:

(i) The grantee's plan will be carried out without expending all the funds previously made available for that plan; and

(ii) The excess funds identified under paragraph (c)(2)(i) of this section cannot reasonably be expected to be needed in the following grant period.

(d) *Reallocation.* When the Secretary determines that funds should be reallocated based on the criteria in paragraph (c) of this section, the following actions shall be taken:

(1) *Notice of intent to reallocate funds.* When the Secretary determines that a reallocation is appropriate, the grantee shall be notified of the proposed action to remove funds from the grant. The notice shall include the basis for the proposed reallocation.

(2) *Comments by grantee.* The grantee shall be invited to submit comments on a proposed reallocation of funds out of its area. These comments shall be submitted to the Secretary within 30 days of receipt of the notice. The Secretary shall consider these comments before making a final determination to reallocate.

(3) *Notification of final determination.* The Secretary shall notify the grantee of the final determination after reviewing any comments submitted by the grantee. A final decision to reallocate funds of a grantee shall be published in the FEDERAL REGISTER, and a modification of the grant shall be made.

(4) *Reallocation procedures.* In reallocating such funds to supplement other grants, the Secretary shall first consider the need for additional funds by other grantees within the same State. A decision to increase a grant with reallocated funds shall not be made without prior consultation with the grantee as to how the funds will be expended. Such a decision shall be published in the FEDERAL REGISTER with an announcement to the grantee(s) receiving additional allocations and the amounts.

(5) *Reallocated funds.* Reallocated funds shall not be considered allocable funds for the purpose of paragraph (c)(2) of § 97.204, the "hold harmless" provision.

§ 97.255 Allowable Federal costs.

The requirements regarding allowable Federal costs set forth in § 98.12 of this Subtitle shall be superseded as follows:

(a) *General.* Except as modified in these regulations, Federal funds granted under the Act may be expended only for purposes permitted under the provisions of Subpart 1–15 of Title 41 of the Code of Federal Regulations. 41 CFR 1–15.2 applies to commercial and nonprofit organizations, 41 CFR 1–15.3 applies to educational institutions, and 41 CFR 1–15.7 applies to state and local governments. Allowable costs include both direct and indirect costs.

(1) *Direct and indirect costs.* Direct CETA costs are those which can be specifically identified as relating to the project. Indirect costs are those computed by application of an indirect cost rate. In determining the reasonableness of indirect costs, reliance will be placed on procedures established pursuant to 41 CFR Part 1–15, including reliance on determinations made in accordance with 41 CFR Part 1–15.

(2) *Policies and procedures.* Cost allocation plans and indirect cost proposals shall be developed and approved in accordance with applicable cost principles and procedures set forth in 41 CFR 1–3.7 and 41 CFR 1–15. DOL must approve in advance all grantees' indirect cost allocations used to determine charges to grants under the Act. Where DOL is the cognizant Federal agency, the reasonableness of indirect costs claimed by grantees will be determined in accordance with procedures established pursuant to 41 CFR 1–15.7 (FMC 74–4), including reliance on determination made by other Federal agencies.

(b) *Restrictions on use of funds.* No funds granted under the Act may be used, directly or indirectly, as a contribution for the purpose of obtaining Federal funds under any other law of the United States which requires a contribution from the grantee in order to receive such funds, except if authorized under that law. However, the use of funds granted under one title of the Act as a matching contribution in order to obtain additional funds under another title of the Act is permitted.

(c) *Expenditures for repairs, maintenance, and capital improvements and construction.* (1) Section 303 funds may not be expended for new construction (including additions to existing facilities) but may be expended for building repairs, maintenance, and capital improvements to existing facilities. These costs must be related to a facility or building which is used primarily for programs under the Act (sec. 702(b)).

(2) No funds for new construction (including additions to existing facilities) are allowable except as part of a training program in a construction occupation. Training costs may include such items as instructors' salaries, training tools and books, and allowances or wages to participants (if appropriate) but may not include materials used in construction or land acquisition. Construction costs for training programs shall be allowable only when such construction would not normally be performed by an outside contractor.

(d) *Allowable cost categories.* Allowable costs shall be reported against the following cost categories: Administration; wages; training; fringe benefits; allowances; and services (sec. 101).

(1) Costs are allocable to a particular cost category to the extent of benefits received by such category.

(2) All grantees are required to plan, control, and report expenditures against the aforementioned cost categories.

(e) *Classification of costs by category.* The following principles shall be followed in classifying costs by cost category:

(1) Participants' wages shall be charged to wages;

(2) Participants' fringe benefits shall be charged to fringe benefits; (Insurance with comparable coverage to worker's compensation for participants enrolled in classroom training and services to clients is considered to be an administrative cost).

(3) Allowances paid to program participants shall be charged to allowances;

(4) Training costs consisting of goods and services which directly and im-

mediately affect program participants shall be charged to training. Goods and services considered to have direct and immediate impact on participants are limited to those actually involved in the participant training process itself as opposed to those which are supportive of that process. For examples of training-related costs which may and may not be charged to training, see paragraph (f)(4) of this section.

(5) Supportive and manpower services costs consisting of goods and services which directly and immediately affect program participants shall be charged to services. Goods and services considered to have direct and immediate impact on participants are limited to those actually involved in the process of providing participants with supportive and manpower services as opposed to those which are ancillary to that process. For examples of services-related costs which may and may not be charged to services, see paragraph (f)(5) of this section.

(6) Allowable costs which do not fall into any of the above classifications shall be charged to administration.

(7) When contractors bill the grantee with a single unit charge containing costs which are chargeable to more than one cost category, the grantee will endeavor to obtain the detail necessary to charge these costs to the proper cost categories. If this cannot be done, an estimate of the breakdown of the single charge among cost categories will be obtained. Any profit (or loss) shall be prorated among all the affected cost categories.

(8) Classification of equipment costs present special problems since many items of equipment can be used for various purposes. In the case of multi-use equipment there must be a proration of cost, or, if there is a predominant usage relating to one cost category, a charge shall be made to that category.

(9) Any single cost such as staff salaries and/or fringe benefits which is properly chargeable to more than one cost category shall be prorated among the affected categories.

(f) *Costs allowable by each cost category.* Following are examples of costs properly chargeable to each of the cost categories.

(1) *Wages.* All wages paid to participants receiving on-the-job training in public or private nonprofit organizations, and all wages paid to participants in work experience will be allowed. Wages paid to participants while receiving on-the-job training from a private employer organized for profit cannot be supported by funds under the Act (sec. 101(5)).

(2) *Fringe benefits.* Allowable fringe benefits costs for participants include but are not limited to the following: annual, sick, court and military leave pursuant to an approved leave system; employer's contribution for social security, employees' life and health insurance plans; unemployment insurance, worker's compensation insurance; and retirement benefits provided such benefits are granted as part of the approved Comprehensive Plan for Farmworkers.

(3) *Allowances.* All allowances paid to program participants pursuant to § 97.256(a) shall be charged to this cost category.

(4) *Training.* Training costs include but are not limited to the following: Salaries and fringe benefits of personnel engaged in providing training; books and other teaching aids; equipment and materials used in providing training to participants; and that part of entrance and tuition fees which represent instructional costs having a direct and immediate impact on participants. The following are examples of costs not properly chargeable to training: General and administrative costs of the training facility; supervision, clerical support, and training (skill maintenance and upgrading) of instructors; staff travel; rents, utilities, and other facilities costs; supplies and equipment not used directly in the course of participant training; transportation of participants to training sites; and costs of processing allowance payments. The compensation of individuals who both instruct participants and supervise other instructors must be prorated among the Training and Administration cost categories on the basis of time records or other equitable means. Similarly, tuition fees and the costs of supplies used in the course of both participant instruction and other activities should be prorated among the benefitting uses.

(5) *Services.* (i) Services include but are not limited to supportive and manpower services as set forth in § 97.233(f).

(ii) Allowable services costs include but are not limited to salaries and fringe benefits of personnel engaged in providing services to participants; and that part of single unit charges for child care, health care, and other services which represent only the costs of services directly beneficial to participants. Transportation of participants is properly chargeable to Services only where it cannot reasonably be considered to be merely incidental to providing employment, training, and services which themselves directly benefit participants. For example, if rural participants have to be transported over long distances in order to reach work or training sites, particularly where no public transportation service is available, the cost of chartering or purchasing a bus may be charged to Services.

(iii) The following are examples of costs not properly chargeable to Services: General and administrative costs of the services provided, supervision, clerical support, staff training, staff travel, rent and other facilities costs, and costs of supplies, materials, and equipment not used directly in providing services to participants.

(6) *Administrative Costs.* (i) Administrative costs shall be limited to those necessary to effectively operate the program. They shall not exceed 20 percent of the total planned costs for the entire grant, unless such additional costs have been approved in writing by the Secretary. Consultant services under contract must have the prior approval of the Secretary.

(ii) Administrative costs comprise general and administrative costs, overhead, and similar cost groupings representing the general management and support functions of an organization as well as secondary management and support functions. Included are salaries and fringe benefits of personnel engaged in executive, fiscal, personnel, legal, audit, procurement, data processing, communications, transportation, maintenance, and similar functions, related materials, supplies, equipment, office space costs, and staff training.

(iii) Direct program costs which are not an integral part of training and services provided participants are goods and services which neither contribute to the management and support functions of an organization nor directly and immediately affect participants. Included are direct program salaries and fringe benefits of supervisory and clerical personnel, program analysts, labor market analysts, and project directors. In addition, all costs of materials, supplies, and equipment which are not solely identifiable with the provision of training and services to participants are included here as are all costs of space and staff travel identifiable with direct program effort. Some examples of administrative costs included here are the salary of a clerical assistant to an instructor, that part of an instructor's salary representing the time (s)he spends supervising other instructors, desk-top supplies used in participant training and in general office administration, a job developer's travel costs, rent, depreciation, or maintenance of classroom training facility, services of consultants under contract, not involving direct training or services to participants, costs incurred in the establishment and maintenance of farmworker boards and advisory councils as provided in § 97.268, and costs of providing technical assistance to contractor and subgrantee staff.

(iv) Services normally chargeable to Administration may not be performed by program participants paid by section 303 funds unless this use of participants' services has been described in the approved Comprehensive Plan for Farmworkers.

(g) *Travel costs.* (1) The cost of participant travel and staff travel necessary for the operation or administration of programs under the Act is allowable as provided herein.

(2) Travel costs of the Governor of a State or of the chief executive of a political subdivision (and of their immediate staff that do not have continuing programmatic responsibilities) and of the board chairperson and Executive Director of multi-funded programs are allowable only if the travel specifically relates to programs under section 303 and is approved in advance by the Secretary. These costs shall be charged to administration.

(3) Travel costs of other grantee officials charged with overall grantee responsibilities are allowable if costs

specifically relate to programs under the Act. Prior approval by the Secretary is not required. These costs shall be charged to administration.

(4) Travel costs for administrative staff, including participants in administrative positions, are allowable when the travel is specifically related to the operation of programs under the Act. These costs shall be charged to administration.

(5) Travel costs, based on mileage, for participants using their personal automobiles in the performance of their jobs are allowable if the employing agency normally reimburses its other employees in this way. These costs shall be charged to fringe benefits.

(6) Travel costs to enable participants to obtain employment or to participate in programs under the Act are allowable as supportive services but shall be restricted to the grantee's jurisdiction or within daily commuting distance, unless part of an approved program component in the Comprehensive Plan for Farmworkers.

(7) Travel policies set forth in the Standardized Government Travel Regulations (SGTR) are required of all grantees, subgrantees and contractors. Where a grantee, subgrantee, or contractor, has a more restrictive travel policy than the SGTR, the more restrictive requirements shall be followed.

(8) Other travel requirements may be issued by the Secretary for private nonprofit grantees.

§ 97.256 Allowances, wages, general benefits, and working conditions for program participants.

(a) *Training allowances.* (1) The requirements for training allowances shall be as described in § 95.34 of this subtitle with the following special provisions:

(i) The term "prime sponsor" in § 95.34 of this subtitle for the purposes of section 303 shall mean grantee.

(ii) The requirements for eligibility for allowances described in § 95.34(c) of this subtitle for programs funded under section 303 shall read: "The payment of allowances is subject to the provision of § 95.34(j) of this subtitle and § 97.233. Allowances may be paid to participants for time spent in classroom training, other activities as specified in § 97.233(g)(3), or manpower services such as: assessment, orientation, counseling, and transportation. However, allowances for participation in manpower services or other activities may be provided only if such activities are a component of another activity described in § 97.233, or participation is on a regularly scheduled basis described in the approved Comprehensive Plan for Farmworkers. Furthermore, no allowances will be paid for any course having a duration in excess of 104 weeks (sec. 111(a)).

(b) *Wages, minimum duration of training, and reasonable expectation of employment.* The requirements of this section shall be as described in § 95.35 of this subtitle, except that the following special provisions shall apply.

(1) The reference to § 95.33(d)(4)(vi) in § 95.35(a) of this subtitle shall read § 97.233(e).

(2) Section 95.35(b) of this Subtitle shall read "An individual shall not be referred for training in an occupation which requires less than two weeks of training."

(3) The term "prime sponsor" in § 95.35(c) of this Subtitle for the purposes of section 303 programs shall mean grantee.

(c) *General benefits and working conditions for program participants.* (1) The requirements for general benefits and working conditions for program participants set forth in § 98.24 of this Subtitle shall be applicable except that all references to public service employment shall be deleted and prime sponsor shall read section 303 grantees.

(2) The requirements for participants' retirement benefits shall be as provided in § 98.25 of this subtitle.

§ 97.257 Allocation of Allowable Costs Among Program Activities.

The requirements regarding allocation of allowable costs among program activities set forth in § 98.13 of this subtitle shall be superseded as follows: The program activities against which program costs shall be planned, controlled and reported upon are: Classroom training; on-the-job training; work experience; services to participants; and other activities. The cost categories under each of these activities is defined in § 97.255(e). The extent to which these cost categories are chargeable to specific program activities is set forth below. Administration includes all allowable administrative costs directly associated with the program activity and a pro rata share of the grantee's administrative costs under section 303 not directly associated with any program activity.

(a) *Classroom training.* Cost categories chargeable are: administration, allowances, training, and services.

(b) *On-the-job training.* Cost categories chargeable are: administration, wages (with public or private nonprofit employers only), fringe benefits, training, and services.

(c) *Work Experience.* Cost categories chargeable are: administration, wages, fringe benefits, training, and services.

(d) *Services to participants.* (1) *Manpower services.* Cost categories chargeable are:

(i) Administration.

(ii) Allowances. This includes all allowances paid for short periods of time to participants who are registered for training, but are waiting for startup of a component and includes additional allowances as described in § 97.233(f).

(iii) Services. This includes all manpower services including postplacement services which are not part of another program activity and which are provided to participants by a grantee, contractor, or subgrantee.

(2) *Supportive services.* These services include but are not limited to health and medical services, child care, emergency assistance, relocation assistance, residential support, nutritional services, and other supportive services. Cost categories chargeable are:

(i) Administration.

(ii) Services. This includes all supportive services, including postplacement services, which are not part of another program activity and which are provided to participants by a grantee, contractor, or subgrantee.

(e) *Other activities.* Cost categories chargeable are: administration, allowances, training and services.

§ 97.258 Bond coverage of officials.

(a) Prior to the release of funds to any grantee, public or private, DOL shall receive written assurance that arrangements have been made for appropriate bonding of grantee officials. This assurance may take the form of either a statement that no bond is needed because the conditions of paragraph (b) have been met, or of a letter from a bonding company or agent stating the type of bond, amount and period of coverage, positions covered, and the annual cost of the bond which has been obtained.

(b) A bond need not be provided by a public grantee if funds are to be deposited in a public treasury and disbursed and audited by local and state public officials who normally perform these duties. In this case, the financial role of the officials of the grantee agency shall be limited to making withdrawals from the Federal Reserve System for deposit in the public treasury and certifying appropriate expenditures for disbursement. A grantee which is a public agency need not provide a new bond if all employees who are authorized to sign or countersign checks on the grantee's commercial bank account or to disburse cash are already bonded in an amount consistent with local requirements and practices.

(c) Private grantees shall take steps to secure blanket fidelity bond coverage in accordance with the following provisions:

(1) Coverage shall be secured in an amount equal to the average of funds to be expended each month, up to the aggregate amount of $25,000, whichever is less, for all persons authorized to sign or countersign checks or to disburse sizeable amounts of cash, such as for payrolls.

(2) Grantees shall assure that appropriate officials of subgrantees and contractors are bonded. Existing bond coverage on officials of subgrantees which are public agencies shall be considered acceptable. Coverage for officials of subgrantees and contractors which are private organizations shall be equal to the average of funds to be expended each month, up to an aggregate amount of $25,000. If a subgrantee or contractor will expend less than $1,000 per month in program funds, on the average, bond coverage shall not be required, but may be obtained and is an allowable cost.

§ 97.259 Basic personnel standards for grantees and subgrantees.

The basic personnel standards set forth in §§ 98.14, 98.21, 98.22, and § 98.23 of.

this Subtitle shall be applicable to public grantees and to public subgrantees receiving section 303 funds. The following provisions shall be applicable only to private nonprofit grantees and to private nonprofit subgrantees receiving section 303 funds.

(a) *Personnel policies.* Each grantee and subgrantee shall maintain personnel policies and practices in accord with applicable laws and regulations, the provisions of §§ 98.21, 98.22, 98.23 of this Subtitle and the provisions of paragraphs (b) through (h) of this section. Such personnel policies must be in written form and available to the Secretary upon request.

(b) *Discrimination prohibited.* No grantee or subgrantee shall discriminate in its hiring and personnel procedures against any applicant for employment or any employee because of race, creed, color, national origin, sex, or age.

(c) *Opportunities for farmworkers.* Each grantee and subgrantee shall insure that its recruiting procedures afford adequate opportunity for the hiring and advancement of persons in the target population.

(d) *Prohibition against partisan political and sectarian activities.* In addition to the prohibitions described in § 98.23, of this Subtitle grantees and subgrantees shall assure that no program under section 303 involves sectarian activities and that neither section 303 funds nor the personnel employed in the program shall be engaged in the conduct of sectarian activities.

(e) *Nepotism.* The provisions of § 98.22 of this Subtitle shall apply to all grantees and subgrantees with the following special provision:

(1) The term "employed in an administrative capacity" in § 98.22(a) Subtitle for the purposes of section 303 shall mean employed in an administrative capacity or membership on a governing board.

(f) *Prohibition against acceptance of gifts and gratuities.* Employees of grantees and subgrantees shall not accept gifts, money, or gratuities from persons receiving benefits or services under the program, or performing services under contract, or otherwise in a position to benefit from an action of the grantee's employees.

(g) *Outside employment.* Grantees and subgrantees shall include the following provisions in their published personnel policies relating to outside employment of their employees: (1) Such employment shall not interfere with the efficient performance of the employee's duties in the DOL-assisted program;

(2) Such employment shall not involve a conflict of interest or conflict with the employee's duties in the DOL-assisted program;

(3) Such employment shall not involve the performance of duties which the employee should perform as part of employment in the DOL-assisted program; and

(4) Such employment shall not occur during the employee's regular or assigned working hours in the DOL-assisted program, unless the employee during the entire day on which such employment occurs is on annual leave, compensatory leave, or leave without pay.

(h) *Salaries and wages.* (1) Minimum wage; Employees shall be paid at a rate no lower than the applicable minimum wage. Subject to this minimum, the salary for each position supported by DOL funds shall accord with prevailing local practice for comparable positions in local public or private nonprofit agencies.

(2) Wage comparability. (i) Persons employed in carrying out programs financed under section 303 shall not receive compensation at a rate which is (A) in excess of the average rate of compensation paid in the area where the program is carried out to persons providing substantially comparable services; (B) less than the applicable Federal or State minimum wage rate, whichever is higher.

(ii) Some grantees or subgrantees are part of long-established private agencies which have merit systems and will apply these systems to section 303-supported employees. In these instances, all positions covered under such merit systems shall be deemed comparable and no extensive organizational reviews, position analyses, or comparability determinations shall be necessary; provided that these employees are filling positions or types of positions in existence before the agency or institution received a section 303 grant and that the salary scale has not been changed as a result of the grant.

(iii) Those grantees for which paragraph (h)(2)(ii) of this section is not applicable, shall establish wage rates for each section 303-supported position based upon a wage comparability study.

(3) *Salary and wage schedule.* Each grantee shall maintain an up-to-date salary and wage schedule. This schedule shall be based upon an up-to-date wage comparability study as described in paragraph (h)(2) of this section. Each position supported by section 303 funds shall: (i) be part of a salary and wage schedule which assigns a specific salary or wage range incorporating periodic increases to each position;

(ii) be described in a written detailed job description identifying job functions and responsibilities;

(iii) have specific qualifications required of each person to be hired into the position; and

(iv) be distinguishable from every other position by reason of its responsibilities, and job functions; Positions requiring higher salaries or wages shall include higher levels of responsibilities commensurate with the salary. All such materials shall be incorporated into personnel policies, procedures, and practice manuals.

(4) *Promotions and salary increases.* Each grantee shall maintain as part of its personnel policies and procedures and practices manual detailed procedures for hiring new employees, promoting present employees and granting salary increases. Documentation shall be maintained for all such personnel actions to substantiate compliance with established procedures for all hires, promotions, and salary increases. Such documentation shall include identification of the procedures used to select new employees or promote present employees, and substantiation of the concerned individual's eligibility for such a personnel action.

(5) *Salaries over $20,000.* No employee engaged in carrying out program activities receiving financial assistance under section 303 shall be compensated from funds so provided at a rate in excess of $20,000 per year, without approval from DOL. An employee subject to the provisions of salary proration in paragraph (h)(5) of this section shall not be compensated from funds so provided at a rate in excess of the prorated share of $20,000, without approval from DOL. Exceptions shall be granted by DOL in cases where, because of the need for specialized or professional skills or prevailing local salary levels, application of the foregoing restrictions would greatly impair program effectiveness or otherwise be inconsistent with the purposes to be achieved by the program.

(6) *Prorating salaries.* In cases where an individual performs functions under several grants, their time shall be prorated among the different grants and the portion of the salary charged to the section 303 grant shall not exceed the percentage of time spent performing section 303 functions.

(7) *Employee benefits.* Shall be established in accord with prevailing practice in comparable public or private nonprofit agencies.

§ 97.260 Non-Federal status of participants.

The requirements for this section shall be as described in § 98.28 of this subtitle.

§ 97.261 Grantee contracts and subgrants.

A grantee funded under section 303 may enter into contracts or subgrants under the provisions described in § 98.27 of this subtitle, except that the following special provisions shall apply:

(a) The procurement of contracts shall be in conformance with the standards in § 97.267.

(b) The requirements for cancellation described in § 98.27(e) of this subtitle for programs funded under section 303 shall read as follows:

If a contractor or subgrantee does not comply with any requirement of the Act, the regulations promulgated under the Act, other applicable law, the grant agreement, grant conditions, or other grant terms or conditions which the Secretary has issued or shall subsequently issue during the period of the grant, the grantee shall cancel the contract or subgrant. Cancellations of subgrants are major modifications as described in § 97.221 and require approval by the Secretary.

(c) The reference in § 98.27(g) of this subtitle of the provisions of § 98.15 and § 98.16 shall read "the provisions of §§ 97.262, 97.263, and 97.264."

§ 97.262 Adjustments in payments.

The requirements for adjustments in payments shall be as described in § 98.15 of this Subtitle, except that the following special provisions shall apply:

(a) The term "Comprehensive Manpower Plan" for the purposes of section 303 shall mean Comprehensive Plan for Farmworkers.

(b) The Secretary may also make adjustments in payments as described in § 97.264. The adjustments need not be based on a ground set forth in § 98.15(a) of this Subtitle.

§ 97.263 Termination of a grant.

The requirements for termination of a grant shall be as described in § 98.16 of this Subtitle, except that the following special provision shall apply:

(a) § 98.16(a) shall be superseded as follows: If a grantee violates or permits a subgrantee or contractor to violate the regulations, grant conditions, or grant terms or conditions which the Secretary has issued or shall subsequently issue during the period of the grant, the Secretary may terminate the grant in whole or in part, unless the grantee causes such violation to be corrected within a period of 30 days after receipt of notice specifying the violation.

§ 97.264 Grant closeout procedures.

The grant closeout procedures shall be as described in § 98.17, except that the following special provisions shall apply:

(a) Paragraphs (a), (b), and (c) of § 98.17 of this subtitle shall apply in their entirety, and in addition the following special provisions shall apply:

(1) Any contracts or subgrants which extend beyond the termination date or completion of the legal grant period, as permitted by § 98.27(g) of this subtitle shall not exceed six months, unless the grantee has been notified of its selection as a potential grantee for the succeeding fiscal year.

(2) The Secretary may make adjustments in payments of the unexpended funds committed under contracts and subgrants described in paragraph (a)(1) of this section at any time between the completion or termination date of the grant and the termination date or completion of the subgrant or contract.

(b) § 98.17(d) of this subtitle shall be superseded as follows: Upon closeout, the Secretary will insure that:

(1) Prompt payment is made to the grantee for reimbursement of costs under the grant being closed out.

(2) After the final reports are received, a settlement is made for any upward or downward adjustments which are made to the Federal share of the costs, including those described in paragraph (a)(2) of this section.

(3) The letter of credit is cancelled.

(4) Final program and fiscal audits are performed as soon as possible after the completion or termination date of the grant.

§ 97.265 Maintenance and retention of records.

The requirements for the maintenance and retention of records shall be as described in § 98–18 of this subtitle, except that the following special provisions shall apply

(a) The requirement for maintaining information on the work history of participants shall not apply to participants who are minor children.

(b) The term "State and local prime sponsors" for the purposes of section 303 shall mean grantees.

§ 97.266 Program income and limitations on program expenditures.

(a) *Program income.* Section 98.19 of this title prescribes the requirements relating to program income applicable to public grantees and subgrantees. The requirements for private grantees and subgrantees shall be as follows:

(1) Private organizations shall be required to return to the Federal Government interest earned on advances of grant-in-aid funds.

(2) 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 and royalties received from copyrights and patents during the grant period, shall be handled in accordance with grant conditions the Secretary has issued or shall subsequently issue during the period of the grant.

(3) Program income earned during the grant period which has been included in the Comprehensive Plan for Farmworkers shall be retained by the grantee and, in accordance with the grant agreement, shall be added to funds committed to the project and be used to further program objectives. All other program income earned by the grantee shall be returned to the Federal Government, except as provided by grant conditions the Secretary has issued or shall subsequently issue during the period of the grant.

(4) The grantee shall record the receipt and expenditure of revenues as a part of grant project transactions.

(b) *Limitations on program expenditures.* Program expenditures shall not be made prior to the effective date of the grant period as set forth in the grant agreement or as subsequently modified by DOL. Expenditures made before such date shall be disallowed unless approved by the Secretary in advance. If the grantee incurs expenditures in excess of the total amount of the approved program, the amount of the overexpenditure shall be absorbed by the grantee from nonsection 303 funds.

§ 97.267 Procurement standards.

(a) The standards to be used for the procurement of supplies, equipment, and other materials and services by State and local governments with Federal grant funds shall be those described in § 98.20 of this subtitle.

(b) The standards to be used for the procurement of supplies, equipment, and other materials and services by private grantees and subgrantees shall be those described in the Federal Procurement Regulations, the Property Handbook for MA Contractors issued by the Department, and 41 CFR 1–15.2 or 41 CFR 1–15.3. On-the-job training contracts are not subject to sole source approval requirements and the procurement of subgrants is exempt from procurement requirements. When on-the-job training contracts are made, the grantees shall maintain a record of the name of the contractor, the amount and the services to be provided, and such record shall be available to the Secretary upon request. The foregoing standards are prescribed to assure that such materials and services are obtained in compliance with the provisions of applicable Federal laws and Executive Orders.

§ 97.268 Labor standards.

All laborers and mechanics employed by contractors or subcontractors in the construction, alteration or repair, including painting and decorating, of projects, buildings, and works which are federally assisted under a grant shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–5).

§ 97.269 Allowances and reimbursements for board and advisory council members.

(a) *General.* A reasonable allowance to members who attend meetings of any board, council, or committee, and reimbursement of actual expenses connected with those meetings are allowable costs; but grant funds shall not be used to pay such allowances to any individual who is a Federal, State, or local government employee, or to an employee of a grantee or subgrantee.

(b) *Allowances.* Any person who is a member of a private nonprofit grantee or subgrantee policymaking body or of a public agency grantee or subgrantee farmworker advisory council is eligible to be paid an allowance; provided (1) such person's family income falls within OMB Poverty Guidelines and (2) the person is not a Federal employee, an employee of a DOL-assisted organization, or an employee of a State or local public agency. Allowances shall not exceed five dollars per meeting, unless the grantee's chief elected official or governing board determines a higher payment more suitable. Allowances in excess of five dollars shall be approved in advance by DOL. No person shall be paid an allowance by any one DOL-assisted organization for attendance at more than two meetings per month, regardless of whether the meetings are for the same or different policymaking bodies.

(c) *Reimbursements.* (1) Any person, whose family income falls within OMB Poverty Guidelines and who is a member of a private nonprofit grantee or subgrantee policymaking body or of a public agency grantee or subgrantee farmworker advisory council shall be eligible for reimbursement of actual expenses, including actual wages lost up to $18 a day. Receiving an allowance shall not preclude receiving reimbursement for actual expenses incurred in attending that meeting.

(2) Where the community served by the program covers a large geographic area, as in the case of a multi-county or a statewide grantee, reimbursements may also be made to those nonpoor members of a policymaking body who must travel a substantial distance from their home to attend meetings within the community. The grantee's principal repre-

sentative board shall determine what constitutes a "substantial distance" in its community.

(3) Persons may be reimbursed no more than two meetings per month. A grantee desiring to make reimbursement to an individual for more than two monthly meetings shall obtain the prior approval of DOL.

(4) The grantee shall define which expenses may be reimbursed, whether incurred as the result of actual attendance at meetings or in the performance of other official duties and responsibilities in connection with the program, and shall establish procedures for the reimbursement of such expenses. The grantee shall obtain the approval of the Secretary for such definitions and procedures prior to reimbursing any individuals under the provisions of paragraphs (c) (1) and (2) of this section.

(d) *Administrative cost:* Allowances and reimbursement as described in paragraphs (a), (b), and (c) of this section shall be charged to the cost category "Administration". Allowances and reimbursement cost for governing Boards and Advisory council should be prorated as administrative costs among all of the grants, from whatever source, administered by the grantee.

ASSESSMENT AND EVALUATION

§ 97.280 Assessment and evaluation.

Assessment and evaluation of section 303 programs shall be conducted in accordance with § 98.30 through § 98.33 of this subtitle. Moreover, the Secretary of Labor shall obtain the approval of the Secretary of Health, Education, and Welfare with respect to direct arrangements by the Secretary of Labor for the provision of basic education and vocational training. This approval shall focus on the legality and quality of such service arrangements as well as the relationships of such services to those being delivered under other applicable laws for which the Secretary of Health, Education, and Welfare is responsible (section 306 of the Act).

ADMINISTRATIVE REVIEW

§ 97.290 Purpose and policy.

Sections 97.290 through 97.292 set forth the procedures established by the Secretary for (a) the receipt, investigation, and determination of formal allegations of denial of services by a grantee or subgrantee to participants in a section 303 program or to any individual who may have been eligible for services under section 303; and (b) the review of Petitions for Reconsideration arising out of the procedures for determining potential grantees for allocable funds.

§ 97.291 Procedure for complaints by eligible individuals and program participants.

(a) *Grantee administrative remedies.* An individual denied services who may have been eligible, or an aggrieved participant in a program under section 303, must exhaust the administrative remedies established by the grantee for resolving matters in dispute prior to utilizing the procedures under this section. An individual denied service who may have otherwise been eligible or an aggrieved participant may initiate an action under this review procedure within 30 days of any final decision by a grantee. The filing of a formal complaint under this section shall not automatically act as a stay of the decision rendered by the grantee, but such decision may be stayed at the discretion of the Secretary.

(b) *Complaints: Filing of formal allegations; dismissal; form; contents of formal allegations, amendment; investigations.* Procedures for complaints filed pursuant to this section shall be as provided in § 98.42 through § 98.45 of this subtitle except that all formal allegations shall be filed with the Secretary and the term "Comprehensive Manpower Plan" for the purpose of section 303 shall mean Comprehensive Plan for Farmworkers.

§ 97.292 Procedure for complaints arising from the selection of potential grantees.

(a) *Administrative remedies.* Potential grantees shall be determined according to the procedures described in § 97.213 through § 97.215. An applicant which wishes to object formally to its nonselection as a potential grantee, after consideration by the Secretary as provided in § 97.214, may file a Petition for Reconsideration with the National Office within 14 days of the notification of the Department's decision not to award a grant.

(b) *Petition for Reconsideration.* A petition for Reconsideration shall be a written statement by a responsible official of the complainant requesting a review of the nonselection and may enumerate the factors which the applicant asserts should be reviewed in reconsidering its Funding Request, but such enumeration is not required.

(c) *Reconsideration.* (1) Upon receipt of the Petition for Reconsideration, the Secretary shall, within 14 days, make one of the following determinations:

(i) That the organization be designated a potential grantee.

(ii) That the Granting Officer's decision be sustained.

(2) The representative of the Secretary responsible for resolution of the Petition for Reconsideration shall be an official of the Manpower Administration not directly involved in the original determination. The determination described in paragraph (c)(1) of this section shall be final.

Signed at Washington, D.C. this 3rd day of July 1975.

JOHN T. DUNLOP,
Secretary of Labor.

[FR Doc.75-17833 Filed 7-8-75;8:45 am]

federal register

WEDNESDAY, JULY 9, 1975

WASHINGTON, D.C.

Volume 40 ■ Number 132

PART V

OFFICE OF MANAGEMENT AND BUDGET

■

BUDGET RESCISSIONS AND DEFERRALS

Report to Congress

SPECIAL MESSAGE ON BUDGET RESCISSIONS AND DEFERRALS

TO THE CONGRESS OF THE UNITED STATES:

I herewith propose three rescissions and report twenty-seven deferrals in accordance with the Impoundment Control Act of 1974. The rescission proposals total $123.7 million and the deferrals total $2,729.4 million for a total of $2,853.0 million in fiscal year 1976 budget authority.

Funds for two highway programs, one duplicating an existing system and one that could be funded through Federal-aid highway funds now available to the States, are proposed for rescission. The third rescission proposal reflects a recent Congressionally-approved change in program needs by requesting reduced funding for the Federal Law Enforcement Training Center. The deferrals are primarily routine in nature and do not affect program levels. The details of each rescission proposal and deferral are contained in the attached reports.

I urge the Congress to act promptly on the proposed rescissions.

GERALD R. FORD.

THE WHITE HOUSE,
July 1, 1975.

SUMMARY OF PROPOSED RESCISSIONS AND DEFERRALS

(in thousands of dollars)

Rescission #	Item	Budget Authority
	Transportation:	
	Federal Highway Administration	
R76-1	National Scenic and Recreational Highway..	90,000
R76-2	Access Highways to Public Recreation Areas on Lakes.....	25,000
	Treasury:	
R76-3	Office of the Secretary	
	Construction, Federal Law Enforcement Training Center.....	8,665
	Subtotal, Rescissions.....	123,665

Deferral #		
	Agriculture:	
	Foreign Agricultural Service	
D76-1	Salaries and Expenses (Special Foreign Currency).....	2,232
	Commerce:	
	National Oceanic and Atmospheric Administration	
D76-2	Fisheries Loan Fund.....	7,252
D76-3	Promote and Develop Fishery Products and Research pertaining to American Fisheries.....	1,355
	Defense-Military:	
	Procurement	
D76-4	Shipbuilding and Conversion, Navy.....	1,793,590
D76-5	Military Construction.....	233,630
	Defense-Civil:	
	Miscellaneous Accounts	
D76-6	Wildlife Conservation, Et Cetera, Military Reservations.....	432
	Health, Education, and Welfare	
	National Institutes of Health	
D76-7	Buildings and Facilities.....	2,164
	Assistant Secretary for Health	
D76-8	Scientific Activities Overseas (Special Foreign Currency Program).....	3,652
	Education Division: Office of Education:	
D76-9	Higher Education.....	49,040
	Special Institutions	
D76-10	Howard University.....	8,174
	Assistant Secretary for Human Development	
D76-11	Research and Training Activities Overseas (Special Foreign Currency Program).....	7,307

Deferral #	Item	Budget Authority
	Interior:	
	Bureau of Land Management	
D76-12	Public Lands Development Roads and Trails.....	25,847
	Bureau of Reclamantion	
D76-13	Construction and Rehabilitation.....	1,030
D76-14	Upper Colorado River Storage Project.....	1,150
	Bureau of Outdoor Recreation	
D76-15	Land and Water Conservation Fund.....	30,000
	Fish and Wildlife Service	
D76-16	Miscellaneous Appropriations, Federal Aid in Fish Restoration and Management.....	6,330
D76-17	Miscellaneous Appropriations, Federal Aid in Wildlife Restoration.....	21,470
	National Park Service	
D76-18	Road Construction.....	238,092
	Geological Survey	
D76-19	Payment from Proceeds, Sale of Water.....	29
	Bureau of Indian Affairs	
D76-20	Road Construction.....	68,470
	Transportation:	
	Coast Guard	
D76-21	Acquisition, Construction, and Improvements....	707
	Federal Aviation Administration	
D76-22	Civil Supersonic Aircraft Development Termination.....	7,686
D76-23	Facilities and Equipment (Airport and Airway Trust Fund).....	75,824
	Treasury:	
	Office of the Secretary	
D76-24	State and Local Government Fiscal Assistance Trust Fund.....	93,420
D76-25	State and Local Government Fiscal Assistance Trust Fund.....	38,391
	Other Independent Agencies:	
	Foreign Claims Settlement Commission	
D76-26	Payment of Vietnam Prisoner of War Claims.....	11,081
D76-27	American Revolution Bicentennial Administration.....	1,000
	Subtotal, Deferrals.....	2,729,355
	Total Rescissions and Deferrals.....	2,853,020

Rescission Proposal No: R76-1

PROPOSED RESCISSION OF BUDGET AUTHORITY

Report Pursuant to Section 1012 of P.L. 93-344

Agency: Department of Transportation	New budget authority (P.L. 93-643): $ -0-
Bureau: Federal Highway Administration	Other budgetary resources: 90,000,000
Appropriation title & symbol: National Scenic and Recreation Highway 69X0544 and Trust Fund Share of Other Highway Programs 69X8009	Total budgetary resources: 90,000,000
	Amount proposed for rescission: $90,000,000
OMB identification code: 21-25-0544-0-1-404	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act
Grant program: ☒ Yes ☐ No	☐ Other
Type of account or fund: ☐ Annual; ☒ Multiple-year End of FY 76, 77, 78 (expiration date); ☒ No-year	Type of budget authority: ☐ Appropriation; ☒ Contract authority; ☐ Other

Justification

This program was authorized by the Federal-Aid Highway Act of 1973 in the amount of $90 million for the purpose of constructing or reconstructing the Great River Road in the 10 states bordering the Mississippi River. This authorization is comprised of $30 million from General Funds and $60 million from the Highway Trust Fund.

The entire amount was deferred in FY 1975 because the Highway Act of 1973, Sec. 129 required the development of a formula for apportionment of funds to the states before funds could be made available. Such information could not be developed so as to launch the program in FY 1975.

Cost data upon which to develop the apportionment formula is now available, The total estimated costs for the program is $1.65 billion with the Federal cost of $1.17 billion. This estimate was prepared using current prices without regard to inflation. This estimate is more than twelve times as much as the $90 million of Federal funds presently authorized.

This program will not produce national benefits comensurate with its cost. Even accepting that its construction would add to our recreational and environmental values, the all but exhorbitant costs are against it as a national investment. It cannot be justified as a transportation corridor since an almost unbroken line of the Interstate System parallels the Great River Road from New Orleans to St. Paul.

The Great River Road spans some 3,500 miles, of which 85 percent is already on a Federal-aid system. The states involved are free to use apportioned funds for most of this if they choose. In addition, the 1974 Highway Amendments Act established an Off-System road program which is available for the 500 miles or so not now on a Federal-aid highway system.

Estimated Effects

The rescission of this authorization will avoid embarking upon another costly program that can be constructed within present funding in the regular Federal-aid Highway program.

Outlay Effect (estimated in millions of dollars)

Comparison with President's 1976 Budget:

1.	Budget outlay estimate for 1975	$ -0-
2.	Outlay savings, if any, included in the budget outlay estimate	-0-

Current Outlay Estimates for 1976:

3.	Without rescission	16.2
4.	With rescission	-0-
5.	Current outlay savings (line 3 - line 4)	16.2

Outlay Savings for the Transition Quarter	12.5
Outlay Savings for 1977	50.0

National Scenic and Recreation Highway

Authorization provided under Section 148 of Title 23 U.S.C. is rescinded in the amount of $90,000,000 of which $60,000,000 was to be derived from the Highway Trust Fund.

Rescission Proposal No: R76-2

PROPOSED RESCISSION OF BUDGET AUTHORITY

Report Pursuant to Section 1012 of P.L. 93-344

Agency: Department of Transportation	New budget authority (P.L.) $ 25,000,000
Bureau: Federal Highway Administration	Other budgetary resources -0-
Appropriation title & symbol: Access Highways to Public Recreation Areas on Lakes 69X0503	Total budgetary resources 25,000,000
	Amount proposed for rescission $ 25,000,000
OMB identification code: 21-25-0503-0-1-404	Legal authority (in addition to sec 1012): ☐ Antideficiency Act
Grant program ☐ Yes ☐ No	☐ Other
Type of account or fund: ☐ Annual; ☒ Multiple-year End of FY 78 (expiration date); ☒ No-year	Type of budget authority: ☐ Appropriation; ☒ Contract authority; ☐ Other

Justification

Section 115 of the Federal-Aid Highway Amendments of 1974 Act authorized $25 million for FY 1976 to construct or reconstruct access highways to public recreation areas on lakes in order to accommodate present and projected traffic density.

This is a special interest program as opposed to a program national in scope. These problems are of a local nature and can be addressed with the utilization of regular Federal-aid funds now available to the States according to their own priorities. If on a Federal-aid highway system, regular apportioned funds can be used. If not on a Federal-aid highway system, Off-System Road funds authorized by the 1974 Highway Amendments Act may be used.

Estimated Effects

The rescission of this authorization will preclude starting another program that can be carried out within present funding in the Federal-aid Highway program.

Outlay Effect (estimated in millions of dollars)

Comparison with President's 1976 Budget:

1. Budget outlay estimate for 1975	$ -0-
2. Outlay savings, if any, included in the budget outlay estimate	-0-

Current Outlay Estimates for 1976:

3. Without rescission	4.5
4. With rescission	-0-
5. Current outlay savings (line 3 - line 4)	4.5
Outlay Savings for the Transition Quarter	3.5
Outlay Savings for 1977	14.0

Access Highways to Public
Recreation Areas on Lakes

Authorization provided under Section 155 of Title 23 U.S.C. is rescinded in the amount of $25,000,000.

Rescission Proposal No: R76-3

PROPOSED RESCISSION OF BUDGET AUTHORITY

Report Pursuant to Section 1012 of P.L. 93-344

Agency DEPARTMENT OF THE TREASURY	New budget authority (P.L.) $ ---
Bureau Federal Law Enforcement Training Center	Other budgetary resources 40,000,000
Appropriation title & symbol: Construction 20X0103	Total budgetary resources 40,000,000
	Amount proposed for rescission $8,665,000
OMB identification code: 15-05-0103-0-1-751	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act
Grant program ☐ Yes ☒ No	☒ Other P.L. 94-32
Type of account or fund: ☐ Annual ☐ Multiple-year _____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other _____

Justification:

Funds totalling $47,713,000 were appropriated in prior years for construction of the Consolidated Federal Law Enforcement Training Center at Beltsville, Maryland. As a result of a study of evacuated surplus and inactive Federally-owned properties by the Chairman of the Senate Public Works Committee, it was determined that the former Glynco Naval Air Station in Brunswick, Georgia best met Treasury requirements at a saving from the cost of completing the proposed facilities at Beltsville, Maryland. The relocation of the Center to Brunswick, Georgia was approved by the House Public Works Committee on April 24, 1975 and the Senate Public Works Committee on May 14, 1975. In addition, a statement was inserted in the Conference Report of the Second Supplemental Appropriations Bill (May 21, 1975) approving the relocation and establishing a maximum expenditure of $30 million for conversion of the Glynco facility to Treasury use. Another $1.335 million will be required to close-out activities at Beltsville, Maryland. These combined actions have created a savings of $8.665 million that will not be required by Treasury.

Estimated Effects:

The relocation of the Federal Law Enforcement Training Center from Beltsville Maryland to Brunswick, Georgia will meet all of Treasury requirements at a savings of $8.665 million.

Outlay Effect (estimated in tenths of millions of dollars):

Comparison with President's 1976 Budget:	
1. Budget outlay estimate for 1976	$20.7
2. Outlay savings, if any, included in the budget outlay estimate	- 0 -
Current Outlay Estimates for 1976:	
3. Without Rescission	$15.5
4. With Rescission	$15.5
Outlay Savings for the Transition Quarter	- 0 -
Outlay Savings for 1977	- 0 -

The outlay effect of the proposed rescission would not be identified until FY 1978. All other changes in outlays for FY 1976, transition quarter, and FY 1977 are a result of a change in the program.

The Department of the Treasury

Federal Law Enforcement Training Center

Construction

Appropriations provided under this head in the Treasury, Postal Service, and General Government Appropriation Act, 1975 are rescinded in the amount of $8,665,000.

Deferral No.: D76-1

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Sec. 1013 of P.L. 93-344

Agency U.S. Department of Agriculture	New budget authority $_____ (P.L. _____)
Bureau Foreign Agricultural Service	Other budgetary resources 2,732,494
Appropriation Title & Symbol Special Foreign Currency Program 12X2901	Total Budgetary Resources 2,732,494
	Amount to be deferred part of year --
	Amount to be deferred for entire year 2,232,494
OMB identification code: 05-51-2901-0-1-352	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act
Grant program ☐ Yes ☒ No	☐ Other _____
Type of account or fund: ☐ Annual ☐ Multiple-year _____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other _____

Justification

Title I, Sec. 104 of P.L. 480, the Agricultural Trade Development and Assistance Act of 1954 authorizes the use of foreign currencies (acquired from the sale of U.S. farm products under Title I) to carry out programs for developing new markets for U.S. agricultural commodities. The funds appropriated are used to purchase excess foreign currencies necessary to carry out the program. The funds are available until expended, and the unused balance is carried over into the next year. The amount of funds used each year is dependent upon the availability of the U.S.-owned currencies and the availability of worthwhile market development projects in the foreign countries. Current indications are that no more than $500 thousand of the reserved balances brought forward can be utilized effectively in 1976. This deferral action is taken under provisions of the Antideficiency Act (31 USC 665) that authorize the establishment of reserves for contingencies.

Estimated Effects:

No programmatic or budgetary impact results from this deferral action. Since the funds are used to purchase currencies already owned by the U.S., any outlays shown under this account would be offset by the receipt of a like amount in another account.

Outlay Effect: (estimated in tenths of millions of dollars)

Comparison with Presidnet's 1976 Budget:	
1. Budget outlay estimate for 1976	.5
2. Outlay savings, if any, included in the budget outlay estimate	-0-
Current Outlay Estimates for 1976:	
3. Without deferral	.5
4. With deferral	.5
5. Current outlay savings (line 3 - line 4)	-0-
Outlay Savings for the Transition Quarter	-0-
Outlay Savings for 1977	-0-

Deferral No: D76-2

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Commerce	New budget authority (P.L. _____) $ _____
Bureau National Oceanic and Atmospheric Administration	Other budgetary resources 7,892,329
Appropriation title & symbol Fisheries Loan Fund 137/04317	Total budgetary resources 7,892,329
	Amount to be deferred: Part of year $ _____ Entire year 7,252,329
OMB identification code: 06-48-4417-0-3-403	Legal authority (in addition to sec. 1013): [x] Antideficiency Act
Grant program [ ] Yes [x] No	[ ] Other _____
Type of account or fund: [ ] Annual [ ] Multiple-year _____ (expiration date) [x] No-year	Type of budget authority: [ ] Appropriation [ ] Contract authority [X] Other 16 U.S.C. 742c

JUSTIFICATION:

This fund was established pursuant to the Fish and Wildlife Act of 1956, as amended (16 U.S.C. 742 c). Its purpose is to provide funds for loans to segments of the fishing industry unable to obtain commercial loans on reasonable terms for financing the cost of purchasing, constructing, equipping, maintaining, repairing, or operating new or used fishing vessels or gear.

In 1965, the Act was amended to require NOAA to pay interest on the cumulative amount of appropriations available as capital to the fund less the average undisbursed cash balance in the fund during the year. The current program covers the estimated FY 1976 interest liability of $620,000 and provides $20,000 for care and preservation of collateral throughout the year.

The management of the Fisheries Loan Fund and its objectives are currently under review in response to recommendations of the GAO and an overall assessment of Federal fisheries programs. Until such time as that review has been completed, we believe that prudent management dictates that the moratorium declared March 1, 1973, remain in effect and that the receipts of the Fund continue to be held in reserve.

This is proposed for deferral through June 30, 1976, or, if appropriate legislation is enacted, through September 30, 1976.

ESTIMATED EFFECTS:

Release of deferred amounts could result in loans being made from the Fund that would maintain or add vessels to segments of the fishing industry which are already considered to have excess capacity.

2

OUTLAY EFFECT: (Estimated in tenths of millions of dollars)

Comparison with President's 1976 Budget:	
1. Budget outlay estimate for 1976	$ -2.0
2. Outlay savings, if any, included in the budget outlay estimate	0
Current Outlay Estimates for 1976:	
3. Without deferral	-2.0
4. With deferral	-2.0
5. Current outlay savings	0
Outlay savings for 1977	0

Deferral No: D76-3

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Commerce	New budget authority (P.L. _____) $ _____
Bureau National Oceanic and Atmospheric Administration	Other budgetary resources 10,046,933
Appropriation title & symbol Promote and Develop Fishery Products and Research Pertaining to American Fisheries 13X5139	Total budgetary resources 10,046,933 Amount to be deferred: Part of year $ _____ Entire year 1,354,933
OMB identification code: 06-48-5139-0-2-403	Legal authority (in addition to sec. 1013): [x] Antideficiency Act
Grant program [ ] Yes [x] No	[ ] Other _____
Type of account or fund: [ ] Annual [ ] Multiple-year _____ (expiration date) [x] No-year	Type of budget authority: [x] Appropriation [ ] Contract authority [ ] Other _____

JUSTIFICATION:

An amount equal to 30% of the gross receipts from customs duties on fishery products is appropriated for fishery products resources research and assessment, and American Fisheries resource management and development. These funds supplement moneys appropriated to National Oceanic and Atmospheric Administration for the same purposes under the appropriation Operations, research, and facilities. The deferred amount, $1,354,933, represents the excess amount of receipts over the cost of currently planned program activities in FY 1976. Funds are deferred because no plans have been developed for their use.

This is proposed for deferral through June 30, 1976, or, if appropriate legislation is enacted, through September 30, 1976.

ESTIMATED EFFECTS:

This deferral action has no effect on the program as currently planned in FY 1976. Without plans for the use of these funds, they could not be used effectively if they were made available in fiscal year 1976.

OUTLAY EFFECT: (Estimated in tenths of millions of dollars)

Comparison with President's 1976 Budget:	
1. Budget outlay estimate for 1976	$7.3
2. Outlay savings, if any, included in the budget outlay estimate	0
Current Outlay Estimates for 1976:	
3. Without deferral	9.0
4. With deferral	9.0
5. Current outlay savings	0
Outlay savings for 1977	0

Deferral No: D76-4

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Defense	New budget authority (P.L. ____) $ ____
Bureau	Other budgetary resources 4,109,121,530
Appropriation title & symbol: See Coverage section below	Total budgetary resources 4,109,121,530
	Amount to be deferred: Part of year $ ____
	Entire year 1,793,590,000
OMB identification code: 07-15-1611-0-1-051	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program [ ] Yes [X] No	[ ] Other ____
Type of account or fund: [ ] Annual [X] Multiple-year (see Coverage section) (expiration date) [ ] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other ____

Coverage

Shipbuilding and Conversion, Navy	172/61611	$ 0
Shipbuilding and Conversion, Navy	173/71611	80,000,000
Shipbuilding and Conversion, Navy	174/81611	347,990,000
Shipbuilding and Conversion, Navy	175/91611	1,365,600,000

Justification

These funds are proposed for deferral through June 30, 1976, or, if appropriate legislation is enacted, through September 30, 1976. Due to the long period of time required to build ships, the Congress makes appropriations available for five-year periods.

Since these funds are, by law, made available beyond the current year, they are not fully apportioned in the current year. The unapportioned amount is withheld and released as the program develops and additional funds are required. The amounts deferred are to be released contingent upon the development of program needs that arise in current and future years.

Prudent financial management requires the deferral of those funds that could not be used effectively during the current year even if made available for obligation.

The above multi-year appropriations are currently being deferred under provisions of the Antideficiency Act (31 U.S.C. 665), which authorize the establishment of reserves for contingencies.

Estimated Effects

Deferral of $1.8 billion will have no program or budgetary impact, since these funds could not be obligated even if made available. Rather, the deferral of these multi-year funds assures availability of funds in future years to meet continuing program requirements.

Outlay Effect (estimated in tenths of millions of dollars)

Comparison with President's 1976 Budget:	
1. Budget outlay estimate for 1976.....	$2,631
2. Outlay savings, if any, included in the budget outlay estimate.....	0
Current Outlay Estimates for 1976:	
3. Without deferral.....	2,631
4. With deferral.....	2,631
5. Current outlay savings (line 3 - line 4)...	0
Outlay Savings for the Transition Quarter.....	0
Outlay Savings for 1977.....	0

Deferral No: D76-5

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Defense	New budget authority (P.L._____) $ _____
Bureau:	Other budgetary resources 2,479,405,386
Appropriation title & symbol: See Coverage section below	Total budgetary resources 2,479,405,386
	Amount to be deferred: Part of year $ 233,630,409
	Entire year _____
OMB identification code: See Coverage section below	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program [ ] Yes [X] No	[ ] Other _____
Type of account or fund: [ ] Annual	Type of budget authority: [X] Appropriation
[ ] Multiple-year _____ (expiration date)	[ ] Contract authority
[X] No-year	[ ] Other _____

Coverage

Military Construction, Army	21X2050	07-25-2050-0-1-051	$ 86,168,281
Military Construction, Navy	17X1205	07-25-1205-0-1-051	82,333,817
Military Construction, Air Force	57X3300	07-25-3300-0-1-051	19,187,687
Military Construction, Defense Agencies	97X0500	07-25-0500-0-1-051	36,512,549
Military Construction, Army National Guard	21X2095	07-25-2085-0-1-051	4,919
Military Construction, Air National Guard	57X3830	07-25-3830-0-1-051	0
Military Construction, Army Reserve	21X2086	07-25-2086-0-1-051	284,454
Military Construction, Naval Reserve	17X1235	07-25-1235-0-1-051	7,923,776
Military Construction, Air Force Reserve	57X3730	07-25-3730-0-1-051	1,214,926
Family Housing, Defense	97X0700	07-30-0701-0-1-051	0

Justification

Due to the long period of time required to construct facilities, the Congress makes appropriations for this purpose available until expended. The above funds are deferred due to administrative delays, such as project designs not being completed and incomplete coordination of projects with either other Federal agencies or local government agencies.

Funds will be apportioned for individual projects throughout the year upon completion of project design and/or coordination. It is anticipated that these funds will be apportioned before June 30.

The above amounts in the listed no-year appropriations are currently deferred under provisions of the Antideficiency Act (31 U.S.C. 665) which authorize the establishment of reserves for contingencies.

Estimated Effects

These deferrals have no programmatic or budgetary effect because the funds could not be obligated at this time, even if they were made available.

Outlay Effect (estimated in tenths of millions of dollars)

Comparison with President's 1976 Budget:	
1. Budget outlay estimate for 1976	$2,961.4
2. Outlay savings, if any, included in the budget outlay estimate	0
Current Outlay Estimates for 1976:	
3. Without deferral	2,961.4
4. With deferral	2,961.4
5. Current outlay savings (line 3 - line 4)	0
Outlay Savings for the transition Quarter	0
Outlay Savings for 1977	0

Deferral No: D76-6

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Defense	New budget authority (16 U.S.C. 670 f (a)) $ 865,814
Bureau	Other budgetary resources 468,910
Appropriation title & symbol: See Coverage section below	Total budgetary resources 1,334,724
	Amount to be deferred: Part of year $ ____
	Entire year 432,233
OMB identification code: 08-30-5095-0-2-303	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program [ ] Yes [X] No	[ ] Other ____
Type of account or fund: [ ] Annual; [ ] Multiple-year ____ (expiration date); [X] No-year	Type of budget authority: [X] Appropriation; [ ] Contract authority; [ ] Other ____

Coverage

Wildlife Conservation, etc., Military Reservations, Army	21X5095	$376,545
Wildlife Conservation, etc., Military Reservations, Navy	17X5095	38,258
Wildlife Conservation, etc., Military Reservations, Air Force	57X5095	17,430
		$432,233

Justification

These are permanent appropriations. The budgetary resources consist of anticipated receipts and unobligated balances generated from hunting and fishing fees collected on military reservations, pursuant to 16 U.S.C. 670. They may be used only in accordance with the purpose of the law, to carry out a program of natural resource conservation.

Since apportionments have been made for all known program requirements, prudent financial management requires the deferral of the balance of the funds, which could not be used effectively during the current year even if made available for obligation. These funds are being deferred under the provisions of the Antideficiency Act (31 U.S.C. 665). Full apportionment is not requested by the Services because (1) installations may be accumulating funds over a period of time to fund a major project, and (2) there is a seasonal relationship between the collection of fees and their subsequent expenditure. Most of the fees are collected during the winter and spring months, while most of the program work is performed during the summer and fall months. This necessitates that funds collected in a prior year be deferred in order to be available to finance the program during the summer and fall months. Additional amounts will be apportioned if program requirements are identified.

Estimated Effects

These deferrals have no programmatic or budgetary effect because the funds could not be obligated if made available.

Outlay Effect (estimated in tenths of millions of dollars)

Comparison with President's 1976 Budget:	
1. Budget outlay estimate for 1976.....	$.9
2. Outlay savings, if any, included in the budget outlay estimate.....	.0
Current Outlay Estimates for 1976:	
3. Without deferral.....	.9
4. With deferral.....	.9
5. Current outlay savings (line 3 - line 4).....	.0
Outlay Savings for the Transition Quarter.....	.0
Outlay Savings for 1977.....	.0

Deferral No: D76-7

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Health, Education, and Welfare	New budget authority (P.L. _____) $ _____
Bureau National Institutes of Health	Other budgetary resources 6,422,080
Appropriation title & symbol	Total budgetary resources 6,422,080
NIH Buildings and Facilities 75X0838	Amount to be deferred: Part of year $ 2,163,894 Entire year --
OMB identification code: 09-25-0838-0-1-552 Grant program ☐ Yes ☒ No	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ☐ Other _____
Type of account or fund: ☐ Annual ☐ Multiple-year _____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other _____

Justification

Appropriation Act language for fiscal years 1970 through 1975 for the Department of Health, Education, and Welfare authorized funds for NIH Buildings and Facilities to "remain available until expended." These funds were appropriated for miscellaneous repairs and improvements, planning and construction of Federal facilities on the National Institutes of Health campus in Bethesda, Maryland, the Environmental Health Sciences Center, Research Triangle Park, North Carolina, and at the Rocky Mountain Laboratory, Hamilton, Montana. The funds have always been apportioned to HEW as plans are developed for their use. Funds to be obligated in 1976 include construction of an addition to the Chilled Water Plant (Bldg. 34); the second phase of the design of the Environmental Health Sciences Center in North Carolina; and changes necessary to NIH waste handling facilities after the types of change needed are developed. The amount to be deferred part of the year represents the balance remaining from the termination of the NIH Tri-Service Incinerator Facility. Request for approval of the reprogramming of this balance for other urgently needed projects has been submitted for Congressional approval. These are reserves pursuant to the Antideficiency Act (31 U.S.C. 665).

Estimated Effects

The initiation of the following projects, using funds from the NIH Tri-Service Incinerator account will be deferred pending Congressional approval of the request for reprogramming: (1) Replacement of an obsolete,

steam turbine-driven electrical generator needed for Clinical Center emergency electrical service; (2) installation of a medical-pathological incinerator to comply with Maryland air pollution standards; (3) replacement of the nurses call system in the Clinical Center; and (4) modifications to the Waste Water Treatment Plant at the NIH Animal Center to meet new EPA standards for waste water discharges; and (5) funds reserved for payment of pending contractor claims in excess of amounts available from respective projects as directed by GSA.

Outlay Effect (in millions of dollars):

Comparison with President's 1976 Budget:	
1. Budget outlay estimate for 1976	$10.4
2. Outlay savings, if any, included in the budget outlay estimate	none
Current Outlay Estimates for 1976:	
3. Without deferral	$13.1
4. With deferral	$12.4
5. Current outlay savings (line 3 - line 4)	.7
Outlay Savings for the Transition Quarter	none
Outlay Savings for 1977	none

Deferral No: D76-8

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Health, Education, and Welfare	New budget authority (P.L. _____) $ _____
Bureau Office of the Assistant Secretary for Health	Other budgetary resources 18,259,000
Appropriation title & symbol 75X1102 Scientific Activities Overseas (Special Foreign Currency Program)	Total budgetary resources 18,259,000
	Amount to be deferred: Part of year $ 0
	Entire year 3,652,000
OMB identification code: 09-37-1102-0-1-552	Legal authority (in addition to sec. 1013): [XX] Antideficiency Act
Grant program ☐ Yes [XX] No	☐ Other _____
Type of account or fund: ☐ Annual	Type of budget authority: [XX] Appropriation
☐ Multiple-year _____ (expiration date)	☐ Contract authority
[X] No-year	☐ Other _____

Justification:

Appropriation Acts for the Department of Health, Education, and Welfare have provided funds for the Scientific Activities Overseas Program to "remain available until expended." Funding for this program comes from foreign currencies owned by the United States that have been determined by the Treasury Department to be in excess of normal U.S. needs in the countries concerned. There are now seven countries (Egypt, Burma, Guinea, India, Pakistan, Poland, and Tunisia) that the Treasury Department has designated "excess currency" countries in accord with its internal Treasury Department guidelines. The Treasury Department releases these funds to the Department of Health, Education, and Welfare (HEW) to use for scientific research projects in those countries and the funds remain available to HEW until expended.

The amount of funds to be obligated during 1976 and the amount to be deferred to the transition quarter was determined after a careful review of the scientific merit of project proposals in the limited number of excess currency countries. HEW has decided which research projects in those countries will contribute to U.S. scientific needs and thus should be funded. The amount being deferred is in excess of current program requirements and is thus reserved for contingencies under provisions of the Antideficiency Act (31 U.S.C. 665).

Estimated Effects:

The estimated effects of this deferral are nil. The deferral merely reflects the number of meritorious scientific project proposals that HEW estimates can be funded in FY 1976.

Outlay Effect (estimated in millions of dollars)

Comparison with the President's 1976 Budget:	
1976 Outlays	13
Outlay Savings	0
Current Outlay Estimates for 1976	
Without Deferral	13
With Deferral	13
Current Outlay Savings	0
Outlay Savings for the Transition Quarter	0
Outlay Savings for 1977	0

Deferral No: D76-9

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Dept. of Health, Education and Welfare	New budget authority (P.L. _____) $ _____
Bureau Office of Education	Other budgetary resources 72,789,590
Appropriation title & symbol Higher Education 75X0293	Total budgetary resources 72,789,590
	Amount to be deferred: Part of year $ _____ Entire year 49,039,590
OMB identification code: 09-40-0293-0-1-502	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act
Grant program ☐ Yes ☒ No	☐ Other _____
Type of account or fund: ☐ Annual ☐ Multiple-year _____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other _____

Justification

Program	Total budgetary resources	Amount to be deferred
Construction		
Subsidized loans --Annual interest grants	$70,101,704	$47,101,704
Graduate facilities	376,232	376,232
Subsidized insured student loans		
Reserve fund advances	2,311,654	1,561,654
Total	$72,789,590	$49,039,590

The amounts shown as deferred could not be legally obligated during fiscal year 1976.

Annual interest grants---A change in method of accounting for subsidized construction loans caused a substantial amount of prior year appropriations to be de-obligated during fiscal year 1974. Obligations are not recorded now until payments are due. Funds on hand are more than adequate to cover anticipated obligations on annual interest grant contracts signed in prior years and no new starts are authorized or planned. The unobligated funds will be needed in the future, however, to pay continuation costs on loans the Federal government has agreed to subsidize.

Graduate facilities---The amount shown as deferred resulted from adjustments of prior year obligations. As projects are completed the estimated obligations are adjusted to reflect actual experience. No new funds have been appropriated for this program since 1969, and there are no program plans to utilize the funds. It is possible that they may be needed to cover obligation adjustments.

Subsidized insured student loans, reserve fund advances---These funds were appropriated in 1969 to make advances to guarantee agencies that could not meet reserve requirements. It is estimated that no more than $750,000 will be needed during 1976.

Estimated Effects

This action has no program effect, since it only reflects an estimate that the funds cannot be legally obligated during 1976. It does not reflect a program constraint.

Outlay Effect

Comparison with President's 1976 Budget:	
1. Budget outlay estimate for 1976	25.0
2. Outlay savings, if any, included in the budget outlay estimate	-0-
Current Outlay Estimates for 1976:	
3. Without deferral	25.0
4. With deferral	25.0
5. Current outlay savings (line 3 - line 4)	-0-
Outlay savings for transition quarter	-0-
Outlay savings for 1977	-0-

Deferral No: D76-10

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Health, Education and Welfare	New budget authority (P.L. 93-517) $ ---
Bureau Office of the Secretary Special Institutions	Other budgetary resources 21,369,488
Appropriation title & symbol: Howard University - 75X0106 (Construction)	Total budgetary resources 21,369,488
	Amount to be deferred: Part of year $ ____ Entire year $ 8,174,482
OMB identification code: 09-70-0106-0-1-502	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ☐ Other ____
Grant program ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ____

Justification

The $8,174,482 represents funds appropriated in the 1975 Labor-HEW Appropriations Act (P.L. 93-517) for several projects, i.e., Founders' Library Expansion, Medical-Dental Library Expansion, University Center, University Hospital Equipment, etc. These funds have not been utilized due to delays in GSA construction. As these projects progress, these funds will be made available and will be obligated in 1977. This reserve action has been taken under provisions of the Antideficiency Act (31 U.S.C. 665), that authorizes the establishment of reserves for contingencies. This delay is not due to a decision to slow down the construction, rather it is due to lags in construction schedules. This is proposed for deferral through June 30, 1976, or, if appropriate legislation is enacted, through September 30, 1976.

Estimate Effects

The delay in the construction of the Founders' Library Expansion project, which represents over $7 million of the total, will affect the University's academic program since all of the schools and colleges at Howard use this Library. The Library Expansion would provide for an increase in volumes, staff, space, facilities, etc. The Association of Research Libraries, the accrediting body for the Library, has notified the University of these deficiencies. Howard University, as a whole, depends on the Founders' Library to help provide a good, quality education for its students. The longer the delay in this project the greater the effect will be on the academic program.

Outlay Effect

Comparison with President's 1976 Budget:

1. Budget outlay estimate for 1976	$84.1
2. Outlay savings, if any, included in the budget outlay estimate.....	0

Current Outlay Estimates for 1976:

3. Without deferral.....	84.1
4. With deferral.....	84.1
5. Current outlay savings.....	0
Outlay savings for transition quarter	0
Outlay savings for 1977	0

Deferral No: D76-11

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Dept. of Health, Ed., and Welfare	New budget authority (P.L. _____) $ _____
Bureau: Asst. Sec. For Human Development	Other budgetary resources 7,306,986
Appropriation title & symbol: Research and Training Activities Overseas (Special Foreign Currency Program)	Total budgetary resources 7,306,986
	Amount to be deferred: Part of year $ 7,306,986
	Entire year _____
CMB identification code: 09-80-0505-0-1-506	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program [X] Yes [ ] No	[ ] Other _____
Type of account or fund: [ ] Annual	Type of budget authority: [X] Appropriation
[ ] Multiple-year _____ (expiration date)	[ ] Contract authority
[X] No-year	[ ] Other _____

Justification

This amount proposed for deferral has been placed in reserve pursuant to the Antideficiency Act (31 USC 665 et. seq.). This deferral action involves the postponement of funds for foreign research and training activities. This reserve will allow the Department of Health, Education and Welfare to prepare a financial plan which describes the activities to be financed, the foreign currency to be used, the amounts allotted by country by quarter, research objectives and/or training element, the number of beneficiaries, and other supporting information. The total amount is deferred pending submission of a financial plan in an effort to assure prudent financial management of this activity. Upon transmittal of the necessary plan these funds will be released from reserve.

Estimated Effects

Since the funds would, in any event, not be used in the absence of final determinations of the activities to be financed there should be no delay in activities. In addition, it should be noted that grants are restricted in this program to countries where the United States owns excess local currencies and expenditures in this account do not take monies out of the U.S.

Outlay Effect (estimated in tenths of millions of dollars)

Comparison with President's 1976 Budget:
1. Budget outlay estimate for 1976.....3.0
2. Outlay savings, if any, included in the budget outlay estimate.....0

Current Outlay Estimates for 1976:
3. Without deferral.....3.0
4. With deferral.....3.0
5. Current outlay savings.....0 (line 3 - line 4)

Outlay Savings for the Transition Quarter....0

Outlay Savings for 1977.....0

Deferral No: D76-12

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of the Interior	New budget authority (P.L. 23 U.S.C. 203) $ --
Bureau Bureau of Land Management	Other budgetary resources 30,050,000
Appropriation title & symbol 14X1113 Public Lands Development Roads and Trails	Total budgetary resources 30,050,000
	Amount to be deferred: Part of year $ -- Entire year 25,847,000
OMB identification code: 10-04-1113-0-1-301	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program [ ] Yes [X] No	[ ] Other
Type of account or fund: [ ] Annual [X] Multiple-year June 30, 1976; and June 30, 1978 (expiration date) [ ] No-year	Type of budget authority: [ ] Appropriation [X] Contract authority [ ] Other

Justification

Contract authority (CA) is authorization to obligate Federal funds prior to their appropriation; however, subsequent payments to vendors and contractors cannot be made until after cash to liquidate CA has been appropriated. Appropriated funds are not being deferred by this action. What is deferred is authority to obligate funds before appropriation.

Contract authority in this account results from multi-year authorization under the Federal-Aid Highway Act. The total amount of CA authorized under the Act is not based on a specific set of construction projects approved by the Congress or the Executive Branch, but represents an upper limit for an on-going road construction effort derived from long term estimates of future road-building plans. The total amount of CA available for 1976 and subsequent years is $30,000,000, of which $4,153,000 is scheduled for obligation in 1976. Most of the deferred balance of $25,847,000 of CA will be available for obligation after 1976. However, based on the current obligation plan, $5,847,000 will lapse at the end of 1976. A decision will be made later in the fiscal year when the appropriations process is completed as to whether to recommend rescissions of all or part of this amount.

Funds in this account are used for constructing new roads and trails, reconstructing existing roads and trails, and acquiring easements for access to public lands. The roads and trails system are used for management of the 450 million acres of public land and by recreationists. The road and trail system currently totals about 44,000

miles of roads and 5,000 miles of trails. The 1976 program includes 29 miles of new road construction, 28 miles of road surfacing, construction of 5 bridges and 45 miles of trail, and acquisition of 179 easements. This program is designed to make optimum use of available funds. Reserving CA not scheduled for use in the current fiscal year is consistent with the current financial plan and the appropriations request currently before the Congress.

Estimated Effect

If all authorized CA were made available for obligation now the Bureau of Land Management could probably obligate an additional $6 million in 1976. This would result in financing lower priority projects than the current budget plan.

Outlay Effect (estimated in millions of dollars)

Comparision with President's 1976 Budget:	
1. Budget outlay estimate for 1976.....	4.7
2. Outlay savings, if any, included in the budget outlay estimate.....	4.0
Current Outlay Estimates for 1976:	
3. Without deferral.....	8.7
4. With deferral.....	4.7
5. Current outlay savings (line 3 - line 4)...	4.0
Outlay Savings for the Transition Quarter.....	1.0
Outlay Savings for 1977.....	1.0

Deferral No: D76-13

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of the Interior	New budget authority (P.L. _____): $ - 0 -
Bureau: Bureau of Reclamation	Other budgetary resources: 2,400,000
Appropriation title & symbol: Construction & Rehabilitation 14X5061	Total budgetary resources: 2,400,000
	Amount to be deferred: Part of year: $1,030,000
	Entire year: _____
OMB identification code: 10-06-5061-0-2-301	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [ ] No	[ ] Other _____
Type of account or fund: [ ] Annual	Type of budget authority: [X] Appropriation
[ ] Multiple-year _____ (expiration date)	[ ] Contract authority
[X] No-year	[ ] Other _____

Justification

This deferral is a renewal of a deferral of prior year funds contained in budget deferral D-75-14. Fiscal year 1975 funds contained in another budget deferral affecting this account (75-84) were released earlier this year following action by the Congress and will continue to be available in fiscal year 1976 for use by the Bureau of Reclamation. The Bureau of Reclamation is preparing a report on alternative plans for the Second Bacon Siphon and Tunnel and the development of the East High-East Low area of the Columbia Basin Irrigation Project, Washington. The report will include (1) an economic and financial analysis of the initial development stage included as one of the four alternative development plans mentioned above, (2) a sizing analysis of the Second Bacon Siphon and Tunnel, and (3) a more precise determination of the State of Washington's cost sharing proposal. Pending the completion of the Bureau of Reclamation report, scheduled for completion November 1, 1975, the funds will be deferred.

Estimated Effects

The deferral of the $1,030,000 is solely for reasons of prudent financial management. The preparation of analytical evaluations of alternative development plans will help meet the objective of selecting an optimum economic development plan for the Columbia Basin project. The economic and budgetary impacts of the deferral of $1,030,000 cannot be meaningfully measured until the alternative development plans are completed and evaluated.

Outlay Effect (Estimated in the tenths of million of dollars)

Comparison with President's 1976 Budget:

1.	Budget outlay estimate for 1976	$290.0
2.	Outlay savings, if any, included in the budget outlay estimate	-0-

Current Outlay Estimates for 1976:

3.	Without deferral	$290.0
4.	With deferral	$289.0
5.	Outlays savings	1.0

Outlay savings for the Transition Quarter: -0-

Outlay Saving for 1977: -0-

Deferral No: D76-14

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of the Interior	New budget authority (P.L. _____): $ -0-
Bureau: Bureau of Reclamation	Other budgetary resources: 10,100,000
Appropriation title & symbol: Upper Colorado River Storage Project 14X4081	Total budgetary resources: 10,100,000
	Amount to be deferred: Part of year: $ 1,150,000
	Entire year: _____
OMB identification code: 10-06-4081-0-3-301	Legal authority (in addition to sec. 1013): [XX] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other _____
Type of account or fund: [ ] Annual	Type of budget authority: [X] Appropriation
[ ] Multiple-year _____ (expiration date)	[ ] Contract authority
[X] No-year	[ ] Other _____

Justification

This deferral is a renewal of a deferral of prior year funds contained in budget deferral D-75-15. Fiscal year 1975 funds contained in another budget deferral (75-86) affecting this account were released earlier this year following action by the Congress and will continue to be available in fiscal year 1976 for use by the Bureau of Reclamation. The funds in this deferral were appropriated for construction of four water resources projects (Dallas Creek participating project, Colo. - $250,000, Fruitland Mesa, Colo. - $500,000, Savery Pot Hook project, Colo., Wyo. - $250,000 and Jensen Unit, Central Utah project, Utah - $150,000). These funds have been deferred pending the completion of salinity effect studies to determine each project's impact on Colorado River salinity levels. Salinity has become a serious problem in the lower Colorado River and has led to the requirement, under recent agreements, to desalt irrigation return flows to improve the quality of the Colorado River entering Mexico to an acceptable level. The Water Pollution Control Act amendments of 1972 provide for determining pollution abatement requirements for irrigation return flows as well as for other pollution sources. The reanalysis will, among other things, include estimates of the costs of any pollution abatement facilities necessary to control water quality conditions. The reports are expected to be completed during FY 1976.

Estimated Effects

Deferring the obligation of $1,150,000 until the effects of salinity are measured and the external costs can be estimated may result in the development of better projects to meet the present and future needs of the Upper Colorado Basin and the Nation.

Outlay Effect (estimated in tenths of millions of dollars)

Comparison with President's 1976 Budget:

1. Budget outlay estimate for 1976..... $38.6

2. Outlay savings, if any, included in the budget outlay estimate..... -0-

Current Outlay Estimates for 1976:

3. Without Deferral..... $38.6

4. With Deferral..... $37.4

5. Outlay Savings..... $1.2

Outlay Savings for the Transition Quarter: - 0 -

Outlay Savings for 1977: - 0 -

Deferral No: D76-15

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of the Interior	New budget authority (P.L. 16 USC 460L)(4-11): $30,000,000
Bureau: Bureau of Outdoor Recreation	Other budgetary resources: 34,203,000
Appropriation title & symbol: Land and Water Conservation Fund 14X5005	Total budgetary resources: 64,203,000
	Amount to be deferred: Part of year: $ ____
	Entire year: 30,000,000
OMB identification code: 10-16-5005-0-2-303	Legal authority (in addition to sec. 1013): [x] Antideficiency Act
Grant program: [ ] Yes [x] No	[ ] Other ____
Type of account or fund: [x] Annual	Type of budget authority: [ ] Appropriation
[ ] Multiple-year ____ (expiration date)	[x] Contract authority
[ ] No-year	[ ] Other ____

Justification

Under the law (16 USC 460L(10a)), $30,000,000 of contract authority becomes available each fiscal year. This is in addition to the $300,000,000 appropriation requested by the President's 1976 budget. Fund availability is limited to one fiscal year. This authority is made available by the Congress for use specifically as an anti-escalation measure in purchasing authorized Federal recreation land (P.L. 90-401; Senate Report 90-1071, to accompany S. 1401). This authority was last used in 1969 and 1970. Thus, the contract authority has lapsed in fiscal years 1971-1975. The funds will be utilized in the future, as in the past, on a special case basis for emergency situations consistent with our understanding of congressional intent.

In accordance with provisions of the Anti-deficiency Act (31 USC 665) the $30,000,000 has been placed in reserve for contingencies. Although this particular authority lapsed at the end of fiscal year 1975, an equal amount became available at the beginning of fiscal year 1976.

The other funds in this account are estimated prior-year balances of direct appropriations that have been made available for obligation.

Estimated Effects

This reserve for contingencies has no fiscal, economic or budgetary effect in the current year. The funds would be made available and obligated only in unforeseeable circumstances.

Outlay Effect (estimated in tenths of millions of dollars)

Comparison with President's 1976 Budget:

1. Budget outlay estimate for 1976 ..... --
2. Outlay savings, if any, included in the budget outlay estimate ..... --

Current Outlay Estimates for 1976:

3. Without deferral ..... --
4. With deferral ..... --

5. Current outlay savings (line 3 less line 4) .. --

Outlay Savings for the Transition Quarter .... --

Outlay Savings for 1977 ..... --

Deferral No: D76-16

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of the Interior	New budget authority (P.L. 16 USC 777 et.seq.) $ 18,600,000
Bureau Fish and Wildlife Service	Other budgetary resources 5,830,000
Appropriation title & symbol Federal Aid in Fish Restoration and Management (Receipt Limitation) 14X5138	Total budgetary resources 24,430,000
	Amount to be deferred: Part of year $ ____ Entire year 6,330,000
OMB identification code: 10-18-5138-0-2-303	Legal authority (in addition to sec. 1013): [x] Antideficiency Act
Grant program [x] Yes [ ] No	[ ] Other ____
Type of account or fund: [ ] Annual [ ] Multiple-year ____ (expiration date) [x] No-year	Type of budget authority: [ ] Appropriation [ ] Contract authority [x] Other Permanent indefinite (receipt limitation)

Justification

A permanent appropriation of revenue accruing from a tax imposed on fishing rods, creels, reels, artificial lures, baits and flies is used to reimburse States for up to 75 percent of the costs of fish restoration and management projects (16 USC 777 et.seq.)

The deferred funds are the unobligated balances anticipated after estimated reimbursements to the States are made in 1976. Two factors may cause fluctuations in the amount of reimbursement made in a given year. First, States frequently do not have sufficient funds to meet Federal grant matching requirements. Second, project reports must be submitted to the Fish and Wildlife Service for their review before reimbursements can be made. These reports may be inadequate or not submitted. For these reasons, revenue frequently exceeds obligations, and the excess revenue is reserved for use in the following year under provisions of the Anti-Deficiency Act (31 USC 665).

Estimated Effects

Further reimbursements will be made to the States if matching funds are provided and other legal requirements are met. The amount in reserve simply reflects the excess of revenue after reimbursements are made. Thus, this deferral has no programmatic, fiscal or budgetary effect.

Outlay Effect (estimated in millions of dollars)

Comparison with President's 1976 Budget:

1. Budget outlay estimate for 1976	17.2
2. Outlay savings, if any, included in the budget outlay estimate	0

Current Outlay Estimates for 1976:

3. Without deferral	17.2
4. With deferral	17.2
5. Current outlay savings (line 3 - line 4)	0
Outlay Savings for the Transition Quarter	0
Outlay Savings for 1977	0

Deferral No: D76-17

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of the Interior	New budget authority (P.L. 16 U.S.C. 669b): $ 57,700,000
Bureau: Fish and Wildlife Service	Other budgetary resources: 18,270,250
Appropriation title & symbol: Federal Aid in Wildlife Restoration 14X5029	Total budgetary resources: 75,970,250
	Amount to be deferred: Part of year: $ ____
	Entire year: $ 21,470,250
OMB identification code: 10-18-5029-0-2-303	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program [X] Yes [ ] No	[ ] Other ____
Type of account or fund: [ ] Annual	Type of budget authority: [ ] Appropriation
[ ] Multiple-year ____ (expiration date)	[ ] Contract authority
[X] No-year	[X] Other Permanent indefinite (receipt limitation)

Justification

Cost sharing assistance is provided to States and territories for wildlife restoration projects from permanent appropriations equal to 11% of the excise tax on the manufacture of firearms and ammunition (16 U.S.C. 669b).

States and territories receive assistance if they can provide the matching funds and if other program requirements are met. The 1976 program level of $54,500,000 is the estimate of Federal funds needed to match funds which the States are likely to obligate in the current fiscal year. The reserve reflects the fact that there are now more receipts in this permanent account than can be utilized by the recipients in the fiscal year, and thus, will remain unobligated at the close of the current fiscal year. This deferral action was taken under the authority of the Anti-Deficiency Act (31 U.S.C. 665).

Estimated Effects

Because funds are available for use whenever State or territorial programs qualify, the reserve does not have any programmatic, fiscal, or budgetary effect. Similarly, disapproval of this deferral would have no budgetary, fiscal, or programmatic effect since the funds could not be used unless the recipients' programs qualify to receive funds.

Outlay Effect (estimated in millions of dollars)

Comparison with President's 1976 Budget:	
1. Budget outlay estimate for 1976	50.2
2. Outlay savings, if any, included in the budget outlay estimate.....	0
Current Outlay Estimates for 1976:	
3. Without deferral.....	50.2
4. With deferral.....	50.2
5. Current outlay savings (line 3 - line 4)....	0
Outlay Savings for the Transition Quarter.....	0
Outlay Savings for 1977	0

Deferral No: D76-18

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of the Interior	New budget authority (P.L. 23 U.S.C. 203) $
Bureau National Park Service	Other budgetary resources 281,092,459
Appropriation title & symbol 14X1037 Road Construction Liquidation of Contract Authority National Park Service	Total budgetary resources 281,092,459
	Amount to be deferred: Part of year $ Entire year 238,092,459
OMB identification code: 10-24-1037-0-1-303	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program [ ] Yes [X] No	[ ] Other
Type of account or fund: [ ] Annual [ ] Multiple-year June 30, 1976; June 30, 1978 (expiration date) [X] No-year	Type of budget authority: [ ] Appropriation [X] Contract authority [ ] Other

Justification

Contract authority (CA) is authorization to obligate Federal funds prior to their appropriation; however, subsequent payments to vendors and contractors cannot be made until after cash to liquidate CA has been appropriated. Appropriated funds are not being deferred by this action. What is being deferred is authority to obligate funds before appropriation.

Contract authority in this account results from multi-year authorization under the Federal-Aid Highway Act. The total amount of CA authorized under the Act is not based on a specific set of construction projects approved by the Congress or the Executive Branch, but represents an upper limit for an on-going road, trail, and parkway construction effort derived from long term estimates of future road-building plans. The total amount of CA available for 1976 and subsequent years is $281,092,459 of which $43,000,000 is scheduled for obligation in 1976. Most of the deferred balance of $238,092,459 of CA will be available for obligation after 1976. However, based on the current obligation plan, $58,500,000 will lapse at the end of 1976. A decision will be made later in the fiscal year when the appropriations process is completed as to whether to recommend rescission of all or part of this amount.

Funds in this account are used for building new roads and trails, for rehabilitating existing roads and trails, and for advance planning of projects. The current system

includes about 10,200 miles of roads including parkways, and about 9,700 miles of trails. The 1976 program ($43,000,000) includes elements reviewed and approved by the Congress in previous years ($32,456,000) and new proposals for 1976 ($10,544,000). Reserving CA not scheduled for use in the current fiscal year is consistent with the current financial plan and the appropriations request currently before the Congress.

Estimated Effects

If all authorized CA were made available for obligation now there would be little if any program or outlay effect before completion of the appropriations process because it is not likely the funds would be obligated for projects prior to review of the proposed 1976 program by the Congress and the appropriation of cash to liquidate CA. This is because, in this account, the obligation program traditionally has been based on a project-by-project review by the appropriations committees.

Outlay Effect (estimated in millions of dollars)
(There will be no outlay effect)

Comparison with President's 1976 Budget:	
1. Budget outlay estimate for 1976.....	38.8
2. Outlay savings, if any, included in the budget outlay estimate.....	--
Current Outlay Estimates for 1976:	
3. Without deferral.....	38.8
4. With deferral.....	38.8
5. Current outlay savings (line 3 - line 4).	--
Outlay Savings for the Transition Quarter.....	--
Outlay Savings for 1977	--

Deferral No: D76-19

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of the Interior	New budget authority (P.L. 30 U.S.C. 229a) $ --
Bureau U.S. Geological Survey	Other budgetary resources Est. 28,700
Appropriation title & symbol Payments from Proceeds, Sale of Water, Mineral Leasing Act of 1920, Sec. 40(d) 14X5662	Total budgetary resources Est. 28,700
	Amount to be deferred: Part of year $ -- Entire year Est. 28,700
OMB identification code: 10-28-5662-0-2-301	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act
Grant program ☐ Yes ☒ No	☐ Other
Type of account or fund: ☐ Annual ☐ Multiple-year _____ (expiration date) ☒ No-year	Type of budget authority: ☐ Appropriation ☐ Contract authority ☒ Other permanent, indefinite, special

Justification

Section 40(d) of the Mineral Leasing Act of 1920 [30 U.S.C. 229(a)] provides that when lessees or operators drilling for oil or gas on public lands strike water, water wells may be developed by the Department from the proceeds from sale of water from existing wells. Receipts have been accruing to this permanent account at the rate of about $1,000 per year. At the start of fiscal year 1965, the account had an unobligated balance of $16,000. It is estimated that by the start of fiscal year 1976 the unobligated balance will be $28,700. None of these receipts have been obligated over the past ten years and none are planned for obligation in fiscal year 1976 because the total available is too small to be put to practical use for the purpose designated by law. Deferral is planned because funds could not be used effectively during the current fiscal year even if made available for obligation. This reserve action is taken pursuant to the Anti-Deficiency Act [31 U.S.C. 665(c)].

Estimated Effects

There will be no programmatic or outlay impact in FY 1976 since the receipts will continue to accrue but will remain unobligated until such time as an amount is available which can be used for effective purposes.

Outlay Effect (estimated in millions of dollars)

Comparison with President's 1976 Budget:	
1. Budget outlay estimate for 1976.....	--
2. Outlay savings, if any, included in the budget outlay estimate.....	--
Current Outlay Estimates for 1976:	
3. Without deferral.....	--
4. With deferral.....	--
5. Current outlay savings (line 3 - line 4)...	--
Outlay Savings for the Transition Quarter.....	--
Outlay Savings for 1977.....	--

Deferral No: D76-20

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of the Interior	New budget authority (P.L. 23 U.S.C. 203) $ --
Bureau Bureau of Indian Affairs	Other budgetary resources 135,774,958
Appropriation title & symbol Road Construction (Liquidation of Contract Authority) 14X2364	Total budgetary resources 135,774,958
	Amount to be deferred: Part of year $ -- Entire year $ 68,469,958
OMB identification code: 10-76-2364-0-1-452	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act
Grant program ☐ Yes ☒ No	☐ Other
Type of account or fund: ☐ Annual ☒ Multiple-year June 30, 1978 (expiration date) ☐ No-year	Type of budget authority: ☐ Appropriation ☒ Contract authority ☐ Other

Justification

Contract authority (CA) is authorization to obligate Federal funds prior to their appropriation; however, subsequent payments to vendors and contractors cannot be made until after cash to liquidate CA has been appropriated. Appropriated funds are not being deferred by this action. What is being deferred is authority to obligate funds before appropriation.

Contract authority in this account results from multi-year authorization under the Federal-Aid Highway Act. The total amount of CA authorized under the Act is not based on a specific set of construction projects approved by the Congress or the Executive Branch, but represents an upper limit for an on-going road construction effort derived from long term estimates of future road-building plans. The total amount of CA available for 1976 and subsequent years is $135,174,958, of which $66,705,000 is scheduled for obligation in 1976. The deferred balance of $68,469,985 of CA will be available for obligation in the transition quarter and 1977.

Funds in this account are used primarily for improving the existing Indian road system which totals approximately 25,000 miles. The obligation program proposed for 1976 ($66,705,000 from CA plus $600,000 from reimbursements) will improve over 1,000 miles, or about 4 percent of the total, and will fund construction of those projects considered to be of the highest priority in 1976 after consultation with Indian people. The President's budget requests an appropriation to liquidate contract authority to meet the 1976 obligation program. Reserving CA not scheduled for use in the current

fiscal year is consistent with the current financial plan and the appropriations request currently before the Congress.

Estimated Effects

If all authorized CA were made available for obligation now there would be little if any program or outlay effect before completion of the appropriations process because it is not likely the funds would be obligated for projects prior to review of the proposed 1976 program by the Congress and the appropriation of cash to liquidate CA. This is because, in this program, appropriations traditionally have been based on a review of the proposed obligation plan by the appropriations committees.

Outlay Effect (estimated in millions of dollars)

Comparison with President's 1976 Budget:	
1. Budget outlay estimate for 1976.....	68.0
2. Outlay savings, if any, included in the budget outlay estimate.....	—
Current Outlay Estimates for 1976:	
3. Without deferral.....	68.0
4. With deferral.....	68.0
5. Current outlay savings (line 3 - line 4)....	—
Outlay Savings for the Transition Quarter.....	—
Outlay Savings for 1977.....	—

Deferral No: D76-21

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Transportation	New budget authority (P.L. ____) $ -0-
Bureau U. S. Coast Guard	Other budgetary resources 36,114,000
Appropriation title & symbol Acquisition, Construction, and Improvements 0240	Total budgetary resources 36,114,000
	Amount to be deferred: Part of year $ ____ Entire year 707,000
OMB identification code: 21-15-0240-0-1-406	Legal authority (in addition to sec. 1013): [x] Antideficiency Act
Grant program [ ] Yes [x] No	[ ] Other ____
Type of account or fund: [ ] Annual [ ] Multiple-year ____ (expiration date) [x] No-year	Type of budget authority: [x] Appropriation [ ] Contract authority [ ] Other ____

Justification--The construction schedule of a replacement icebreaker requires the deferral of $707,000 for outfitting the completed vessel in 1977. Outfitting is the process of providing a ship with the necessary equipment and furnishings. The process takes place upon completion of construction. $707,000 is deferred to assure prudent financial management for the entire fiscal year and could not be used effectively during the current year even if made available for obligation.

Estimated Effects--There is no programmatic, fiscal, economic or budgetary impact of this deferral due to the above justification.

Outlay Effect (estimated in millions of dollars)

Comparison with President's 1976 Budget:

1.	Budget outlay estimate for 1976	$125.1
2.	Outlay savings, if any, included in the budget outlay estimate	-0-

Current Outlay Estimates for 1976:

3.	Without deferral	125.1
4.	With deferral	125.1
5.	Current outlay savings (line 3 - line 4)	-0-

Deferral No: D76-22

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Transportation	New budget authority (P.L. _____) $ -0-
Bureau: Federal Aviation Administration	Other budgetary resources 8,025,713
Appropriation title & symbol: Civil Supersonic Aircraft Development Termination. 69X0106; Civil Supersonic Aircraft Development 69X1358	Total budgetary resources 8,025,713
	Amount to be deferred: Part of year $ -0-
	Entire year 7,685,713
OMB identification code: 21-20-0106-0-1-405	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act
Grant program ☐ Yes ☒ No	☐ Other _____
Type of account or fund: ☐ Annual; ☐ Multiple-year _____ (expiration date); ☒ No-year	Type of budget authority: ☒ Appropriation; ☐ Contract authority; ☐ Other _____

	Total Budgetary Resources	Amount Deferred
Civil Supersonic Aircraft Development Termination	5,285,713	4,945,713
Civil Supersonic Aircraft Development	2,740,000	2,740,000
	8,025,713	7,685,713

Justificiation. This account finances the termination of the supersonic transport development program. The total cost of settlement of contractor claims and closeouts, airline refunds, completion of specifically designated technology programs, and necessary governmental administrative costs incidental to these activities is included. These funds were appropriated by the Department of Transportation and Related Agencies Appropriation Acts, 1971 and 1972. Because of the difficulty in ending such a complex and massive undertaking, termination has taken a number of years. Settlement is being accomplished as quickly as possible consistent with the legitimate claims of the contractors and the protection of government interests. Therefore, it is necessary to apportion funds so that sufficient resources will be available in future years, if necessary to settle all outstanding claims. This deferral action is taken under the provisions of the Antideficiency Act (31 USC 665) which authorize the establishment of reserves for contingencies. All funds are available for obligation in future years.

Estimated Effects. This deferral action has no programmatic or budgetary effect. Funds can be made available and obligated only as claims are settled.

Outlay Effect

Comparison with President's 1976 Budget:

1. Budget outlay estimate for 1976	$ 7.6
2. Outlay savings, if any, included in the budget outlay estimate	-0-

Current Outlay Estimates for 1976:

3. Without deferral	7.6
4. With deferral	7.6
Current outlay savings (line 3-line 4).....	-0-
Outlay Savings for the Transition Quarter	-0-
Outlay Savings for 1977	-0-

Deferral No: D76-23

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Transportation	New budget authority (P.L. _____) $ -0-
Bureau Federal Aviation Administration	Other budgetary resources 274,823,895
Appropriation title & symbol Facilities and Equipment (Airport and Airway Trust Fund) FAA 69X8107 694/68107 695/78107	Total budgetary resources 274,823,895
	Amount to be deferred: Part of year $ -0- Entire year 75,823,895
OMB identification code: 21-20-8107-0-7-405	Legal authority (in addition to sec. 1013): [x] Antideficiency Act
Grant program [ ] Yes [x] No	[ ] Other _____
Type of account or fund: [ ] Annual [x] Multiple-year 694/68107 June 30, 1976 695/78107 June 30, 1977 (expiration date) [x] No-year	Type of budget authority: [x] Appropriation [ ] Contract authority [ ] Other _____

Justification. Funds from this account are used to procure congressionally approved facilities and equipment for the expansion and modernization of the national airway system. Projects financed from this account include construction of buildings and purchase of new equipment for new or improved air traffic control towers, automation of the enroute airway control system, and expansion and improvement in the navigational and landing aid systems. These funds were appropriated in the Department of Transportation and Related Agencies Appropriations Act of 1975 and prior years. None of the deferred funds lapses in fiscal year 1976. The estimated total cost for each project is included in the appropriation. Because of the lengthy procurement and construction time for interrelated new facilities and complex equipment systems, it is not possible to obligate all funds necessary to complete each project in the year funds are appropriated. Therefore, it is necessary to apportion funds so that sufficient resources will be available in future periods to complete these projects. This deferral action is consistent with the congressional intent to provide multi-year funding for the total costs of these projects and is taken under provisions of the Antideficiency Act (31 USC 665) which authorize the establishment of reserves for contingencies.

Estimated Effects. This deferral action does not affect fiscal year 1976 program reflected in the FY 1976 Congressional Budget Submission. The amount deferred could not be used economically if made available, in fiscal year 1976 because of the planned multi-year procurement, construction and/or installation cycle.

Outlay Effect

Comparison with President's 1976 Budget:

1.	Budget outlay estimate for 1976	$261.6
2.	Outlay savings, if any, included in the budget outlay estimate	-0-

Current Outlay Estimates for 1976:

3.	Without deferral	261.6
4.	With deferral	261.6
	Current outlay savings (line 3 - line 4)	-0-
	Outlay savings for the Transition Quarter	-0-
	Outlay Savings for 1977	-0-

Deferral No: D76-24

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of the Treasury	New budget authority (P.L. 92-512): $6,354,780,000
Bureau: Office of the Secretary	Other budgetary resources (1973-1975): 20,554,230,000
Appropriation title & symbol: State and Local Government Fiscal Assistance Trust Fund 20X8111	Total budgetary resources: 26,909,010,000
	Amount to be deferred: Part of year: $ 1/
	Entire year: 93,419,866
CMB identification code: 15-70-8111-0-7-851	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [X] Yes [ ] No	[ ] Other
Type of account or fund: [ ] Annual [X] Multiple-year (Dec. 31, 1976) (expiration date) [ ] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other

Justification

The Secretary of the Treasury must hold a portion of this account in reserve to meet valid claims from State and local governments that past general revenue sharing payments to them were too small. Because the total amount appropriated for all governments is fixed, the alternative to such a reserve is recurring recomputations of entitlements of all 39,000 governments for prior entitlement periods. Accordingly, the Office of Revenue Sharing has withheld from obligation an amount equal to one-half of one percent of the amounts appropriated for each entitlement period through FY 1975. This amount is anticipated to continue to be withheld from obligation through the end of fiscal year 1976.

This cumulative unobligated reserve, totaling $93.4 million is available to the Secretary of the Treasury to satisfy legitimate claims against the Trust Fund for prior entitlement periods. The unobligated amount retained in the Trust Fund will be reduced whenever the Secretary determines the amount is adequate to meet foreseeable liabilities against the Trust Fund. The reduction will be made by paying the additional amount to recipients as part of a regular distribution.

1/ While some amount of this reserve may be released during the year as valid claims are approved there is no sound basis for estimating that amount.

Estimated Effects

This action will postpone distribution of the amount of the reserve until necessary adjustments and corrections have been identified. It will also avoid substantial confusion and complexities in the administration of the program.

Outlay Effect (estimated in tenths of millions of dollars)

Comparison with President's 1976 Budget:

1.	Budget outlay estimate for 1976	$6,301.0
2.	Outlay savings, if any, included in the budget outlay estimate	93.4

Current Outlay Estimates for 1976:

3.	Without deferral	6,448,8
4.	With deferral	6,355.4
5.	Current outlay savings (line 3 - line 4)	93.4

Outlay Savings for the Transition Quarter	0
Outlay Savings for 1977	+93.4 1/

1/ This deferral would shift $93.4 million in outlays from 1976 to 1977.

Deferral No: D76-25

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of the Treasury	New budget authority (P.L. 92-512): $6,354,780,000
Bureau: Office of the Secretary	Other budgetary resources (1973-1975): 20,554,230,000
Appropriation title & symbol: State and Local Government Fiscal Assistance Trust Fund 20X8111	Total budgetary resources: 26,909,010,000
	Amount to be deferred: Part of year: 1/ $38,391,266
	Entire year: None
OMB identification code: 15-70-8111-0-7-851	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act
Grant program: ☒ Yes ☐ No	☒ Other: Civil Action No. 74-248
Type of account or fund: ☐ Annual ☒ Multiple-year (terminates Dec. 31, 1976 (expiration date)) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification

The State and Local Government Fiscal Assistance Trust Fund is a multi-year appropriation. In FY 1975, two regularly scheduled payments to the city of Chicago were deferred by the U. S. District Court, D. C. in Civil Action No. 74-248 for noncompliance with nondiscrimination requirements.

Estimated Effect

The city of Chicago will not receive payments totaling $38.4 million until further action by the court. Once the appropriate court order is issued, there will be an immediate need for these funds to be outlayed.

Outlay Effect (estimated in millions of dollars)

Comparison with President's 1976 Budget:

1.	Budget outlays estimate for 1976	$6,301.0
2.	Outlay savings, if any, included in the budget outlay estimate	0

1/Outlays only

Current Outlay Estimates for 1976:

3.	Without deferral	6,355.4
4.	With deferral	6,317.0
5.	Difference (line 3 - line 4)	38.4

Outlay Savings for the Transition Quarter 0

Outlay Savings for 1977 0

Deferral No: D76-26

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Foreign Claims Settlement Commission	New budget authority (P.L.) $
Bureau: NA	Other budgetary resources 11,411,000
Appropriation title & symbol: Payment of Vietnam Prisoner of War Claims	Total budgetary resources 11,411,000
	Amount to be deferred: Part of year $
	Entire year 11,081,000
OMB identification code: 30-88-0104-0-1-152	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other
Type of account or fund: [ ] Annual [ ] Multiple-year (expiration date) [X] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other

Justification

Public Law 91-289, approved June 24, 1970, authorizes the Foreign Claims Settlement Commission to adjudicate and certify for payment the claims of American military and civilian prisoners of war held during the Vietnam conflict, or their survivors. Before claims can be certified for payment by the Commission, the appropriate military services must determine the individual's POW status and, in the case of claims by the survivors of missing persons where evidence of captivity exists, it must also determine the date of death. By court order, however, the Secretaries of the respective services cannot make a final status determination without affording the right of due process to MIA survivors, which requires considerable time and has significantly reduced the rate at which final determinations are being made.

A total of $16,565,000 was appropriated during 1971, 1972 and 1973 for the Vietnam POW claims program to remain available until expended. The Commission now has certified $5,154,000 of payments for the claims of returned POWs and of most survivors of other missing persons for whom evidence of captivity was found and a date of death has been established. Because approximately 900 Americans remain in a missing status in Southeast Asia and because of the difficulty in many cases in establishing evidence of captivity, only $330,000 of the $11,411,000 remaining available for obligation has been apportioned for obligation in 1976 and

$11,081,000 has been reserved. This is proposed for deferral through June 30, 1976, or, if appropriate legislation is enacted, through September 30, 1976. This deferral of 1976 budgetary resources is necessary to achieve the most economical use of appropriations (31 U.S.C. 665(c)(1)) and to provide for contingencies after 1976 (31 U.S.C. 665(c)(2)).

Estimated Effects

No savings result from the deferral, since claims cannot be adjudicated or certified for payment by the Commission until final status determinations are made by the military services.

Outlay Effect (estimated in millions of dollars)

Comparison with President's 1976 Budget:	
1. Budget outlay estimate for 1976.....	4.0
2. Outlay savings, if any, included in the budget outlay estimate	-0-
Current Outlay Estimates for 1976:	
3. Without deferral	.3
4. With deferral	.3
5. Current outlay savings (line 3 - line 4) ..	-0-
Outlay Savings for the Transition Quarter	-0-
Outlay Savings for 1977	-0-

Deferral No: D76-27

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: American Revolution Bicentennial Adm.	New budget authority (P.L. 93-179): $ 10,400,000
Bureau: c/o Department of the Interior, Office of the Secretary	Other budgetary resources: 3,400,000
Appropriation title & symbol: Commemorative Activities Fund 76X5077	Total budgetary resources: 13,800,000
	Amount to be deferred: Part of year: $ 1,000,000
	Entire year:
OMB identification code: 31-03-5077-0-2-806	Legal authority (in addition to sec. 1013): [XX] Antideficiency Act
Grant program: [XX] Yes [ ] No	[ ] Other
Type of account or fund: [ ] Annual	Type of budget authority: [ ] Appropriation
[ ] Multiple-year (expiration date)	[ ] Contract authority
[XX] No-year	[XX] Other: Permanent, Indefinite, Special Fund

Justification

Funds have been placed in reserve to insure that all costs of producing, marketing, and distributing the 1976 medals series and the national medal are covered out of this account. Past years' experience shows that metal and other material and production costs fluctuate widely. The reserve of $1,000,000 is the minimum amount sufficient to guarantee production of the 1976 philatelic-numismatic combination (PNC), whose sales in July 1976 will generate funds to produce the 1976 silver and bronze unique medals (on sale in October 1976). Most costs of producing the special national medal will be borne with available FY 1976 funds; but, purchase of gold for that medal may be partially accomplished with this reserve. Release of all reserved funds is anticipated in the fourth quarter, FY 1976.

Estimated Effects

None; all revenues in excess of actual production expenses will be apportioned for grants as soon as practicable.

American Revolution Bicentennial Administration
76X5077

Outlay Effect

Comparison with President's 1976 Budget:

1. Budget outlay estimate for 1976	11.0
2. Outlay savings, if any, included in the budget outlay estimate	1.5

Current Outlay Estimates for 1976:

3. Without deferral	12.4
4. With deferral	11.4
5. Current outlay savings (line 3 - line 4)	1.0
Outlay Savings for the Transition Quarter	0
Outlay Savings for 1977	0

[FR Doc.75-17569 Filed 7-2-75;12:05 pm]