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PART I

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PRIVACY ACT OF 1974—FURTHER NOTICE TO AGENCIES

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HIGHLIGHTS OF THIS ISSUE

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

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Title 7—Agriculture

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

[FmHA Instruction 442.1]

PART 1823—ASSOCIATION LOANS AND GRANTS—COMMUNITY FACILITIES, DEVELOPMENT, CONSERVATION, UTILIZATION

Subpart A—Community Facility Loans

MISCELLANEOUS AMENDMENTS

Sections 1823.2(a)(2) and 1823.3(b) of Subpart A of Part 1823, Title 7, Code of Federal Regulations (38 FR 20926; 39 FR 17971) are amended to provide the requirements pertaining to loans for community electric or telephone systems in rural communities with populations between 1,500 and 10,000.

This amendment is being published without notice of proposed rulemaking since any delay in its adoption would be contrary to the public interest. The Secretary of Agriculture has recently redelegated authority for making loans for community electric or telephone systems to the Farmers Home Administration; heretofore, the authority has rested with the Rural Electrification Administration. Any delay in the adoption of these amendments would result in the delay of the construction of needed community electric and telephone systems. Interested persons are invited, however, to submit written comments, suggestions, or objections regarding this amendment to the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6315, South Building, Washington, D.C. 20250, on or before July 9, 1975. Material thus submitted will be evaluated and acted upon in the same manner as if this document were a proposal. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Chief, Directives Management Branch, during regular business hours. (8:15 a.m.–4:45 p.m.) As proposed, §§ 1823.2 and 1823.3 will read as follows:

§ 1823.2 Applicant eligibility and priority.

(a) * * *

(2) Loans shall not be made for community electric or telephone systems in rural communities of 1,500 population or less; however, this does not preclude an application for a loan to communities of 1,500 or less from the Rural Electrification Administration.

* * * * *

§ 1823.3 Eligible loan purposes.

* * * * *

(b) To construct, enlarge, extend, or otherwise improve community facilities providing essential service to rural residents. Such facilities include but are not limited to those providing or supporting overall community development such as fire and rescue services; transportation; traffic control; community, social, cultural, and recreational benefits; electric and telephone facilities in communities with populations between 1,500 and 10,000; industrial parks including utilities and access ways but not improvements erected on the land such as business industrial buildings.

* * * * *

(7 U.S.C. 1989; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70)

Dated: May 22, 1975.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.75-14933 Filed 6-6-75;8:45 am]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Labor

Section 213.3315 is amended to show that one additional position of Staff Assistant to the Secretary is excepted under Schedule C.

Effective on June 9, 1975, § 213.3315(a)(1) is amended as set out below:

§ 213.3315 Department of Labor.

(a) *Office of the Secretary.* (1) Two Special Assistants, one Confidential Assistant, and two Staff Assistants to the Secretary of Labor.

* * * * *

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

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

[FR Doc.75-14968 Filed 6-6-75;8:45 am]

PART 213—EXCEPTED SERVICE

Community Services Administration

Section 213.3373 is amended to show a change in title from Chief, Private Resources Division to Private Resources Adviser to the Associate Director for Program Review.

Effective on June 9, 1975, § 213.3373(c)(3) is amended as set out below:

§ 213.3373 Community Services Administration.

* * * * *

(c) *Office of Program Review.* * * *

(3) One Private Resources Adviser to the Associate Director for Program Review.

* * * * *

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

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

[FR Doc.75-14967 Filed 6-6-75;8:45 am]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 210—GENERAL ALLOCATION AND PRICE RULES

Stripper Well Lease Exemption; Effective Date

On May 15, 1975, pursuant to section 4(g)(2) of the Emergency Petroleum Allocation Act of 1973 ("EPAA," Pub. L. 93–159, as amended, Pub. L. 93–511), the FEA submitted to the Senate and to the House of Representatives findings and a proposed amendment (40 FR 22123, May 21, 1975) to the stripper well lease exemption of 10 CFR 210.32. The amendment is designed to remove a disincentive to increased production from marginally-producing stripper well leases, which existed under the previous regulation, by providing that once a property qualifies as a stripper well lease on the basis of its per-well production for any calendar year beginning after December 31, 1972, the property will continue to enjoy exempt status, regardless of any increased production in a subsequent year.

Section 4(g)(2) of the EPAA provides that an amendment submitted to Congress pursuant to that section

shall take effect on a date specified in the amendment, but in no case sooner than the close of the earliest period which begins after the submission of such amendment to the Congress and which includes at least five days during which the House was in session and at least five days during which the Senate was in session; except that such amendment shall not take effect if before the expiration of such period either House of Congress approves a resolution of that House stating in substance that such House disapproves such amendment.

The amendment and findings were submitted to each House of Congress

on May 15, 1975, and the five day period for Congressional review therefore began on May 16, 1975. (The amendment and findings were formally received by the Senate on May 16, 1975 (121 *Cong. Rec.* S 8443, daily ed. May 16, 1975), and by the House of Representatives on May 19, 1975 (121 *Cong. Rec.* H 4290, daily ed. May 19, 1975).) The period beginning May 16, 1975 and ending June 2, 1975 includes five days during which each House was in session, and during which neither House of Congress approved a resolution stating in substance that such House disapproved the amendment.

Accordingly the amendment is effective as of June 3, 1975.

Issued in Washington, D.C., June 3, 1975.

ROBERT E. MONTGOMERY, Jr.,
General Counsel.

[FR Doc.75-14877 Filed 6-4-75;8:34 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airspace Docket No. 75-EA-17]

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

Alteration of Transition Area

On page 15399 of the FEDERAL REGISTER for April 7, 1975, the Federal Aviation Administration published a proposed rule which would alter the Martinsburg, W. Va., Transition Area (40 FR 536).

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulation is hereby adopted, effective 0901 GMT August 14, 1975.

(Sec. 307(a), Federal Aviation Act of 1958 (72 Stat. 749 (49 U.S.C. 1348)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Jamaica, N.Y., on May 28, 1975.

LOUIS J. CARDINALI,
Acting Director,
Eastern Region.

1. Amend § 71.181 of Part 71, Federal Aviation Regulations so as to alter the description of the Martinsburg, W. Va. Transition Area by adding, "and within a 15-mile radius of the center of the airport, extending clockwise from a 263° bearing to a 335° bearing from the airport."

[FR Doc.75-14917 Filed 6-6-75;8:45 am]

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-909, Amdt. 42]

PART 288—EXEMPTION OF AIR CARRIERS FOR MILITARY TRANSPORTATION

Reasonable Level of Compensation

Correction

In FR Doc. 75-14474 appearing at page 23844 in the issue of Tuesday, June 3, 1975, on page 23845, in the sixth line of the proviso in § 288.7(a), "DC-8-61/63" should read "DC-8F-61/63".

Title 19—Customs Duties

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

[T.D. 75-133]

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

Clearance of Vessels; Load Lines

The International Voyage Load Line Act of 1973, Pub. L. 93-115, 87 Stat. 418 (October 1, 1973) (46 U.S.C. 88-86i), requires that with certain stated exceptions, load lines shall be marked on all United States vessels engaged in foreign voyages and foreign vessels within the jurisdiction of the United States. This Act also provides that with the consent of the Secretary of the Treasury, officers of the United States Customs Service may be utilized to enforce the Act and the regulations established thereunder.

The Coastwise Load Line Act, 1935, as amended (Act of August 27, 1935, c. 747, section 1, 49 Stat. 888) (46 U.S.C. 88-88i)), established load lines for merchant vessels of one hundred and fifty gross tons or over, loading at or proceeding to sea from any port or place within the United States or its possessions for a coastwise voyage by sea. Officers of the United States Customs Service are empowered to enforce this Act through the issuance of detention orders served on the master of any vessel subject to the Act and not in compliance with its requirements.

Section 4.61(b)(11) of the Customs Regulations (19 CFR 4.61(b)(11)), provides that before clearance is granted to a vessel bound to a foreign port, the district director shall verify compliance with load line regulations. Footnote 96 at the end of this section makes reference to Chapter 2A of title 46, United States Code, in which the statutes concerning load lines for American vessels are set forth, and to the Coast Guard regulations for load lines (46 CFR Subchapter E). This amendment deletes footnote 96 and adds a reference to a new § 4.65a (19 CFR 4.65a), setting forth the enforcement responsibilities of the United States Customs Service in regard to the applicable statutes.

Accordingly, in order to include the enforcement provisions of the International Voyage Load Line Act of 1973 and the Coastwise Load Line Act, 1935, as amended, in the Customs Regulations, § 4.61(b)(11) (19 CFR 4.61(b)(11)) is amended, and a new § 4.65a (19 CFR 4.65a) is added, to read as follows:

Paragraph (b)(11) of § 4.61 is amended to read:

§ 4.61 Requirements for clearance.

(b) * * *

(11) Load line regulations (4.65a).

* * * * *

Footnote 96 is deleted.

Part 4 is further amended by adding a new § 4.65a to read:

§ 4.65a Load lines.

(a) If a district director of Customs is notified by an officer of the United States Coast Guard that a detention order has been issued against a vessel engaged in the foreign trade under the International Voyage Load Line Act of 1973, clearance shall not be granted until the order is withdrawn.

(b) If a district director of Customs issues a detention order under the Coastwise Load Line Act, 1935, as amended, or is notified by an officer of the United States Coast Guard that a detention order has been issued against a vessel under the aforesaid Act, clearance shall not be granted until the order is withdrawn.

(Secs. 1-9, 49 Stat. 888-891, as amended, secs. 1-12, 87 Stat. 418-421 (46 U.S.C. 86-86i, 88-88i))

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

Inasmuch as these amendments merely set forth the enforcement responsibilities of the United States Customs Service as presently contained in the International Voyage Load Line Act of 1973 and the Coastwise Load Line Act, 1935, as amended, notice and public procedure thereon are found to be unnecessary and good cause exists for dispensing with a delayed effective date under the provisions of 5 U.S.C. 553.

Effective date. These amendments shall become effective on June 9, 1975.

[SEAL] VERNON D. ACREE,
Commissioner of Customs.

Approved: May 27, 1975.

DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

[FR Doc.75-14926 Filed 6-6-75;8:45 am]

[T.D. 75-132]

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

Sale of Customs Forms

Paragraphs (a) and (b) of § 24.14 of the Customs Regulations (19 CFR 24.14 (a), (b)) authorize the Commissioner of Customs to designate those Customs forms which shall be for sale to the general public as well as to establish the price of each salable Customs form. It has been determined that paragraphs (a) and (b) of section 24.14, Customs

regulations, should be amended to permit the Commissioner of Customs to delegate this authority to other officials in the United States Customs Service.

Accordingly, § 24.14 of the Customs regulations (19 CFR 24.14) is amended in the manner set forth below:

The first sentence of § 24.14 (a) and (b), Customs regulations (19 CFR 24.14 (a) and (b)), is amended to read as follows:

§ 24.14 Salable customs forms.

(a) Customs forms for sale to the general public shall be designated by the Commissioner of Customs or his delegate. * * *

(b) The price of each salable Customs form shall be established by the Commissioner of Customs, or his delegate, and shall be adjusted periodically as the varying costs of printing and distribution require. * * *

* * * * *

(R.S. 251, as amended, sec. 624, 46 Stat. 759; (5 U.S.C. 301, 19 U.S.C. 66, 1624))

Because these amendments relate to rules of agency procedure and practice and place 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. These amendments shall be on June 9, 1975.

[SEAL] VERNON D. ACREE,
Commissioner of Customs.

Approved: May 27, 1975.

DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

[FR Doc.75-14925 Filed 6-6-75;8:45 am]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 75-4; Notice 2]

PART 1—GENERAL

PART 658—NATIONAL MAXIMUM SPEED LIMIT; MAXIMUM VEHICLE SIZE AND WEIGHT

Establishment

This notice amends Part 658 of Title 23, Code of Federal Regulations, to implement those provisions of the Federal-Aid Highway Amendments of 1974, Pub. L. 93-643, relating to the establishment of a 55 mph national maximum speed limit and to the enforcement of the size and weight limitations on the Federal-aid highways, as proposed by a notice of proposed rulemaking published on March 6, 1975 (40 FR 10481).

Additional requirements proposed by the March 6 notice, relating to the States' certification of speed limit enforcement, drew numerous comments, many of them adverse to the proposed requirements. To allow additional opportunity for communication between the affected State agencies and the Department, the period for comment on the requirements (proposed as 23 CFR 658.7) is being reopened until June 30, 1975. The section is accordingly marked as "reserved" in the regulation as issued by this notice. A modified version of 23 CFR 658.7 is accordingly proposed in a notice issued in today's edition of the FEDERAL REGISTER at 40 FR 24532.

The comments on each of the sections in the proposed regulation are discussed below, with changes noted:

Section 658.1(a). The scope paragraph has been broadened by including the certification of State size and weight law enforcement on Federal-aid highways, to encompass the full reach of 23 U.S.C. 141.

Section 658.3(b). The State of Michigan objected to the definition of "Highway" as overly broad. However, the definition used in Part 658 is somewhat narrower than that in 23 U.S.C. 101, and does not create any obligation on the State to expand its enforcement to highways not presently patrolled. The definition has been adopted as proposed.

Section 658.5(a). The Washington, D.C. Region of the Sports Car Club of America objected to the exemption of police and emergency vehicles from the 55 mph limit. The Department, upon review of the issue, has concluded that higher speeds for such vehicles are often necessary for public health and safety, and, in the case of police vehicles, for proper enforcement of the 55 mph speed limit. An exemption is therefore authorized under 23 U.S.C. 315 as a regulation needful to carrying out the intent of the Act. The paragraph is therefore adopted as proposed.

Section 658.5(d). The Pennsylvania Department of Transportation requested amendment of this or other aspects of § 658.5 to permit States to set lower speeds for trucks than for cars on long downhill grades. The language of § 658.5(d) is not subject to change, because of its direct statutory derivation. However, it has been determined that a long grade of the type usually marked for lower gears for trucks constitutes a condition creating a "temporary hazard," within the meaning of § 658.5(d), and therefore permits a lower speed to be set for trucks.

Section 658.6. The Federal Energy Administration suggested a requirement that the States report any "new or innovative" techniques. Although it will be useful to know of such techniques, the Department anticipates that they will be volunteered readily by the States. No requirement seems necessary.

North Carolina and Massachusetts each sought to shift the obligation of certifying from the Governor to another State official. The Act requires certification by the State, rather than by a particular official. Accordingly, if someone other than the Governor is best suited to certify the State's compliance, it seems reasonable to accept his certification on behalf of the State. The reference to the Governor in § 658.6 is therefore amended to permit certifications by officials designated by the Governor. A parallel change is made in §§ 658.7 and 658.9.

The State of Washington requested an additional 30 days beyond the 30 days proposed after issuance of the final regulation for submittal of a certificate of compliance. However, the obligation to certify arose when Pub. L. 93-643 became effective on January 4, 1975. The certification required under § 658.6 does not differ significantly from that required by the former Part 658. There would thus appear to be no hardship in a 30-day certification period, and the 30-day period has been adopted.

Section 658.9. The size and weight provisions of § 658.9 have been amended to restrict the data collection to State agencies. Technical changes have been adopted to reflect more closely the language of 23 U.S.C. 141, to adopt January 1 as the certification date for 23 U.S.C. 127 conformity, and to require classification of special permit issuances according to the life span of the permit.

One comment questioned the requirement in paragraph (b)(7) to submit the number of citations, on the ground that a State may choose another penalty for oversize and overweight operation, such as an extraordinary user tax, which it would not have to record as a "citation." However, (b)(7) recognizes the use of civil techniques by requiring submission of the number of "assessments," as well as "citations." Thus, a State which employs an extraordinary user tax or other noncriminal sanction must report the number of such sanctions assessed.

Another comment objected to the requirements to submit the days and hours of scale operation ((b)(5)) and the number of personnel used in measurement ((b)(6)). These requirements are considered necessary to proper evaluation of a sizes and weights program and have therefore been retained. It is not thought that this information will be burdensome, in that the States have been furnishing it for 2 years already.

Section 658.15. It was noted that because the section on the effect of a failure to certify referred to a determination of nonconformity by the Secretary or his designee, it was not clear whether favorable determination would be necessary in order for a State to receive project approvals. The section has been amended to provide that project disapproval can occur only after an adverse determination. Therefore, projects will continue to be approved after each year's certification date unless an adverse determination is made.

In light of the foregoing:

§ 1.29 [Revoked]

(1) The former provision relating to vehicle size and weight, § 1.29 of Title 23, Code of Federal Regulations, is hereby revoked.

(2) Part 658 of Title 23, Code of Federal Regulations, is hereby amended to read as set forth below.

Effective date: July 9, 1975.

Issued on June 3, 1975.

NORBERT T. TIEMANN,
Federal Highway Administrator.

JAMES B. GREGORY,
National Highway Traffic Safety Administrator.

Sec.
658.1 Scope and purpose.
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AUTHORITY: (Secs. 106, 107, 114, Pub. L. 93-643, 80 Stat. 2281; 23 U.S.C. 127, 141, 154; 23 U.S.C. 315; delegations at 49 CFR 1.48 and 1.50).

§ 658.1 Scope and purpose.

(a) *Scope.* This part implements the 55 mph national maximum speed limit requirement of 23 U.S.C. 154, sec. 114, Pub. L. 93-643, and the provisions of 23 U.S.C. 141, sec. 107, Pub. L. 93-643, relating to certification by the States of their enforcement of the speed limit requirements of 23 U.S.C. 154, the maximum size and weight requirements of 23 U.S.C. 127, and the State size and weight requirements on Federal-aid highways.

(b) *Purpose.* The purpose of this part is to conserve fuel and increase safety through enforcement of the 55 mph national maximum speed limit and to preserve highway pavement and structures and increase safety through enforcement of maximum vehicle size and weight.

§ 658.3 Definitions.

As used in this part:

(a) "Act" means the Federal-Aid Highway Amendments of 1974, Pub. L. 93-643, 80 Stat. 2281.

(b) "Highway" means all streets, roads, or parkways under the jurisdiction of a State, including its political subdivisions, and open for use by the general public, and includes toll facilities.

(c) "Motor vehicle" means any vehicle driven or drawn by mechanical power manufactured primarily for use on public highways, except any vehicle operated exclusively on a rail or rails.

(d) "State" means any one of the fifty States, the District of Columbia, and Puerto Rico.

§ 658.5 Adoption of national maximum speed limit.

In order to obtain approval of Federal-aid projects under 23 U.S.C. 106, each State shall adopt or maintain maximum speed limits as follows:

(a) The maximum speed limit on any highway in the State shall be 55 mph or less, except that emergency and police motor vehicles may be authorized to operate at higher speeds when necessary to protect health or safety.

(b) Except as provided in paragraphs (c) and (d) of this section, the speed limit on any portion of a highway shall be uniformly applicable to all types of motor vehicles, using such portion of highway, if on November 1, 1973, such portion of highway had a speed limit which was uniformly applicable to all types of vehicles using it.

(c) Notwithstanding the provisions of paragraph (b) of this section, a State may establish a lower speed limit for a motor vehicle operating under a special permit because of any weight or dimension of such vehicle, including any load thereon.

(d) Notwithstanding the provisions of paragraph (b) of this section, a State may specify nonuniform speed limits on any portion of a highway when the condition of the highway, weather, an accident, or other condition creates a temporary hazard to the safety of traffic on such portion of a highway.

§ 658.6 Statement of compliance.

Each Governor, or an official designated by each Governor, shall submit to the Federal Highway Administrator, not later than 30 days after issuance of this part, a statement that the State has complied with section 154 of title 23, United States Code.

(a) *Contents of statement.* The statement shall include—

(1) A copy of each law, regulation, or administrative order adopted by the State legislature, the Governor, or other State or local official or agency to implement the Act, including all laws, regulations, and orders which specify sanctions for violation of the 55 mph speed limit;

(2) An opinion of the State's legal counsel that the action taken is lawful in cases where the action is not based on a specific, cited provision of State statute (such as the State's assent law) or the State's constitution; and

(3) A statement that speed limit signs have been changed when necessary to reflect modifications in speed limits required by the Act.

(b) *Effect of stated action.* Administrative action lawfully taken by a Governor or other appropriate State official in compliance with the Act and as specified in the State's statement shall be deemed to place the State in compliance with section 154 of title 23, United States Code.

§ 658.7 [Reserved]

§ 658.9 Certification of size and weight enforcement.

In order to obtain approval of Federal-aid projects under 23 U.S.C. 106, each State shall certify to the Federal Highway Administrator before January 1 of each year that it is enforcing all State laws governing maximum vehicle size and weights permitted on the Federal-aid primary, urban, and secondary systems, including the Federal-Aid Interstate System in accordance with 23 U.S.C. 127. The certification shall consist of the following elements:

(a) A statement by the Governor of the State, or an official designated by the Governor, that the size and weight laws and regulations in the State governing use of the Interstate System conform to 23 U.S.C. 127.

(b) A statement by the Governor of the State, or an official designated by the Governor, that all size and weight limits are being enforced on the Federal-aid primary, urban, and secondary systems, including the Interstate System. The The statement shall include the following information relating to enforcement during the 12-month period ending on the September 30 before the date by which certification is required:

(1) A copy of any State law or regulation pertaining to vehicles sizes and weights adopted since the State's last certification;

(2) The name of the State agency enforcing State size and weight limits;

(3) The number of fixed scales available to the State to weigh vehicles using the Federal-aid highway system;

(4) The number of portable scales controlled by the State which can be used along the Federal-aid highway systems;

(5) The days and hours of operation of all such scales;

(6) The number of State enforcement personnel used in actual measurement of sizes and weights;

(7) The number of citations, assessments, or arrests made by such personnel for size or weight violations; and

(8) The number of State oversize and overweight permits issued, classified according to the period of their effectiveness.

§ 658.11 Federal reimbursement for sign modifications.

(a) *Availability of funds.* Federal-aid highway funds apportioned to a State under 23 U.S.C. 104 are available to pay 100% of the eligible cost of modifying the signing on Federal-aid highway systems to carry out the intent of the Act. For highways not on a Federal-aid highway system, funds are available under the Federal-aid safer roads demonstration program (23 U.S.C. 405) and, except in the case of toll roads, under the off-system roads program (23 U.S.C. 219).

(b) *Eligible costs.* With regard to funds under 23 U.S.C. 104, any costs incurred by a State after November 1, 1973 for modifying speed limit signs are eligible for participation even though the project was not programmed before the work was done. For an off-system project, a program is eligible on November 1, 1973, or on the effective date of the program, whichever is later. Eligible costs will normally be limited to the costs of changing the numerals on speed limit signs to reflect a new speed limit.

§ 658.13 Procedures for obtaining reimbursement for sign modification costs.

To simplify and expedite payment of the cost of modifying signs to carry out

the Act, the following procedures for obtaining Federal-aid highway funds are authorized:

(a) States should submit a single statewide project for each Federal-aid system and for each class of off-system funds. The Federal Highway Administration has found that it is in the public interest to permit sign modification work to carry out the Act to be performed by force account.

(b) A complete PS&E submission is not required. Each State must prepare and submit a cost estimate to permit the development of a project agreement.

(c) The Federal Highway Administration will accept simplified cost records. The development and use of an average cost-per-sign figure will be acceptable for cost reimbursement purposes.

§ 658.15 Effect of failure to certify.

After January 1, 1976, a State that has not submitted certifications determined by the Secretary or his designee to conform with §§ 658.6, 658.7, and 658.9 shall not receive approval of its plans, specifications and estimates and shall not receive authorization to advertise for bids for construction after the date on which a determination of nonconformity is made, until such time as it has submitted such conforming certifications. For purposes of the certifications due by January 1, 1976, the period for which data are required under § 658.9 (b), shall begin July 1, 1975 and end September 30, 1975.

[FR Doc.75-14923 Filed 6-6-75;8:45 am]

Title 24—Housing and Urban Development

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

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-596]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Changes Made in Determinations of City of Tulsa, Oklahoma, Base Flood Elevations

On August 17, 1971, at 36 FR 15531-15532, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map numbers and locations where Flood Insurance Rate Maps were available for public inspection. The list included Flood Insurance Rate Maps for portions of the City of Tulsa, Oklahoma.

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

For rating purposes, the new community number is 405381B, and must be used for all new policies and renewals.

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

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

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

Mayor Robert J. LaFortune, City of Tulsa, City Hall, Tulsa, Oklahoma 74103.

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

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

Issued: May 29, 1975.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.75-14989 Filed 6-6-75;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7358]

PART 11—TEMPORARY INCOME TAX REGULATIONS UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Notification of Interested Parties Regarding Qualification of Certain Retirement Plans; Correction

On June 4, 1975, T.D. 7358 was published in the FEDERAL REGISTER (40 FR 24002).

The following sentence should be added at the end of paragraph (b) (1) of § 11.7476-1:

"In addition, if the plan amendment affects the contributions for, or benefits to any former employee, all former employees who have a nonforfeitable right to an accrued benefit under the plan shall be interested parties."

JAMES F. DRING,
Director,
Legislation and Regulations Division.

[FR Doc.75-15003 Filed 6-6-75;8:45 am]

Title 29—Labor

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

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Ventilation for Dry Grinding, Dry Polishing and Buffing Operations

On March 15, 1974, a notice was published in the FEDERAL REGISTER (39 FR 9985) proposing to amend § 1910.94(b)(2)(i) of Title 29, Code of Federal Regulations, by providing an exemption from the current ventilation requirements for dry grinding, dry polishing and buffing operations. Section 1910.94(b)(2)(i) was derived from the American National Standards Institute standard ANSI Z43.1-1966, entitled "American National Standard for ventilation control of grinding, polishing and buffing operations," hereinafter referred to as "ANSI standard," and was adopted pursuant to sections 6(a) and 8(g) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1593, 1600; 29 U.S.C. 655, 657), hereinafter referred to as "the Act."

The current § 1910.94(b)(2)(i) requires that every establishment performing dry grinding, dry polishing and buffing operations provide suitable hoods or enclosures connected to an exhaust system. Section 4 of the ANSI standard also provides:

> Equipment, operations, and processes may be exempt from the provisions of this standard when the concentration of any contaminant generated by the grinding, polishing, or buffing of metals does not exceed the threshold limit values established by the American Conference of Governmental Industrial Hygienists.

However, due to an oversight, this exemption was omitted from § 1910.94(b)(2). In order to incorporate this exemption, as was initially intended, it was proposed to exempt from the ventilation requirements of § 1910.94(b)(2)(i), operations where the concentrations of airborne contaminants generated by dry grinding, dry polishing or buffing operations were below the applicable permissible exposure limits set forth in § 1910.1000 (formerly § 1910.93), and other relevant sections of Part 1910.

The notice of proposed rulemaking invited interested persons to submit written data, views and arguments with regard to the proposal, and, in addition, informed such persons of their right to re-

quest a hearing. Seventeen written submissions were received. There were no requests for a hearing.

Most of the commenters supported the proposal, indicating that the ventilation requirements are neither necessary nor appropriate for the protection of employees when the concentration of airborne contaminants does not exceed the permissible exposure limits set forth in Part 1910. In addition, they asserted that to enforce the present requirement without regard to the degree of employee exposure places an undue burden on the employer and is contrary to the spirit of the Act.

Those who oppose the proposal suggested that most grinding and buffing operations generate air contaminants in excess of the applicable permissible exposure limits, and therefore the universal requirement for ventilation should be retained rather than requiring a prior determination that an applicable permissible exposure limit has been exceeded. However, while production grinding and buffing operations often exceed the applicable exposure limits, many occasional operations such as tool sharpening and automotive and maintenance weld grinding often do not.

It was also suggested that an exhaust system should be required even where the concentration of airborne contaminants is below the permissible exposure limits set forth in Part 1910. We disagree. In this regard, it should be noted that, in accordance with appropriate statutory and regulatory procedures, these permissible exposure limits have been found to be reasonably necessary or appropriate to provide healthful employment and places of employment. In this context, we believe it is inappropriate to require employers whose employees are not exposed in excess of the permissible exposure limit to utilize an exhaust system to further reduce employee exposures.

It was also argued that by utilizing a performance type standard rather than the current design standard, enforcement would be more difficult. This may be true, but it does not justify placing a burden upon employers which is unrelated to safety and health and therefore unnecessary.

In view of the above considerations, and based upon the entire record in this proceeding, we believe it is necessary and appropriate to adopt the proposal and amend the current regulation by requiring exhaust ventilation for dry grinding, polishing and buffing operations only when the concentration of air contaminants generated by the operation exceeds the applicable levels set forth in § 1910.1000 or other sections of Part 1910. In this manner, employees will be protected from hazardous exposures to toxic materials without unnecessarily burdening employers.

It must be noted that § 1910.94(b)(2), as amended, must be read together with the requirements in § 1910.1000(e) and other sections in Part 1910 which establish priorities and procedures for complying with the exposure limits set in § 1910.1000 et seq. This standard is not intended to alter the obligations contained in those sections. Thus, for example, where other engineering controls maintain employee exposures at or below the applicable permissible exposure limit, exhaust ventilation is not required. Nor would exhaust ventilation necessarily be required where the particular standard permits the use of administrative controls rather than engineering controls.

The proposal would have required a suitable hood or enclosure connected to an exhaust system when employee exposure is in excess of the permissible exposure limit. It appears, however, that this provision needs clarification in two respects. First, it is recognized that there are other methods of local exhaust ventilation which are equally as effective as hoods or enclosures and which in some instances are more practicable for the effective removal of air contaminants. For example, a hood or enclosure may impede the grinding of large objects. On the other hand, the use of a downdraft could effectively maintain employee exposure within the permissible limits without interfering with the work being performed. Accordingly, the final rule has been modified to allow the use of any effective method of local exhaust ventilation.

The second portion of the proposed rule in need of clarification is the modifying term "suitable." In the context that the term was used, it was intended to require employers to reduce employee exposure to or below the permissible exposure limit. This would be consistent with the requirements of § 1910.1000 et seq. To incorporate this intent specifically, the final rule requires local exhaust ventilation, when used, to maintain employee exposure, without regard to the use of respirators, at or below the levels prescribed in § 1910.1000, or the levels prescribed elsewhere in Part 1910. Finally, since the new requirement set forth in § 1910.94(b)(2) effectively encompasses or supersedes the requirements contained in § 1910.94(b)(2)(ii), the latter paragraph has been revoked consistent with this amendment.

Since the amendments set forth below relieve a restriction, there is no need for a delay in the effective date. The amendments therefore shall become effective on June 9, 1975.

Accordingly, pursuant to section 6(b) of the Act (84 Stat. 1593, 29 U.S.C. 655), Secretary of Labor's Order No. 12–71 (36 FR 8754), and 29 CFR Part 1911, Part 1910 of Title 29, Code of Federal Regulations, is amended as set forth below.

Section 1910.94 is amended by revoking paragraphs (b)(2)(i) and (b)(2)(ii) and by revising paragraph (b)(2) as follows:

§ 1910.94 Ventilation.

* * * * *

(b) *Grinding, polishing, and buffing operations* * * *

(2) *Application.* Wherever dry grinding, dry polishing or buffing is performed, and employee exposure, without regard to the use of respirators, exceeds the permissible exposure limits prescribed in § 1910.1000 or other sections of this part, a local exhaust ventilation system shall be provided and used to maintain employee exposures within the prescribed limits.

* * * * *

(Sec. 6, Pub. L. 91–596, 84 Stat. 1593 (29 U.S.C. 655); Secretary of Labor's Order No. 12–71 (36 FR 8754); 29 CFR Part 1911)

Signed at Washington, D.C., this 3d day of June 1975.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.75–14992 Filed 6–6–75;8:45 am]

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

Oregon State Plan: Completion of Developmental Step

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) for the review of changes and progress in the development and implementation of State plans which have been approved under section 18(c) of the Act and Part 1902 of this chapter. On September 17, 1974, a notice was published in the FEDERAL REGISTER (39 FR 33423) of receipt of a developmental change supplement to the Oregon State plan.

This supplement, submitted pursuant to 29 CFR 1953.11, contained the enabling legislation for the Oregon State plan which was approved by the Assistant Secretary of Labor for Occupational Safety and Health on December 28, 1972 (37 FR 28628). The Legislation, Senate Bill 44, the Oregon Safe Employment Act, amending Oregon Revised Statutes 654 and 446 and other miscellaneous provisions, was signed by the Governor on July 22, 1973, and carried an effective date of July 1, 1973.

Interested persons were afforded thirty (30) days from the date of publication to submit written comments concerning this supplement. Interested persons were also afforded an opportunity to request an informal hearing with respect to the supplement.

2. *Issues.* As set out in the September 17, 1974, notice, Oregon's legislation as enacted contained the following variations from the legislation upon which the decision of plan approval in Subpart D of Part 1952 of this chapter was based.

As approved, the legislation provided for notification to employees of action taken on their requests for inspection. In enacting this legislation this provision was revised, ORS 654.062(3), to require an additional written request from an employee in order to obtain a statement of the reasons why no citation was issued. A statement that such a written request is necessary is included on the State's complaint form.

The legislation as enacted also varies from that as approved in the plan ap-

proval decision and from section 10(b) of the Federal Act with regard to its provisions on abatement. Section 10(b) of the Act provides that the abatement period will not begin to run pending entry of a final order on it by the Occupational Safety and Health Review Commission. As enacted, Oregon's legislation qualifies this stay of running of the abatement period, pending review of abatement dates as follows: (i) The abatement date for nonserious violation is stayed by operation of law pending a final order of the Board when an employer contests, "in good faith and not solely for delay or avoidance of penalties, the period of time fixed for correction of the nonserious violation"; (ii) The abatement date for serious violation is not stayed by operation of law. However, where an employer or employee contests the abatement date for a serious violation "any hearing on that issue shall be conducted as soon as possible and shall take precedence over other hearings * * *."; (iii) There are no specific provisions for staying the abatement date on other types of violations, e.g. willful, repeated or failure to abate such as that provided for in section 10(b) of the Federal Act; (iv) There is no provision for a stay of the abatement date or for an expedited hearing as to any type of violation when the citation itself and/or the penalty, but not the abatement date, is at issue in the case.

3. *Decision.* The provision in ORS 654.062(3) requiring employees' written requests for decisions on disposition of their complaints places an added burden on employees to follow up on their complaints, rather than on the Board to provide such notification of decisions not to take compliance actions. (See § 1902.4 (c)(2)(iii) of Part 1902 of this chapter). Notice to the employee on the complaint form does not appear to remove this added burden. However, it appears that such burden could be removed administratively. Since the administration of the provision is determinative of its effectiveness, this will be subject to evaluation in light of the above recommendation.

In many respects, the Oregon legislative scheme for stay of abatement under section 18 of the Oregon legislation is more effective than that of the Act. In order to clarify its administration, M. Keith Wilson, Chairman, Oregon Workmen's Compensation Board gave the following interpretation of Board policy in application of the provisions in a letter dated December 2, 1974, incorporated as part of the plan and its supplement. As in the Federal scheme, there is no stay of abatement date for any type of violation, where the employer contests only the proposed penalty. Where the employer contests the citation of a violation specifically, rather than the abatement period, the contest is considered as one which excludes a contest of the abatement date which is not stayed. Where an employer's contest is not a specific request to contest one of the three items contestable by statute, the Board treats it as contesting all three items, including the abatement date. If there is a problem of abatement, particularly in a serious case, the Board has the opportunity of filing a motion to make definite and certain the specific areas the employer wishes to contest. Where the employer is contesting the abatement period, and it is a serious citation, the Board will request an expedited hearing. Such an expedited hearing can also be requested for a nonserious violation if the Board deems it warranted, but there is no statutory provision that an expedited hearing be held for a nonserious violation. This procedure appears to be in line with Federal practice where areas of contest may be clarified and/or narrowed but not altered, in the complaint and answer stage after the contest period. All violations are categorized as serious or nonserious even when they are also willful or repeated. Application of these interpretations will be brought out in evaluation.

After consideration of the plan supplement, it is hereby approved for the reasons set forth above, as completion of a developmental step under 29 CFR Part 1953.

Inasmuch as the State has been operating under this legislation since July, 1973, good cause exists for not delaying the effective date of approval of this developmental step. Accordingly, Subpart D of 29 CFR Part 1952 is hereby amended, effective as set forth below.

1. A new § 1952.109 is added to Subpart D of Part 1952 to read as follows:

§ 1952.109 Completed developmental step.

(a) (1) In accordance with § 1952.108(a), the Oregon Safe Employment Act, Senate Bill 44, amending Oregon Revised Statutes 654 and 446 and other miscellaneous provisions, was signed by the Governor on July 22, 1973, and carried an effective date of July 1, 1973.

(2) The following differences between the program described in § 1952.105(b)(1) and the program authorized by the State law are approved:

(i) By promulgation of the appropriate regulatory provision, Rule 46-331, and by including a mandatory consultation requirement in its Field Compliance Manual, Oregon provides for employee participation, when there is no employee representative, by requiring the inspector to consult with employees.

(ii) In accordance with ORS, 654.062(3), an additional written request from an employee is required in order to obtain a statement of the reasons why no citation was issued as a result of an employee complaint of unsafe work conditions, which will be subject to evaluation in its administration.

(iii) Section 18 of Oregon's legislation authorizes a stay of the abatement date by operation of law pending a final order of the Board for nonserious violations and for serious violations when the abatement date of the serious violation is specifically contested. An expedited hearing will be requested for serious violations when the abatement date is contested.

(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 3d day of June 1975.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.75-14993 Filed 6-6-75;8:45 am]

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

Withdrawal of the Illinois Plan

Notice is hereby given that the State of Illinois has withdrawn its approved State plan, effective June 30, 1975. Consequently, Subpart V of Part 1952 of Title 29, Code of Federal Regulations, is revoked, as of that date.

The State, in a letter from Kenneth W. Holland, Director, Department of Labor, and Melvin L. Rosenbloom, Chairman, Industrial Commission, dated February 14, 1975, has given notice of its intention to withdraw its approved plan effective June 30, 1975. In addition, in a letter dated March 21, 1975, from Governor Dan Walker, the State declared that subsequent to April 11, 1975, no State inspections in the private sector will be initiated. After this date, State enforcement in the private sector will be limited to activities pursuant to inspections conducted prior to April 11, 1975, including the issuance of citations and the conducting of hearings. Compliance activities in the public sector will be continued.

In accordance with 29 CFR 1951.25(d), the State will also terminate its grant approved under section 23(g) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 672) (hereinafter called the Act) effective June 30, 1975.

In accordance with section 18(f) of the Act, the State may retain jurisdiction in any case commenced before June 30, 1975, the effective date of the withdrawal.

This decision does not preclude the submission of another occupational safety and health plan by Illinois under section 18 of the Act at some future time.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608, (29 U.S.C. 667))

Signed at Washington, D.C. this 3d day of June 1975.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.75-14994 Filed 6-6-75;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 383-6]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

California: Approval of Compliance Schedules; Corrections

In FR Doc. 75-2266, appearing at pages 4267-68 in the January 29, 1975, issue of the FEDERAL REGISTER, the following corrections should be made in the table of State compliance schedules:

1. For Interpace Corp., Heavy Clay and Minerals Division (Order Nos. 15, 16 and 17), the date of adoption should be November 28, 1973, rather than November 28, 1974.

2. For Flintkote Corp., Calaveras Cement Division (Order No. 1), the date of adoption should be October 26, 1973, rather than November 28, 1974.

3. For Holtville Alfalfa Mills (Order No. 2), the final compliance date should be January 31, 1975, rather than January 1, 1975.

4. For Campbell Soup Company, the final compliance date should be December 31, 1974, rather than December 31, 1975.

5. For Signal Terminals, Inc. (Order No. 74-7), the final compliance date should be December 31, 1974, rather than May 1, 1975.

6. For Southern Pacific Pipe Lines, Inc. (Order No. 74-8), the final compliance date should be December 31, 1974, rather than May 1, 1975.

7. For Time Oil Company (Order No. 74-11), the final compliance date should be December 31, 1974, rather than May 1, 1975.

(42 U.S.C. 1857c-5)

Dated: June 3, 1975.

RICHARD H. JOHNSON,
Acting Assistant Administrator for Enforcement.

[FR Doc.75-14997 Filed 6-6-75;8:45 am]

SUBCHAPTER E—PESTICIDE PROGRAMS

[FRL 384-6; PP5F1609/R36]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Propargite

On May 8, 1975, notice was given (40 FR 20129) that Uniroyal Chemical Co., Division of Uniroyal Inc., Amity Road, Bethany CT 06526, had filed a pesticide petition (PP 5F1609) with the Environmental Protection Agency (EPA). This petition proposed to amend 40 CFR 180.259 to establish a tolerance for residues of the insecticide propargite (2-(*p-tert*-butylphenoxy) cyclohexyl 2-propynyl sulfite) at 10 parts per million in or on the raw agricultural commodity cranberries (Massachusetts only).

The data submited in the petition and other relevant material have been evaluated. The insecticide is considered useful for the purpose for which the tolerance is sought. There is no reasonable expectation of residues in eggs, meat, milk, or poultry, and § 180.6(a)(3) applies. The tolerance cannot be restricted to Massachusetts; however, the use of propargite will be restricted to Massachusetts by registered labeling. The tolerance established by amending this regulation will protect the public health.

Any person adversely affected by this regulation may on or before July 9, 1975, file written objections with the Hearing Clerk, Environmental Protection Agency, 401 M Street, SW, East Tower, Room 1019, Washington, DC 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective on June 9, 1975, Part 180, Subpart C, is amended by revising § 180.259.

(Sec. 408(d)(2), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(d)(2)))

Dated: June 3, 1975.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

Section 180.259 is amended by revising the paragraph "10 parts per million * * *" to include a tolerance for cranberries.

§ 180.259 Propargite; tolerances for residues.

* * * * *

10 parts per million in or on cranberries and grapes.

* * * * *

[FR Doc.75-14999 Filed 6-6-75;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 75-580]

PART 15—RADIO FREQUENCY DEVICES

Identification Required for Devices That Are Marked

Order. In the matter of revision of Part 15 to conform it to Subpart J of Part 2 and to reorganize the rules therein.

1. On March 7, 1975, the Commission released an Order to revise Part 15 of its rules[1] to conform the equipment authorization procedures therein to the revise procedures that had been adopted in its rulemaking proceeding in Docket No. 19356.[2] The revision of Part 15 was the latest of a series of actions in the Commission's program for controlling and minimizing harmful interference from devices which in their operation are capable of emitting radio frequency energy in sufficient degree to cause harmful interference to radio communications.

2. The Communications Division of the Electronics Industries Association (EIA) has filed a petition asking the Commission to reconsider two of the regulations it had adopted in the aforementioned revision of Part 15. EIA requested that the Commission defer the date when certification of low power communication devices was required from June 1, 1975 to April 1, 1976.[3] Secondly, EIA requested that the new label standard imposed by § 15.132 and required for devices manufactured after April 1, 1975 be deferred until April 1, 1976 and that until April 1, 1976, alternative methods of labeling be accepted provided the required name, model number and date of manufacture are clearly identifiable.

3. In requesting that certification by the Commission be deferred to April 1, 1976, EIA argues that unless the requirement for certification is deferred as requested, immediate and irreparable harm will be caused to a number of manufacturers. EIA points out that the period between the release of the revised rules on March 7, 1975 and the date when certification is required on June 1, 1975 is extremely short. Many manufacturers of low power communication devices will be unable to prepare and file the required information and receive Commission certification. Thus they may be forced to shut down production lines with a resulting loss of jobs and income.

4. Manufacturers and vendors of low power communication devices have been on notice since Docket No. 19356 was instituted in November 1971 that Commission certification of these devices would be required. This requirement was reiterated in the Report and Order in this proceeding which specifically ordered that certification of low power communication devices by the Commission would go into effect on September 1, 1974.[4] This requirement was delayed pending the revision of Part 15. Thus, when the revision of Part 15 was released, on Mareh 7, 1975 manufacturers and vendors had already been on notice for at least one year[5] that mandatory certification by the Commission would be required. However, it is not the intention of the Commission to cause economic hardship and a limited delay of the effective date would be reasonable.

5. In view of the lengthy period of advance notice to industry, and the need to implement our program to control interference as soon as possible and in order not to cause economic hardship in the current depressed economic situation, the Commission is deferring the certification

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[1] Order in the matter of revision of Part 15 to conform it to Subpart J of Part 2 and to reorganize the rules therein (40 FR 10673).

[2] Docket No. 19356. In the matter of amendment of Parts 0 and 2 of the rules relating to equipment authorization of RF devices. Notice of proposed rulemaking adopted November 24, 1971 (36 FR 23313). Report & Order adopted February 6, 1974 (39 FR 5912). Memorandum Opinion and Order adopted July 23, 1974 (39 FR 27799).

[3] The Order adopted March 7, 1975 had a requirement that low power devices manufactured after April 1, 1975 be certificated by the Commission. The date was subsequently changed to July 1, 1975 in an Order of the same title, adopted March 18, 1975 (40 FR 14054).

[4] Docket No. 19356, Report & Order at paragraph 51. The date September 1, 1974 was subsequently deferred for a period not to exceed six months (i.e. to April 1, 1975) by an order in this proceeding adopted August 28, 1974 (____ FR ____).

[5] The mentioned Report and Order was adopted on February 6, 1974 and released on February 15, 1974. See footnote 2 supra.

requirement for four months, until October 1, 1975 instead of until April 1, 1976 as requested by EIA. Manufacturers of low power communication devices are urged to apply for certification of their devices at the earliest opportunity and not to wait for the last moment. Early application will ease the Commission's work load and assist in the timely issuance of the required Grant of Certification to permit uninterrupted marketing of these devices after October 1, 1975.

6. As to the new standard label required by § 15.132, EIA calls attention to its filing on the same subject in Docket No. 19356 which described in some detail manufacturer problems in designing, ordering and placing into use a new label. According to EIA, the same problem exists for low power communication devices under the present text of § 15.132. Pointing out that the Commission had recognized this problem in Docket No. 19356, and had deferred the effective date for the new labeling requirement to allow time for redesign and printing, EIA asks for a similar action in the instant case. The Commission, for the same reasons in Docket 19356, is amending § 15.132 to require the use of the new label after April 1, 1976. Until that date other forms of labelling will be accepted provided the required information can be clearly identified.

7. Authority for this revision is contained in section 4(i), 302, and 303(r) of the Communications Act of 1934, as amended. Since the instant revision reorganizes Part 15 editorially or conforms the regulations therein to those adopted in Docket No. 19356 under established rulemaking and effective date provisions, advance notice under 5 U.S.C. 553(b) is not required.

8. In view of the above: *It is ordered*, That, effective June 3, 1975, Part 15 is revised as follows.

§§ 15.131, 15.135, 15.136, 15.143, 15.163, 15.193 and 15.347 [Amended]

(a) In §§ 15.131, 15.135, 15.136, 15.143, 15.163, 15.193, 15.347 the date June 1, 1975 is deleted and the date October 1, 1975 is inserted in lieu thereof.

(b) Paragraph (d) of § 15.132 is amended to read as follows:

§ 15.132 **Identification required for devices that are marketed.**

* * * * *

(d) For applications filed prior to April 1, 1976, the Commission will accept alternative methods of identification: *Provided*, The name pursuant to paragraph (a) of this section, the number pursuant to paragraph (b) of this section and the date pursuant to paragraph (c) of this section are clearly identifiable, separate and distinct from any other name or number or designator on the equipment.

9. *Accordingly it is further ordered*, That the petition submitted by the Communications Division of EIA for reconsideration of certain aspects of the Commission's decision contained in the Order released March 7, 1975 (40 FR 10673), to the extent authorized herein is granted and, in all other respects, is denied.

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

Adopted: May 20, 1975.

Released: May 30, 1975.

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

[FR Doc.75-14951 Filed 6-6-75;8:45 am]

[FCC 75-594]

PART 73—RADIO BROADCAST SERVICES

Television Broadcast Stations in Bowling Green, Ohio

Correction

In FR Doc. 75-14446 appearing at page 23863 in the issue of Tuesday, June 3, 1975, the table in the third column should read as follows:

City	*Channel No.*
Bowling Green, Ohio	*27+

Title 49—Transportation

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

[Docket No. 70-27; Notice 15]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Hydraulic Brake Systems

This notice amends Standard No. 105-75, *Hydraulic brake systems*, 49 CFR 571.105-75, to delay its effective date 4 months from September 1, 1975, to January 1, 1976, and to establish interim control force values for water recovery testing. This notice also amends the present hydraulic brake system standard for passenger cars (Standard No. 105, *Hydraulic brake systems*, (49 CFR 571.-105)) to permit compliance with that standard or the new standard at the option of the manufacturer until January 1, 1976.

As issued, Standard No. 105-75 applied to passenger cars, trucks, buses, and multipurpose passenger vehicles (MPV's) equipped with hydraulic brake systems. Its scheduled effective date was September 1, 1975. Thirteen petitions for rulemaking to postpone or revoke the standard were filed with the NHTSA earlier this year. Following a comprehensive evaluation of the petitions, NHTSA proposed and made final an indefinite delay of the standard as it applied to trucks, buses, and MPV's (40 FR 10483, March 6, 1975; 40 FR 18411, April 28, 1975).

At the same time, the agency denied petitions for substantial postponement or revocation of the standard as it applies to passenger cars, having considered the cost of compliance for those vehicles, and having determined that significant safety benefit will derive from better stopping performance, stability, and pedal force levels (40 FR 10483, March 6, 1975). A discussion of the potential benefits accompanied that decision. An economic evaluation of the impact of the standard will be available in the public docket. The only revisions of the standard proposed by NHTSA were an interim pedal force value and a 4-month delay of effective date, to permit some flexibility in new model introduction dates where technical changes or isolated compliance problems had not been resolved.

Manufacturer comments on the proposal were generally unresponsive to the proposed delay of 4 months and the interim pedal force value of 110 pounds in wet recovery stops. The Vehicle Equipment Safety Commission considered the proposed pedal force values to be overgenerous. Chrysler Corporation indicated its support for the 4-month delay and interim value but emphasized other arguments in its submission. General Motors requested that the pedal force value be made permanent. It appears that manufacturers support the short delay and pedal force modification to simplify introduction of the 1976 models. Accordingly, the standard is modified as proposed, to establish an amended effective date of January 1, 1976, and a pedal force increase of 60 pounds up to a total of 110 pounds (in S5.1.5.2) until September 1, 1976.

The majority of comments restated manufacturer positions on the issue of substantial delay or revocation of the standard for passenger cars. The NHTSA has already considered this issue and, as noted above, concluded that the benefits of improved stopping performance, stability, and pedal force values outweigh the costs of implementation. Manufacturers submitted no new data that would justify a reversal of NHTSA's earlier decision.

Although the NHTSA limited its proposal to a choice between the effective dates of September 1, 1975, and January 1, 1976, several manufacturers compared the cost savings of a short delay to January 1, 1976, with a substantially-longer delay to September 1, 1976. Actually the January 1 date was proposed in order to ease the introduction of new models after September 1, 1975, and was not proposed as a means of reducing costs. The proposal was largely in response to manufacturers' comments that some 1976 models would be introduced substantially later than normal so that 1975 model production might be extended beyond September 1, 1975. The NHTSA believes that the 3 years of leadtime since promulgation of Standard No. 105-75 have been sufficient to permit the design and testing of complying brake systems in nearly all cases. With the 4-month transitional period, a manufacturer will be free to introduce the new brake systems along with its new model introduction, as dictated by the economic situation of the automotive industry.

Ford and Chrysler suggested that the standard could be improved by reduced loading during brake fade testing. These companies argue that present-day brake

* Commissioners Quello and Washburn absent.

balance must be modified to meet the brake-fade and fourth effectiveness test of Standard No. 105–75 and that the new balance is not optimum. Agency testing demonstrates that many present-day vehicles can in fact meet the requirements as their brakes are balanced and suggests that major departures from current brake balance design will generally not be required to comply with fade requirements under the present test conditions. NHTSA accordingly concludes that the presently specified loading does not result in characteristics which would justify delay of the standard and the consequent loss of benefits during the period of delay.

In consideration of the foregoing—

I. Standard No. 105–75 (49 CFR 571.105–75) is amended as follows:

1. The effective date of the standard, and the date appearing in its title, are changed from September 1, 1975, to January 1, 1976.

2. S5.1.5.2(a)(2) is amended by the addition of a new sentence at the end of the text to read:

However, the maximum control force for the fifth stop in the case of a vehicle manufactured before September 1, 1976, shall be not more than plus 60 pounds of the average control force for the baseline check (but in no case more than 110 pounds).

II. Paragraph S4 of Standard No. 105 (49 CFR 571.105) is amended to read as follows:

S4. *Requirements.* Each vehicle shall meet, at the option of the manufacturer, either the requirements of S4.1 through S4.3 of this standard, or the requirements of Standard No. 105–75 of this Part.

Effective date. The date on which Standard No. 105–75 becomes mandatory for all passenger cars is January 1, 1976. However, the effective date of the amendments to both Standard No. 105–75 and Standard No. 105 is _____, and passenger cars manufactured between that date and January 1, 1976, may conform to either standard at the Discretion of the manufacturer.

(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 June 5, 1975.

JAMES B. GREGORY,
Administrator.

[FR Doc.75–15109 Filed 6–5–75;4:45 pm]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[2nd Rev. S.O. 1186, Amdt. 1]

PART 1033—CAR SERVICE

Distribution of Privately Owned Coal Cars

At a general session of the Interstate Commerce Commission, held in Washington, D.C., on the 30th day of May 1975.

Upon further consideration of Second Revised Service Order No. 1186 (39 FR 38658), and good cause appearing therefor:

It is ordered, That: § 1033.1186 *Second Revised Service.* (Distribution of privately owner coal cars) be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., February 29, 1976, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., June 15, 1975.

(Secs. 1, 12, 15, 17(2), 24 Stat. 379, 383, 384, as amended; (49 U.S.C. 1, 12, 15, 17(2)). Interprets or applies Secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; (49 U.S.C. 1(10–17), 15(4), 17(2)))

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.75–14985 Filed 6–6–75;8:45 am]

[S.O. 1214]

PART 1033—CAR SERVICE

Burlington Northern Inc.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 2nd day of June, 1975.

It appearing, that the Chicago and North Western Transportation Company (CNW) in Docket AB 1, Sub 1 was authorized to abandon its line passing through Monmouth, Illinois, subject to completion of an arrangement whereby the Burlington Northern Inc. (BN) will acquire and operate certain CNW trackage in Monmouth in order to provide continued railroad service to shippers adjacent to those tracks; that the BN and the CNW have now agreed upon terms for transfer of such CNW properties to the BN and for construction of the necessary connecting trackage; that operation over these tracks by the BN is necessary in the interest of the public and the commerce of the people pending disposition by the Commission of the application of the BN in Finance Docket No. 27920, seeking authority to acquire, construct, and operate these tracks; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1214 Service Order No. 1214.

(a) *Burlington Northern Inc., authorized to operate over tracks authorized to be abandoned by Chicago and North Western Transportation Company.* The Burlington Northern Inc. (BN) be, and it is hereby authorized to operate over tracks authorized to be abandoned by the Chicago and North Western Transportation Company (CNW) between a point of connection of the two companies to be built in the vicinity of Fifth Avenue and South C Street in Monmouth, Illinois, and CNW survey station 3482 plus 65, together with the necessary connecting track between the BN and the CNW and various industry tracks connected to the aforementioned tracks of the CNW, all located at Monmouth, Illinois.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) *Rates applicable.* Inasmuch as this operation by the BN over tracks of the CNW is deemed to be due to carrier's disability, the rates applicable to traffic moved by the BN over the tracks of the CNW shall be the rates which were applicable on the shipments at the time of shipment as originally routed.

(d) *Effective date.* This order shall become effective at 11:59 p.m., June 5, 1975.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., October 31, 1975, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15, 17(2), 24 Stat. 379, 383, 384, as amended; (49 U.S.C. 1, 12, 15, 17(2)). Interprets or applies Secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; (49 U.S.C. 1(10–17), 15(4), 17(2)))

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.75–14985 Filed 6–6–75;8:45 am]

Title 39—Postal Service

CHAPTER I—UNITED STATES POSTAL SERVICE

PART 111—GENERAL INFORMATION ON POSTAL SERVICE

EDITORIAL NOTE: By letter dated June 6, 1975, the Director of the Federal Register extended approval for an additional one-year period to expire on June 7, 1976, the incorporation by reference of the Postal Service Manual as provided in 39 CFR § 111.4.

proposed rules

DEPARTMENT OF THE TREASURY

United States Customs Service

[19 CFR Part 4]

VESSELS IN FOREIGN AND DOMESTIC TRADES

Explanation of a Manifest Discrepancy

Notice is hereby given that under the authority of R.S. 251, as amended (19 U.S.C. 66), sections 440, 584, 624, 46 Stat. 712, as amended, 748, as amended, 759 (19 U.S.C. 1440, 1584, 1624), it is proposed to amend § 4.12 of the Customs Regulations (19 CFR 4.12) to incorporate a definition of the term "clerical error or other mistake". This term is contained in section 584 of the Tariff Act of 1930, as amended (19 U.S.C. 1584).

Section 584 provides penalties for the failure to produce a manifest or for any discrepancies in a manifest. However, this section also provides that penalties shall not be incurred if, among other circumstances, the district director is satisfied that the manifest is incorrect by reason of clerical error or other mistake. Inasmuch as the uniform application of the Customs laws and regulations is essential for their effective administration, the inclusion in the regulations of a definition of the term "clerical error or other mistake" will be helpful to both Customs officers and the public.

Accordingly, it is proposed to amend paragraph (a)(5) of § 4.12 of the Customs Regulations (19 CFR 4.12(a)(5)) to read as follows:

§ 4.12 Correction of manifest.

(a)(1) * * *

(5) Unless the required notification and explanation is made timely and the district director is satisfied that the discrepancies resulted from clerical error or other mistake and that there has been no loss of revenue (and in the case of a discrepancy not initially reported by the master or agent that there was a valid reason for failing to so report), applicable penalties under section 584, Tariff Act of 1930, as amended (19 U.S.C. 1584), shall be assessed (see § 162.31 of this chapter). For the purpose of this section, the term "clerical error or other mistake" is defined as a non-negligent, inadvertent, or typographical mistake in the preparation, assembly, or submission of manifests. However, repeated similar manifest discrepancies by the same parties may be deemed the result of negligence and not clerical error or other mistake. For the purpose of assessing applicable penalties, the value of the merchandise shall be determined as prescribed in § 162.43 of this chapter. The fact that the master or owner had no knowledge of a discrepancy shall not relieve him from the penalty.

* * * * *

Prior to the adoption of this amendment, consideration will be given to any relevant data, views, or arguments which are submitted in writing to the Commissioner of Customs, Attention: Regulations Division, Washington, D.C. 20229, and received not later than July 9, 1975.

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.

[SEAL] LEONARD LEHMAN,
Acting Commissioner of Customs.

Approved: May 27, 1975.

DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

[FR Doc.75-14927 Filed 6-6-75;8:45 am]

Internal Revenue Service

[26 CFR Parts 1, 301]

NOTIFICATION OF INTERESTED PARTIES

Qualification of Certain Retirement Plans; Correction

On June 4, 1975, a notice of proposed rulemaking relating to the above subject was published in the FEDERAL REGISTER (40 FR 24011).

The following changes should be made:

1. The word "temporary" shall be deleted from the last sentence of the preamble.

2. That portion of paragraph (b) of § 1.7476-1 which precedes paragraph (b)(1) of such section is changed to read: "Subject to the provisions of paragraph (b)(5) of this section—";

3. The following sentence should be added at the end of paragraph (b)(1) of § 1.7476-1: "In addition, if the plan amendment affects the contributions for, or benefits to any former employee, all former employees who have a nonforfeitable right to an accrued benefit under the plan shall be interested parties."; and

4. That portion of paragraph (c) of § 1.7476-1 which precedes paragraph (c)(1) of such section should be changed to read: "For purposes of paragraph (b) of this section and § 11.7476-2—".

JAMES F. DRING,
Director,
Legislation and Regulations Division.

[FR Doc.75-15004 Filed 6-6-75;8:45 am]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 20]

MIGRATORY BIRDS

Extension of Comment Period

This notice extends the period for comments to the document, published May 8, 1975 (40 FR 20090), proposing to amend certain portions of Part 20, Title 50, Code of Federal Regulations, to establish open seasons, shooting hours, and bag and possession limits for doves, pigeons, rails, gallinules, woodcock, common (Wilson's) snipe, coots, cranes, swans and waterfowl; coots, cranes, common (Wilson's) snipe and waterfowl in Alaska; and certain sea ducks in coastal waters of certain eastern States for the 1975–76 migratory bird hunting season.

Requests for an extension of time were submitted by members of the public, indicating they needed more time to prepare and submit their comments on the proposed regulations.

In order to afford additional time for preparation and submission of these public comments, the Director, U.S. Fish and Wildlife Service, hereby extends the comment period to the close of business on June 25, 1975.

(Migratory Bird Treaty Act of July 3, 1918, as amended (40 Stat. 755; 16 U.S.C. 703–711))

Effective date: June 4, 1975.

F. EUGENE HESTER,
Acting Director,
U.S. Fish and Wildlife Service.

[FR Doc.75-15006 Filed 6-6-75;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 929]

CRANBERRIES GROWN IN CERTAIN STATES

Findings and Determinations With Respect to Continuation of the Amended Marketing Order

Pursuant to the applicable provisions of the marketing agreement, as amended, and Order No. 929, as amended (7 CFR Part 929), and the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), notice was given in the FEDERAL REGISTER on April 14, 1975, (40 FR 16704), that a referendum would be conducted among the growers who, during the period September 1, 1974, through April 30, 1975, (which period was determined to be a representative period for the purpose of such referendum), were engaged, in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon,

Washington, and Long Island in the State of New York, in the production of cranberries for market to ascertain whether such growers favor the continuation of said amended marketing order.

Upon the basis of the results of the aforesaid referendum, which was conducted during the period May 1 through 12, 1975, it is hereby found and determined that the termination of said marketing order, regulating the handling of cranberries grown in the aforesaid states, is not favored by the requisite majority of such growers.

Dated: June 4, 1975.

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc.75-14979 Filed 6-6-75;8:45 am]

DEPARTMENT OF LABOR

Wage and Hour Division

[29 CFR Part 522]

INEXPERIENCED PERSONS

Employment at Subminimum Wages; Cancellation of Proposed Limited Pilot Project

Proposal was published in the FEDERAL REGISTER on February 19, 1975 (40 FR 7100) for the conduct of a pilot project on the employment of inexperienced persons at subminimum wages. It was further proposed to amend Part 522 of Title 29 to provide for the issuance of subminimum wage certificates to employers accepted for participation in the project. Interested parties were invited to submit written comments until March 21, 1975.

After giving careful consideration to the comments received and in view of the current economic setting, I have concluded that the proposed pilot project is unlikely to yield any meaningful results at this time. Therefore, I hereby cancel the proposal to establish a limited pilot project for the employment of inexperienced persons at subminimum wages under the Fair Labor Standards Amendments of 1974.

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

BERNARD E. DELURY,
Assistant Secretary for Employment Standards Administration.

[FR Doc.75-14879 Filed 6-6-75;8:45 am]

[29 CFR Part 570]

EMPLOYMENT OF STUDENT LEARNERS IN LOGGING OCCUPATIONS

Withdrawal of Proposed Exemption

On October 11, 1974, a proposal was published in the FEDERAL REGISTER (39 FR 36592) to amend Hazardous Occupations Order No. 4 (29 CFR 570.54) to exempt from its restrictions the employment of student-learners in logging operations. Under the proposal student-learners 16 and 17 years of age would be permitted to work in logging operations now prohibited by the Order. The notice of proposal was prompted by receipt of a joint request from the Dexter Regional Vocational Center and Scott Paper Company, Dexter, Maine, to amend Hazardous Occupations Order No. 4 to allow minors 16 and 17 years of age to participate in an on-the-job training program in woodlands operations. Interested persons were invited to submit written data, views or arguments concerning the proposal to the Administrator, Wage and Hour Division, U.S. Department of Labor, Washington, D.C. on or before November 11, 1974.

In response to the October proposal 55 comments were received from State departments of labor and education, secondary education schools, colleges and universities, the AFL-CIO, employers and members of Congress. Comments received in support of the proposal outnumbered those in opposition. Supporters of the proposal indicated there is a need for the logging industry to attract and hold young, trained, experienced persons to meet the growing demand for industry products. As noted previously the proposal, if adopted, would enable minors 16 and 17 years of age to gain on-the-job experience, to develop employable skills, and to work prior to their 18th birthday. With regard to the hazards inherent in the forestry industry, it was indicated by the proponents that safety instruction in the classroom and follow-up instruction on the job would assist in overcoming these hazards.

The opponents, on the other hand, though small in number raised some very vital issues which have not been refuted and which cannot be ignored. They indicated that logging is still one of the most hazardous industries in the nation. This is borne out in the high injury frequency rate (disabling injuries per one million man-hours) for lumber of 21.11 as compared to an all industry average of 10.55 and a severity accident rate (days lost per one million man-hours) of 1,432 for lumber as compared to 654 for all industries in 1973. The opponents indicated that the proposal, if adopted, would subject minors 16 and 17 years of age to the many hazards present in the logging industry—these hazards being of the type which cannot be fully overcome because of the very nature of the logging process. Moreover, the opponents noted that the ability to detect and avoid such hazards is directly related to the individual's maturity and degree of physical awareness. While it is possible that some 16 and 17 year old minors may be able to recognize and even avoid these hazards, unsafe conditions, and unsafe acts, many minors of this age group do not have the maturity to conduct themselves in a safe manner under conditions of stress.

After consideration of all material submitted in response to the proposal, it is hereby determined that such deviation will not be authorized because (1) the logging industry is still one of the most hazardous industries in the nation and (2) the hazards present in the logging industry cannot readily be overcome or minimized so that the health and well-being of minors 16 and 17 years of age would not be jeopardized. Accordingly, the proposal is withdrawn.

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

BERNARD E. DELURY,
Assistant Secretary of Labor.

[FR Doc.75-14878 Filed 6-6-75;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 1020]

[Docket No. 75P-0021]

DIAGNOSTIC X-RAY SYSTEMS

Advance Notice of Proposed Rulemaking for Intraoral Radiographic Film

The Commissioner of Food and Drugs is issuing an advance notice of proposed rulemaking concerning radiation safety performance requirements for intraoral radiographic film and associated processing materials. Comments should be submitted before August 1, 1975 in order to be considered in the development of the proposal.

In a notice of availability published in the FEDERAL REGISTER of June 3, 1974 (39 FR 19528), the Food and Drug Administration announced the receipt of a petition from the Commissioner of Health of the City of New York requesting that the Commissioner of Food and Drugs exercise his authority under the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263f) to amend the performance standard for diagnostic x-ray systems and their major components (21 CFR 1020.30 et seq.), by adding requirements applicable to intraoral radiographic film and associated processing materials. After a preliminary review and analysis of this petition, the Commissioner has determined that the establishment of requirements applicable to such products may be necessary to protect the public health from unnecessary exposure to radiation during dental diagnostic x-ray procedures, and is, accordingly, initiating development of an approriate amendment to this standard. This advance notice of proposed rulemaking is being issued pursuant to the Food and Drug Administration policy of early public disclosure of rulemaking activities, and to solicit comments from interested persons concerning the subject matter of the proposed amendment.

The petition submitted by the Commissioner of Health of the City of New York proposed that Part 1020 be amended by adding a new § 1020.33 requiring in part that manufacturers of intraoral radiographic film provide for purchasers instruction sheets or labels which include a statement of the film speed as determined by the manufacturer at time of shipment, expressed in reciprocal roentgens. Also, the petition proposed that all intraoral radiographic film be required to have a speed range of no less than 12-24 reciprocal roentgens determined under specified conditions.

The petition further proposed that manufacturers of chemical developers and processing systems intended for use with such film provide for purchasers instruction sheets or labels including information on the effect, if any, of the use of their products on film speed, and the optimum conditions of temperature and time which will result in the achievement of an average optical density of 1.0 above base and fog density.

The petition was presented to the Technical Electronic Product Radiation Safety Standards Committee at a public meeting on September 18 and 19, 1974. This committee, a permanent statutory advisory committee to the Secretary of Health, Education, and Welfare, must be consulted prior to the establishment of standards under the act. After reviewing the testimony presented at this meeting, the committee recommended that a proposed amendment relating to the subjects addressed in the petition be developed, but that details of the provisions proposed therein be studied further, and consideration be given to the views expressed by the committee during its discussion in formulating this proposed amendment.

The Commissioner has accepted the committee's recommendation and is proceeding with the development of a proposed amendment to the performance standard for diagnostic x-ray systems which would establish radiation safety performance requirements applicable to intraoral radiographic film and associated processing materials. Interested persons are invited to participate in this development by submitting written data, views, or arguments concerning the subject matter of this amendment, or suggestions regarding related items for inclusion. Information and comments are specifically invited on the following topics:

1. The manner in which intraoral film speed should be specified and the conditions under which it should be measured.

2. Labeling and product information needed by film and film processing material purchasers to enable proper use of these products.

3. Information concerning film processing systems which may be useful in obtaining optimum performance from such systems.

4. Data on the number of dental x-ray systems, including brand names and models, which could not be adapted to the use of film having speed such as that proposed in the petition or which would require modifications to use such film, and the extent of modification required.

5. The effect of high speed film on the quality of the dental diagnostic image and its suitability for demonstrating the clinical information desired by the practitioner.

6. The possible environmental impact of this action including its effect upon the radiation exposure of the population, and its economic impact.

Communications concerning the proposed amendment should be sent (preferably in quintuplicate) to the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852. In addition to general comments and recommendations, respondents are encouraged to specify the text for provisions of the proposed amendment which reflects their recommended performance requirements. Provisions recommended for inclusion in the proposed amendment should be submitted, to the extent possible, with the exact wording recommended for the regulation and should be supported by appropriate rationale and background data which clearly establish the scientific, technical, and public health bases for the recommendation.

Comments submitted before August 1, 1975, will be considered in development of the proposed amendment and will be reviewed, prior to publication in the FEDERAL REGISTER as a notice of proposed rule making, at the next meeting of the Technical Electronic Product Radiation Safety Standards Committee scheduled for September 17 and 18, 1975. Comments received after August 1, 1975, will be considered to the extent possible, or will be considered for future amendments if received too late for consideration in the development of the present amendment. When a determination is made on the content of the proposed amendment, it will be published in the FEDERAL REGISTER as a proposal with opportunity given for public comment. All comments and data submitted in response to this advance notice will be available for public inspection in the office of the Hearing Clerk. Individuals or organizations wishing to receive copies of drafts or related documents made public during the development of this proposed amendment may have their names placed on the mailing list by writing to:

División of Compliance (HFX-440)
Bureau of Radiological Health
5600 Fishers Lane
Rockville, MD 20852

This notice is issued under authority of the provisions of the Public Health Service Act as amended by the Radiation Control for Health and Safety Act of 1968 (sec. 358, 82 Stat. 1177-1179 (42 U.S.C. 263f)) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: June 3, 1975.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.75-14920 Filed 6-6-75;8:45 am]

Social Security Administration

[20 CFR Part 405]

[Reg. No. 5]

FEDERAL HEALTH INSURANCE FOR AGED AND DISABLED

Limitation on Amounts Paid in Excess of Fair Market Value for Tangible Assets Acquired Prior to August 1970

Notice is hereby given, pursuant to the Administrative Procedure Act (5 U.S.C. 553), that the amendment to the regulations set forth in tentative form is proposed by the Commissioner of Social Security with approval of the Secretary of Health, Education, and Welfare. The proposed amendment will permit a proprietary provider, with respect to tangible assets purchased prior to August 1970, to include goodwill in its computation of the return on equity capital after July 1970 until the sum of the equity capital return attributable to goodwill is equal to the amount of goodwill included in the computation of the return on equity capital after July 1970.

Initially, Medicare principles of reimbursement for provider costs included goodwill as a part of equity capital for purposes of computing a return on equity allowed to proprietary providers. Upon reexamination of this issue, it was determined that goodwill was not an asset used to provide patient care and, therefore, should not give rise to an allowable cost. The regulations, were, therefore, amended to provide that, with respect to acquisitions occurring on or after August 1, 1970 (the date such regulations were published), the excess over fair market value or current reproduction cost, whichever is lower, could not be included in equity capital.

Current regulations permit unlimited recognition of goodwill for assets acquired prior to August 1970. This continued recognition of goodwill as an allowable cost is counter to the determination that goodwill is not related to patient care and, thus, not reimbursable by the Medicare trust funds. Also, most accounting authorities recognize that goodwill has a limited life rather than an unlimited life. A revision to the regulations is necessary, therefore, to provide for a realistic termination of the time for which the health insurance program will reimburse a provider for goodwill.

Prior to the final adoption of the proposed amendments to the regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in triplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare Building, Fourth and Independence Avenue, SW., Washington, D.C. 20201, on or before July 9, 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.

The proposed amendments are to be issued under the authority contained in sections 1102, 1815, and 1871 of the Social Security Act; 49 Stat. 647, as amended, 79 Stat. 297, and 79 Stat. 331; 42 U.S.C. 1302, 1395g, and 1395hh.

(Catalog of Federal Domestic Assistance Program No. 13.800, Health Insurance for the Aged—Hospital Insurance, No. 13.801, Health

Insurance for the Aged—Supplementary Medical Insurance)

Dated: May 12, 1975.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: June 2, 1975.

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

Part 405 of Chapter III of Title 20 of the Code of Federal Regulations, as amended, is further aemnded by revising paragraph (b) of § 405.429 to read as follows:

§ 405.429 Return on equity capital of proprietary providers.

* * * * *

(b) *Application.* (1) Proprietary providers generally do not receive public contributions and assistance of Federal and other governmental programs such as Hill-Burton in financing capital expenditures. Proprietary institutions historically have financed capital expenditures through funds invested by owners in the expectation of earning a return. A return on investment, therefore, is needed to avoid withdrawal of capital and to attract additional capital needed for expansion. For purposes of computing the allowable return, the provider's equity capital means:

(i) The provider's investment in plant, property, and equipment related to patient care (net of depreciation) and funds deposited by a provider who leases plant, property, or equipment related to patient care and is required by the terms of the lease to deposit such funds (net of noncurrent debt related to such investment or deposited funds), and

(ii) Net working capital maintained for necessary and proper operation of patient care activities (excluding the amount of any current payment made pursuant to § 405.454(g)(1)). However, debt representing loans from partners, stockholders, or related organizations on which interest payments would be allowable as costs but for the provisions of § 405.419(b)(3)(ii), is not subtracted in computing the amount of equity capital as defined in this paragraph, in order that the proceeds from such loans be treated as a part of the provider's equity capital. In computing the amount of equity capital upon which a return is allowable, investment in facilities is recognized on the basis of the historical cost, or other basis, used for depreciation and other purposes under the health insurance program.

(2) With respect to a facility or any tangible assets of a facility acquired on or after August 1, 1970, the excess of the price paid for such facility or such tangible assets over the historical cost, as defined in § 405.415(b), or the cost basis, as determined under § 405.415(g) (whichever is appropriate), is not includable in equity capital, and loans made to finance such excess portion of the cost of such acquisitions (see § 405.419(d)) are excluded in computing equity capital.

(3) Effective with respect to any capital expenditure, the obligation for which is incurred after December 31, 1972, or after the effective date of an agreement executed between a State and the Secretary pursuant to section 1122 of the Act, whichever date is later (and subject to the exceptions in § 405.435(c)), a provider's investment in plant, property, and equipment related to patient care, and funds deposited by a provider which leases plant, property, or equipment related to patient care which are found to be expenditures which have not been submitted to the designated planning agency as required or have been determined to be inconsistent with health facility planning requirements (see 42 CFR 100.101–100.110) are not included in the provider's equity capital for computing the allowance for a reasonable return on equity capital.

(4) With respect to a facility or any tangible assets of a facility acquired before August 1970, the excess of the price paid for such facility or assets over the fair market value of tangible assets at the time of purchase is includable in equity capital to the extent that it is reasonable except that the cumulative allowable return for such excess shall not exceed 100 percent of such excess. For purposes of this section, the cumulative allowable return means the sum of the rate of return on equity capital for all months starting from August 1, 1970. For example, if the rates of return on equity capital for a provider are 9 percent for the first year (and such year started August 1, 1970), 8.5 percent for the second year, and 10.5 percent for the third year, the cumulative allowable return at the end of the third year would be 28 percent. After the cumulative allowable return equals 100 percent, the inclusion in equity capital of the excess shall no longer be allowable.

Example of calculation of cumulative allowable return. Provider X purchased a facility on July 1, 1969, paying $100,000 in excess of the fair market value of the assets acquired. Provider X files its cost report on a calendar-year basis. The rate of return on equity capital for August 1, 1970–December 31, 1970 (4.538 percent), is obtained by multiplying the rate of return for the period ending December 31, 1970 (10.891) by 5/12 (a fraction of which the numerator is the number of months from August 1, 1970, to the end of the cost-reporting period and the denominator is the number of months in the cost-reporting period). The cumulative allowable return for Provider X for the period August 1, 1970–December 31, 1973 (32.367 percent) is computed as follows:

Cost reporting, year ending:	*Rate of return on equity capital percent*
Dec. 31, 1970	4.538
Dec. 31, 1971	8.969
Dec. 31, 1972	8.891
Dec. 31, 1973	9.969
Total	32.367

(The $100,000 paid in excess of the fair market value of the assets acquired is included in equity capital until the sum of the rate of return on equity capital equals 100 percent. Of course, no portion of the $100,000 may be amortized as an allowable cost or is otherwise allowable for any program reimbursement purposes other than for determining the provider's equity capital.)

(5) For purposes of computing the allowable return, the amount of equity capital is the average investment during the reporting period. The rate of return allowed, as derived from time to time based upon interest rates in accordance with this principle, is determined by the Social Security Administration and communicated through intermediaries. Return on investment as an element of allowable costs is subject to apportionment in the same manner as other elements of allowable costs. For the purposes of this regulation, the term "proprietary providers" is intended to distinguish providers, whether sole proprietorships, partnerships, or corporations, that are organized and operated with the expectation of earning profit for the owners, from other providers that are organized and operated on a nonprofit basis.

[FR Doc.75-14851 Filed 6-5-75;8:45 am]

[20 CFR Part 405]

[Reg. No. 5]

FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Proposed Arrangements for Services by Home Health Agencies

Notice is hereby given, pursuant to the Administrative Procedure Act (5 U.S.C. 553), that the amendments to Subpart L of Regulations No. 5 set forth in tentative form below are proposed by the Commissioner of Social Security with approval of the Secretary of Health, Education, and Welfare. Current regulations require public or nonprofit home health agencies to make arrangements for services not provided directly through agency employees, only with other public or nonprofit agencies and organizations. The proposed amendments would permit such arrangements to be made with proprietary agencies and organizations as well.

In order to participate in the health insurance for the aged and disabled program, a home health agency must meet the statutory requirements of section 1861(o) of the Social Security Act and, as further specified by section 1861(o)(6), certain conditions provided by regulation in the interest of health and safety. Since the beginning of the program, a public or nonprofit home health agency has been able to qualify for participation by providing skilled nursing and one other covered therapeutic service (i.e., physical therapy, speech therapy, occupational therapy, medical social services, or home health aide services). The public or nonprofit agency has been required to provide at least one of the above qualifying services directly through agency employees but could arrange with another public or nonprofit agency or organization to provide the second qualifying service and any additional services.

Before Medicare, visiting nurse organizations frequently did not furnish services other than skilled nursing services. In many communities, visiting nurse organizations and official health agencies were (and are now) the only agencies which provided any measure of health services to homebound patients. Therefore, in order to enable these particular visiting nurse organizations and official health agencies to qualify for participation in the Medicare program, the Congress authorized them to provide home health services through arrangements with like health care organizations.

In 1965, when Medicare was enacted, existing home health agencies included visiting nurse associations established in our larger cities, official health agencies of county or municipal governments, and a few large community hospitals which furnished home health services. Agencies operating on a profit basis were not in existence. In anticipation of the establishment of home health agencies for profit, the Congress authorized their participation, subject to limitations specified in the statute, with the understanding expressed in the committee reports that they be self-contained in providing a range of services directly, rather than under the arrangements which were intended to be available through the visiting nurse organizations with like health care organizations.

A major concern in the administration of the home health benefit has been the cost of home health services and this is reflected in the requirements established for home health agencies. The Medicare program reimburses providers of services, including home health agencies, for the lesser of reasonable cost or customary charges (see section 1814(b) of the Act, 42 U.S.C. 1395f(b)). Because there was no history or experience concerning the cost of home health services, it was determined that the more conservative approach would be to assure that arranged-for services should be obtained only from agencies which themselves operate on a nonprofit basis. Thus, the regulation was consciously drafted to make an explicit distinction between proprietary and nonprofit home health agencies in the conditions of participation.

The Congress has now acted to reduce the basis for concern regarding excessive cost. Under section 251(c) of Pub. L. 92-603, the Social Security Amendments of 1972 (see 1861(v)(5)(A) of the Act—42 U.S.C. 1395x(v)(5)(A)) reimbursement for the reasonable cost of physical therapy and other therapy services, or services of other health-related personnel (other than physicians) furnished by a provider of services (i.e., a hospital, skilled nursing facility, or home health agency), rehabilitation agency, clinic, or public health agency under arrangements with others will be limited to amounts equivalent to the salary and other costs incurred if the services were performed by an employee, plus other costs such as maintaining an office, travel expenses, and similar costs which a therapist not employed might have. With the cost of therapy services under arrangements controlled by statute, we believe public or nonprofit agencies should now be allowed to make arrangements for such services with proprietary agencies or organizations organized for profit. It should be made clear that the regulations implementing section 251(c) apply to the services of all health-related personnel other than physicians, including skilled nursing and home health aide services. Costs to the provider of such services could be evaluated and determined for reimbursement purposes under this provision.

In addition, there are other reasons for modifying the regulations relating to arrangements for services by a home health agency.

The Social Security Administration's Bureau of Health Insurance has been advised that a significant number of home health agencies are unable to employ or appropriately contract with individual therapists or with public or nonprofit agencies or organizations for the purpose of qualifying with skilled nursing and one other useful therapeutic service or to expand existing home health programs. Many therapists are organized as partnerships and corporations, and in most, if not all, instances as organizations for profit. Communities and home health agencies may thus be hard pressed to positively respond to the Social Security Administration's encouragement to respectively develop and expand home health services.

The Social Security Administration also believes that the intent of Congress in including the home health benefit in the health insurance program is to make this benefit most viable and available to as many beneficiaries as is possible, and that in the consideration of program requirements, viability and availability of services is to be given priority where feasible. In consideration of the recent statutory limitation on the cost of therapy services provided under arrangements, the statement in the Congressional committee report regarding establishment of agencies providing a wide range of organized home health services, the Social Security Administration's continued encouragement of the development, expansion, and utilization of services, and its belief that present regulations assure sufficient control of services provided under arrangements, the Social Security Administration proposes revising § 405.1221 of its regulations to permit a public or nonprofit home health agency to make arrangements for services with public, nonprofit, or proprietary agencies or organizations. However, under such circumstances the home health agency is not to be considered merely a billing agency but must assume control and supervision of the services under arrangements as it does with respect to services it provides directly through employees.

Prior to the final adoption of the proposed amendments to the regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in triplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare Building, Fourth and Independence Avenue SW., Washington, D.C. 20201, on or before July 9, 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.

The proposed amendments are to be issued under the authority contained in sections 1102, 1861(o), and 1871 of the Social Security Act, 49 Stat. 647, as amended, 79 Stat. 320, as amended, and 79 Stat. 331 (42 U.S.C. 1302, 1395x (o), and 1395hh).

(Catalog of Federal Domestic Assistance Programs No. 13.800 Health Insurance for the Aged—Hospital Insurance, and No. 13.801 Health Insurance for the Aged—Supplementary Medical Insurance)

Dated: April 11, 1975.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: June 3, 1975.

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

Regulations No. 5 of the Social Security Administration, as amended (20 CFR 405), is further amended as follows:

1. Paragraph (a) of § 405.1221 is revised to read:

§ 405.1221 Condition of participation: Organization, services, administration.

* * * * *

(a) *Standard: Services provided.* Part-time or intermittent skilled nursing services and at least one other therapeutic service (physical, speech, or occupational therapy; medical social services; or home health aide services) must be made available on a visiting basis, in a place of residence used as a patient's home. A public or nonprofit home health agency must provide at least one of the qualifying services directly through agency employees, but may provide the second qualifying service and additional services under arrangements with another agency or organization. A proprietary home health agency, however, must provide all services directly, through agency employees.

2. Paragraph (h) of § 405.1221 is revised to read:

§ 405.1221 Condition of participation: Organization, services, administration.

* * * * *

(h) *Standard: Services under arrangements.* Services (see paragraph (a) of this section) provided under arrangements must be subject to a written contract conforming with the requirements specified in paragraph (f) of this section and with the requirements of section 1861(w) of the Act (42 U.S.C. 1395x(w)).

[FR Doc.75-14973 Filed 6-6-75;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 117]

[CGD 75-114]

ESCATAWPA RIVER, MISSISSIPPI

Proposed Drawbridge Operation Regulations

At the request of the City of Moss Point, Mississippi, the Coast Guard is considering revising the regulations for the Mississippi State Highway 63 drawbridge across the Escatawpa River, mile 1.0, to change the hours the draw need not open for the passage of vessels in the afternoon from the period 3:25 p.m. to 4:00 p.m. to the period 3:25 p.m. to 3:45 p.m., and from the period 4:15 p.m. to 5:00 p.m. to the period 4:00 p.m. to 5:00 p.m. This proposed change reflects more accurately the vehicular traffic patterns during these periods. The morning hours will remain unchanged.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commander (oan), Eighth Coast Guard District, Customhouse, New Orleans, Louisiana 70130. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Eighth Coast Guard District.

The Commander, Eighth Coast Guard District, will forward any comments received before July 8, 1975, with his recommendations to the Chief, Office of Marine Environment and Systems, who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations be amended by revising § 117.485 to read as follows:

§ 117.485 Escatawpa River, Miss.; Mississippi State Highway 63 drawbridge, Mile 1.0.

The draw need not open for the passage of vessels from 6:00 a.m. to 6:45 a.m., 7:00 a.m. to 7:30 a.m., 3:25 p.m. to 3:45 p.m., and 4:00 p.m. to 5:00 p.m., Monday through Friday, except on National Holidays. At all other times the draw shall open promptly on signal.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; (33 U.S.C. 499, 49 U.S.C. 1655(g)(2)); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(c)(4)).

Dated: May 28, 1975.

R. I. PRICE,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.75-14963 Filed 6-6-75;8:45 am]

[46 CFR Part 146]

[CGD 74-292]

CARRIAGE OF PORTABLE TANK

Proposed DOT Specification Packaging

The Coast Guard is considering amending the dangerous cargo regulations to allow the carriage of a portable tank having a gross weight of 55,000 pounds or less.

Written comments. Interested persons are invited to participate in this proposed rulemaking by submitting written data, views, or arguments on the proposal contained in this document to the Executive Secretary, Marine Safety Council (G-CMC/82), Room 8234, U.S. Coast Guard Headquarters, 400 Seventh Street, SW., Washington, D.C. 20590. (Telephone 202-426-1477). Each person submitting comments should include his name and address, identify the notice (CGD 74-292), any specific wording recommended, and reasons for any recommended changes. Comments received will be available for examination by interested persons in Room 8234, Department of Transportation, Nassif Building, 400 Seventh Street, SW., Washington, D.C. Copies will be furnished upon payment of fees prescribed in 49 CFR 7.81.

Public hearing. The Coast Guard will holding a hearing on July 1, 1975 at 9:30 a.m. in Room 8334, Department of Transportation, Nassif Building, 400 Seventh Street, SW., Washington, D.C. Interested persons are invited to attend the hearing and present oral or written statements on this proposal. It is requested that anyone desiring to attend the hearing notify the Executive Secretary of the time needed for his presentation at least ten days before the day the public hearing is held. Written summaries or copies of oral presentations are encouraged.

Closing date for comments. All communications received before July 16, 1975 will be evaluated before final action is taken on this proposal. The proposed amendment may be changed in the light of comments received.

Under the authority of 46 U.S.C. 170 (11), the Commandant of the Coast Guard may exempt any vessel or class of vessels from any provisions of the Dangerous Cargo Act (R.S. 4472, as amended; 46 U.S.C. 170) or any regulations or parts of regulations established under that Act when he finds that a vessel, route, area of operation, condition of the voyage, or other circumstances render the application of the Act or regulation unnecessary for the purposes of safety.

On June 11, 1960 (25 FR 5236), 46 CFR 146.05-5 increased the gross weight of DOT specification portable tanks from 8,000 pounds to 20,000 pounds. Since 1960, the Commandant, U.S. Coast Guard, has permitted, under the authority of 46 U.S.C. 170(11), the carriage by vessels of DOT specification tanks that exceed the 20,000 pound limitation after finding that this carriage secured the necessary provisions against the hazards of health, life, limb, and property, the stated objectives of the Dangerous Cargo Act. No report of accidents due to the increased weight of the tanks has been received by the Coast Guard. Because of the favorable experience in the permitted carriage, the Liquid and Bulk Tank Division of Fruehauf Corporation has petitioned the Coast Guard to amend the regulations by increasing the gross weight of DOT specification tanks from 20,000 pounds to 55,000 pounds.

In consideration of that petition the Coast Guard proposes to amend 46 CFR Part 146 as follows:

1. By revoking § 146.05-5(h) which increased the gross weight limitation for DOT specification tanks from 8,000 pounds to 20,000 pounds.

2. By striking the figures "8,000" and "20,000" wherever they appear in §§ 146.-21-100, 146.23-100, 146.24-100, and 146.-25-200 and inserting "55,000" in place thereof.

3. By striking the figure "20,000" in the second and third sentences in § 146.-07-1(b)(4) and inserting the figure "55,000" in place thereof.

The Coast Guard has determined that the proposal in this document would have no forseeable significant impact on the quality of the human environment. An environmental assessment with a negative declaration has been drafted. Copies of this draft may be obtained in Room 8306, Coast Guard Headquarters, Washington, D.C. 20590. Interested persons are invited to comment on this draft statement.

(R.S. 4472, as amended (46 U.S.C. 170), sec. 6(b)(1), 80 Stat. 937 (49 U.S.C. 1655(b)(1)); 49 CFR 1.46(b))

Dated: June 4, 1975.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc.75-14964 Filed 6-6-75;8:45 am]

Federal Highway Administration

[Docket No. 75-4; Notice 3]

[23 CFR Part 658]

NATIONAL MAXIMUM SPEED LIMIT

Proposed State Certification of Speed Limit Enforcement

This notice proposes an amendment to 23 CFR Part 658 relating to State certification of the enforcement of the national maximum speed limit, pursuant to section 107 of the Federal-Aid Highway Act Amendments of 1974, Pub. L. 93-643, 80 Stat. 2281, (23 U.S.C. 141). The proposed amendment reflects comments made in response to a notice published March 6, 1975 (40 FR 10481). The balance of the requirements proposed by the March 6 notice are adopted by a notice published in today's edition of the FEDERAL REGISTER at 40 FR 24519.

The March 6 notice proposed a procedure whereby each State, upon certifying its enforcement of the speed limit, would submit data relating to enforcement efforts and to the speeds observed on State roads. The Department is con-

sidering changes from the version proposed by the March 6 notice. The changes would reflect comments from several States and organizations and should serve to lighten the administrative burden of complying with the regulation. Before discussing the specific changes, it is necessary to respond to several widely-expressed objections to the proposed regulation.

Several comments objected to what was seen as a Federal assumption that the States could not be trusted to enforce the speed limit. The objection stems from a belief that the proposed requirements for enforcement and speed monitoring data would not be necessary if the Federal government intended to accept the States' certificates of enforcement in good faith.

In proposing the data requirements, the Department acted with the knowledge that the 55 mph enforcement had been diligently pursued by the States in 1974, and with the expectation that these efforts would continue. Without exception, the States' comments affirmed their intent to maintain enforcement despite adversity.

However, in order for there to be a true national picture of the status of the 55 mph speed limit, a bare certificate of enforcement appeared to be of little value. To carry out its responsibility under the Act, the Department of Transportation therefore proposed that a basic amount of information be included with the certificate. The data would show nationwide speed and enforcement trends and should be most useful to the States for their enforcement planning.

Several comments asserted that the new certification provision (23 U.S.C. 141) provides only for a certificate and that the Department therefore has no authority to require more. Although the section itself does not create express authority to require the States to submit data, the provisions of 23 U.S.C. 315, "Rules, regulations and recommendations", authorize the Secretary to prescribe and promulgate all needful rules and regulations for the carrying out of the provisions of this title." The information sought in the case of the enforcement and observance data requirements of Part 658 is considered needful for the carrying out of the speed limit and size and weight provisions of Title 23.

A number of comments challenged the goals set out in the preamble to the proposal for speed limit observance by motorists. The goals were not proposed as mandatory requirements, as some commenters feared, but as targets to be worked toward. The proposed goal of 90 percent observance within 3 years met with general skepticism. The Department agrees that the goal is ambitious and that, as many pointed out, its accomplishment depends less on law enforcement efforts than on the public's willingness to cooperate. Now that there are no gas lines as a daily reminder of fuel shortages, government must fall back on public information efforts to maintain a sense of public urgency concerning energy conservation. The need for conservation is no less pressing than in January 1974, and it is the responsibility of all levels of government to keep the public informed of the problem. Similarly, the savings in lives and injuries which resulted from reducing speeds in 1974 can be a permanent savings if the lower speeds are maintained. The Department of Transportation will do its part to promote public understanding through a nationwide media campaign.

Several comments expressed concern about the intent of the statement in the March 6 notice that the Department considers knowledge of actual speeds "to be essential to enforcement planning" (40 FR at 10482). Those who objected to this statement read into it an intent to assert Federal control over enforcement by State and local personnel.

Such an enforcement takeover is neither possible nor desirable, and is in no way planned by the Department. With this disclaimer, however, the statement bears paraphrasing: in its speed limit enforcement planning, a State must know where high speeds are likely if it is to efficiently allocate its enforcement resources. The judgment as to how much data to collect lies with each State. The proposed requirement only provides that summary statistics must be supplied. The volume of data for these summaries is not specified, nor is the content specified beyond the bare minimum which is generally essential to statistical credibility. The Department is preparing technical material to inform the States about the statistical implications of various aspects of monitoring, such as the choice of equipment, sample sizes, and measurement duration. This material can be used as a guide by the States in developing a statistically reliable speed measurement program. A number of States indicated that they presently collect data in a fashion that accords with the proposed requirements of § 658.7 (c) and (d). In many cases, the current State planning efforts would provide an adequate base to collect data meeting these requirements.

A final concern that was frequently expressed in the comments to the March 6 proposal relates to the speed monitoring program that the Department intends to undertake. The program is not designed to impeach the validity of the States' monitoring efforts, but rather to work out new speed profile analysis techniques, to enable the States to maintain up-to-date statistics of speed pattern, and to provide information and assistance to States where particular problems are encountered.

The specific points addressed by the comments tended to focus on the workload created by data collection efforts, particularly as such efforts would involve local as well as State enforcement agencies. Many States expressed the opinion that local records were either inadequate for the purposes of the regulation, beyond the authority of States to collect, or inordinately expensive to assemble.

After considering the coordination problems presented by a requirement to get local data, and after considering the capacity of the State agencies to report on the majority of high volume-high speed highways, the Department has tentatively concluded that the data should be confined to data from State agencies. Appropriate corrections are therefore proposed in § 658.7 to delete requirements for collection of local enforcement data.

A second specific point relates to the time period for which enforcement data were to be submitted pursuant to § 658.7 (c)(4). Several comments pointed out that the proposed language could permit a State to certify on January 1, 1976, using data obtained during 1974. To clarify the requirement, the Department proposes to change the section to specify reports for each month of the twelve month period ending on the September 30 before the date on which certification is required. Thus, before January 1, 1977, the States would present data for each month from October 1, 1975, to September 30, 1976. The initial certification, on or before January 1, 1976, would have to cover only that part of 1975 between the effective date of this regulation and September 30, 1975. States with partial data from periods before the effective date of the regulation are encouraged to submit it with their certification.

Several comments suggested that additional requirements should be included to gather data on convictions and other judicial dispositions. Such requirements would give rise to problems of centralized data collection similar to those that affect the local law enforcement agencies. The suggestion is not adopted at this time.

Michigan and Maryland noted that their police do not record warnings, and that compliance with 658.7(c)(4) would therefore require creation of new paperwork. To accommodate States in similar situations, the proposed requirement for reporting the number of warnings has been deleted from the paragraph.

Paragraph (d) was widely misconstrued as requiring a certain level of speed monitoring by the States. State highway patrols were particularly concerned about the potential diversion of police personnel from high hazard areas to areas with higher speeds but few accidents. The proposed section would require only that the States submit "information relating to observance of the speed limit by motorists." Subparagraph (1) would require a description of the State program, and subparagraph (2) would require the data obtained in the program to be classified in a consistent fashion. These data requirements should prove flexible enough to accommodate a variety of State practices without causing dislocations. In keeping with the change in enforcement data, observance data would be required only from highways on the State system.

In light of the foregoing, it is proposed that § 658.7 be adopted in 23 CFR Part 658 to read as follows:

PART 658—NATIONAL MAXIMUM SPEED LIMIT; MAXIMUM VEHICLE SIZE AND WEIGHT

§ 658.7 Certification of speed limit enforcement.

In order to obtain approval of Federal-aid projects under 23 U.S.C. 106, the Governor of each State, or an official designated by the Governor, shall certify to the Federal Highway Administration before January 1 of each year that the State is enforcing the national maximum speed limit of 55 miles per hour. The certification shall consist of the following elements:

(a) A statement signed by the Governor, or by an official designated by the Governor, certifying that the State is enforcing the national maximum speed limit.

(b) Copies of any State laws, regulations, or administrative orders relating to enforcement of the 55 mph speed limit, which were adopted after the date of the statement required by § 658.6, and which have not been included in earlier certifications under this section.

(c) Information relating to enforcement, as follows:

(1) The number of miles of State highways having posted or allowable speeds of 55 miles per hour.

(2) The approximate portion of the mileage listed in (1) on which the State has patrol responsibility, including portions on which the State shares responsibility with local law enforcement agencies.

(3) The State administrative orders or instructions regarding enforcement agency policy on enforcement of the 55 mile per hour limit.

(4) The number of citations issued by State agencies for violation of the 55 mph speed limit during each month of the 12-month period ending on the September 30 before the date by which certification is required.

(d) Information relating to observance of the speed limit by motorists on the State highway system, as follows:

(1) A description of the State program for monitoring speeds for the 12-month period ending on September 30 before the date by which certification is required, including the number of stations for each type of highway, the basis for determining the number and location of stations, the frequency and duration of operations, and the total sample size and basis for sample selection.

(2) The summary statistics derived from the data obtained from the monitoring program, classified according to highway type (Interstate rural, Interstate urban, other multi-lane divided rural and urban, major nondivided rural, etc.), indicating the average speed, the median speed, the 85th percentile speed, and the percent of motorists exceeding 55, 60, and 65 miles per hour for the 12-month period ending on September 30 before the date by which certification is required.

Interested persons are invited to submit comments on the proposal. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, SW., Washington, D.C. 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. Relevant material will continue to be filed as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Comment closing date: June 30, 1975.

(Secs. 106, 107, 114, Pub. L. 93-643, 80 Stat. 2281; (23 U.S.C. 127, 141, 154; 23 U.S.C. 315); delegations at 49 CFR 1.48 and 1.50)

Issued on June 3, 1975.

NORBERT T. TIEMANN,
Federal Highway Administrator.

JAMES B. GREGORY,
National Highway Traffic Safety Administrator.

[FR Doc.75-14924 Filed 6-4-75;11:26 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Parts 33, 35]

[FRL 385-1]

MINIMUM STANDARDS FOR PROCUREMENT UNDER EPA GRANTS

Extension of Comment Period

This notice extends the period for comment on the proposed amendments to EPA's grant regulations which were published on May 9, 1975 (40 FR 20296). The proposed new Part 33 would establish minimum standards for procurement under all grants except those for construction of treatment works; the proposed amendments to Part 35 would add policies and procedures governing procurement of personal and professional services to the existing regulations governing procurement under grants for construction of treatment works, and would make some changes in those existing regulations.

Requests for extensions to the comment period have been received from a number of parties. Because of the desire of this Agency to be responsive to and consider the views of all affected parties, while at the same time not to unduly delay the promulgation of final rules, EPA has decided to extend the comment period through July 15, 1975.

Several comments already received indicate that there is some misunderstanding about the intent of the proposed requirements included in § 35.937 and, particularly, §§ 35.937-4 and 35.937-6 thereof. It is not the intent of the Agency or of the proposed regulations to require grantees to solicit "bids" for personal and professional services, such as engineering services, nor to require grantees to compare the cost proposals of competing firms with which it is negotiating. The basis of final selection would remain the grantee's choice. The regulations would require, however, that for all contracts in excess of $100,000, the proposed costs submitted by the selected offerer be analyzed. The final regulation, when promulgated, will include revised language to clarify this point.

Interested parties and government agencies are again encouraged to submit written comments, views or data to the Director, Grants Administration Division (PM 216), Environmental Protection Agency, Washington, D.C. 20460. All such submissions received on or before July 15, 1975, will be considered prior to the promulgation of final rules.

Dated: June 5, 1975.

ALVIN L. ALM,
Assistant Administrator for Planning and Management.

[FR Doc.75-15057 Filed 6-6-75;8:45 am]

[40 CFR Part 52]

[FRL 376-2]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Prevention of Significant Air Quality Deterioration

On December 5, 1974 (39 FR 42510), the Administrator of the Environmental Protection Agency published final regulations for the prevention of significant deterioration of air quality applicable in all 55 States and territories. The plan for preventing significant deterioration, as set forth on December 5, is implemented through a preconstruction review of major stationary sources to determine if construction of such sources in a particular area would cause a violation of specified air quality increments. The preamble to the December 5th regulations indicated that as a result of public comments on the proposed significant deterioration regulations, the Administrator was considering the addition of other sources to the preconstruction review requirements. This notice proposes the addition of ferroalloy production facilities to the list at this time and describes the criteria the Administrator intends to use in adding further sources in the future.

The criteria the Administrator intends to adopt for subjecting sources to the new source review requirements of the significant deterioration regulation are as follows:

1. A new source performance standard for sulfur dioxide (SO_2) or particulate matter (TSP) has been established for the source or any facility of the source under Part 60 of this chapter, and

2. The established new source performance standard will allow any anticipated future plant affected by the standard to emit SO_2 or TSP in excess of 25 pounds per hour from the affected facility or facilities.

As new source performance standards are proposed, they will be examined to determine if, based on the allowable

emission limit and the expected size of new plants, the 25 pounds per hour criterion would be exceeded. Where the affected facility or facilities could exceed this criterion, the proposal of the new source performance standard will also include a proposal to add such plants to the list of sources subject to the significant deterioration review; however, only those size plants which will exceed the 25 pounds per hour emission limitation will be required to undergo the preconstruction review.

Only ferroalloy production facilities are proposed to be added at this time, since they are the only sources not already subject to the significant deterioration regulation which meet the above criteria. No restrictions are placed on the size ferroalloy production facility subject to the review, since all plants from this source category affected by the new source performance standard are expected to be of sufficient size to exceed the emission limitation criterion.

Consideration was given to several other source selection criteria, including not combining the selection of additional sources with establishment of new source performance standards. However, a review of more than 150 candidate sources revealed that the Agency's vigorous ongoing new source performance standard program is orientated toward those sources capable of having major impacts on the air quality increments. In view of the requirement for sources affected by the significant deterioration regulation to use best available control technology, and since meeting a new source performance standard satisfies this requirement, the Administrator has concluded the most logical approach for future addition of sources would be through combining the addition of sources subject to the significant deterioration review with proposals for new source performance standards. The proposed approach will provide a clear and uniform definition of best available control technology for sources which become subject to the significant deterioration regulation in the future.

The Administrator also considered various emission rate limitations as a cut-off criteria for adding sources to the preconstruction requirements of the regulation. A cut-off criterion of 25 pounds per hour was selected to preclude numerous preconstruction reviews of well-controlled sources which have only minor impact on the specified air quality increments. Also, the focus on major sources essentially regulates the basic economic structure or framework of an area. Therefore, if the major sources are restricted or prohibited in an area, the growth of smaller sources, which often depend to a certain extent on the existence of the major sources, will likewise be restricted. Consequently, it is the Administrator's judgement that reasonable protection of the deterioration increments can be obtained by continuing to focus on major sources.

The Administrator recognizes that future air quality may require a change in the proposed selection criteria; such changes will be adopted as necessary to ensure that the provisions and intent of the December 5th regulations are complied with.

Comments on the proposed changes and the Administrator's plan for subjecting additional sources to the preconstruction review requirements are solicited, and should be forwarded (in triplicate) to the Office of Air Quality Planning and Standards, Environmental Protection Agency, Research Triangle Park, N.C. 27711, attn: Mr. Kent Berry. All relevant comments received on or before July 9, 1975, will be considered. Comments received will be available for public inspection at the Office of Public Affairs, 401 M Street, SW., Washington, D.C., 20460.

(Secs. 110(c), 301(a) of the Clean Air Act as amended (42 U.S.C. 1857c-5(c) 1857g(a))

Dated: June 2, 1975.

RUSSELL E. TRAIN,
Administrator.

It is proposed to amend Part 52 of Chapter I, Title 40 of the Code of Federal Regulations as follows:

1. In § 52.21, paragraph (d) is revised to read as follows:

§ 52.21 Prevention of significant deterioration.

* * * * *

(d) * * *

(1) * * *

(xix) Ferroalloy production facilities.

* * * * *

[FR Doc.75-14996 Filed 6-6-75;8:45 am]

[40 CFR Part 136]

[FRL 366-2]

ANALYSIS OF POLLUTANTS

Proposed Guidelines for Establishing Test Procedures

The Environmental Protection Agency is considering amendments to Part 136 of Title 40, Code of Federal Regulations, setting forth Guidelines Establishing Test Procedures for the Analysis of Pollutants. These amendments would correct minor errors and include additional parameters and analytical methods in § 136.3, "Identification of Test Procedures." The guidelines were published in the FEDERAL REGISTER on Tuesday, October 16, 1973 (38 FR 28757).

Interested persons may participate in this proposed rule making by submitting written comments, suggestions, or objections to the Office of Research and Development, Quality Assurance Division (RD-687, EPA, Washington, D.C. 20460 on or before July 24, 1975. All comments which are received within this time period will be considered before final action is taken on this proposed amendment. Copies of all comments received will be available for examination by interested persons in Room 3100D, Waterside Mall Building, 401 M Street, SW., Washington, D.C. 20460. The proposed amendment may be changed in light of the comments received.

Section 136.3 identified the test procedures which must be used in any certification pursuant to section 401 or permit application pursuant to section 402 of the Federal Water Pollution Control Act Amendments of 1972 (86 Stat. 816 et seq., Pub. L. 92-500 (1972)). It is proposed to make minor wording changes and correct typographical errors in entries numbered 1, 2, 9, 14, 37, 53, and 62. These changes do not affect the nature of the parameter measured or the method to be used, but simply serve to clarify the meaning of the entries listed.

Certain parameters not included in the original list have been determined to be significant in the control of pollutants for which the Agency has established effluent limitations. For these parameters, test procedures have been selected which will provide reliable data when they are employed with an adequate quality control program. The additional parameters are: 2(a)-Dissolved Oxygen, 6(a)-Settleable Solids, 11(a)-Elemental Phosphorus, 12(a)-pH, 36(b)-Dissolved Silica, 51(a)-Cyanide Amenable to Chlorination, 62(a)-Temperature, 65(a)-Coliform Bacteria (fecal) in the presence of chlorine, a separate test for the dissolved moiety of each of the twenty-nine trace metals on the list, and tests for the noble metals Gold-27(b), Iridium-27(c), Osmium-34(b), Palladium-34(c), Platinum-34(d), Rhodium-35(b), and Ruthenium-35(c). It is recognized that the method specified for elemental phosphorus may be unreliable under some circumstances; it will be considered an "interim" method. Hydrogen ion concentration will be measured electrometrically, and for purposes of this regulation will be defined as "the pH indicated by such measuring systems. Note that the table also includes entries for acidity and alkalinity; these are separate parameters from pH and are determined by titrating samples under specified conditions.

Certain entries on the list will be changed in the interest of obtaining more consistent, accurate data. Item 8, Ammonia, will be changed to permit use of an electrometric probe. Item 51, Cyanide, will be expanded to allow barbituric acid as a reagent in the test. The Fluoride test procedure (Item 52) will be relaxed to allow use of electrometric or automated methods after a manual distillation step. This distillation is considered to be vital in obtaining complete, accurate measurements. Oil and grease, Item 54, will be measured either gravimetrically or spectrophotometrically, thus allowing a better selectivity when desired. The method for Benzidine, Item 58, is being changed to a revised chloramine-T procedure which is believed to be the most selective and sensitive one available at this time.

It is recognized that improvements are possible and desirable in the methods for cyanide amenable to chlorination, oil and grease, and benzidine. Constructive, well-documented suggestions and comments regarding analytical procedures for these parameters are solicited.

In consideration of the foregoing, it is proposed to amend Chapter I of Title 40, Code of Federal Regulations, as follows:

§ 136.3 [Amended]

1. In § 136.3, Table I is amended to read as follows:

TABLE I.—*List of approved test procedures*

Parameter and units	Method	References (page Nos.)		
		Standard methods	ASTM	EPA methods
General analytical methods:				
1. Alkalinity as $CaCO_3$ milligrams $CaCO_3$ per liter.	Electrometric titration, manual or automated (to pH 4.5) or automated methyl orange titration.	370	143	6, 8
2. Biological oxygen demand, 5-day (BOD5), milligrams per liter.	Modified winkler or probe method	489		
2(a). Dissolved oxygen milligrams per liter.	Modified (azide) winkler or electrode probe.	477, 484	356	53, 60
3. Chemical oxygen demand (COD), milligrams per liter.	Dichromate reflux	495	219	17
4. Total solids, milligrams per liter	Gravimetric 103 to 105° C	535		280
5. Total dissolved (filterable) solids milligrams per liter.	Glass fiber filtration 180° C			275
6. Total suspended (nonfilterable) solids, milligrams per liter.	Glass fiber filtration, 103 to 105° C	537		278
6(a). Settleable solids, milliliter per liter or milligrams per liter.	Imhoff cone or graduated cylinder or gravimetric.	529		
7. Total volatile solids, milligrams per liter.	Gravimetric, 550° C	536		282
8. Ammonia (as N) [1], milligrams per liter.	Manual distillation and nesslerization, or titration, or automated phenolate, or electrode.			134, 141
9. Kjeldahl nitrogen (as N), milligrams per liter.	Digestion and distillation—nesslerization or titration; automated digestion, phenolate.	469		149, 157
10. Nitrate (as N), milligrams per liter.	Cadmium reduction; brucine sulfate; automated cadmium or hydrazine reduction.	458, 461	124	170, 175, 185
11. Total phosphorous (as P), milligrams per liter.	Persulfate digestion and single reagent (ascorbic acid), or manual digestion, and automated single reagent or stannous chloride.	526, 532	42	235, 246, 259
11(a). Phosphorus (elemental)[2] milligrams per liter.	Gas chromatography			
12. Acidity milligrams $CaCO_3$ per liter.	Electrometric end point or phenolphthalein end point.		148	
12(a). Hydrogen ion (pH), pH units.	Electrometric measurement	500	248	230
13. Total organic carbon (TOC), milligrams per liter.	Combustion—infrared method [3]	557	702	221
14. Hardness—total, milligrams $CaCO_3$ per liter.	EDTA titration; automated colorimetric; atomic absorption.	172	170	76, 78
15. Nitrite (as N), milligrams per liter.	Manual or automated colorimetric diazotization.			185, 195
Analytical methods for trace metals:				
16. Aluminum—total,[4] milligrams per liter.	Atomic absorption	210		98
16(a). Aluminum—dissolved, milligrams per liter.	0.45 micron filtration and reference method for total aluminum.			86
17. Antimony—total,[4] milligrams per liter.	Atomic absorption [5]			
17(a). Antimony—dissolved, milligrams per liter.	0.45 micron filtration and reference method for total antimony.			86
18. Arsenic—total milligrams per liter.	Digestion plus silver diethyldithiocarbamate; atomic absorption.[5]	65, 62		13
18(a). Arsenic—dissolved, milligrams per liter.	0.45 micron filtration and reference method for total arsenic.			86
19. Barium—total,[4] milligrams per liter.	Atomic absorption [5]	210		
19(a). Barium—dissolved, milligrams per liter.	0.45 micron filtration and reference method for total barium.			86
20. Beryllium—total,[4] milligrams per liter.	Aluminon; atomic absorption	67, 210		
20(a). Beryllium—dissolved, milligrams per liter.	0.45 micron filtration and reference method for total beryllium.			86
21. Boron—total, milligrams per liter	Curcumin	69		
21(a). Boron—dissolved, milligrams per liter.	0.45 micron filtration and reference method for total boron.			86
22. Cadmium—total [4], milligrams per liter.	Atomic absorption; colorimetric	210, 422	692	101
22(a). Cadmium—dissolved, milligrams per liter.	0.45 micron filtration and reference method for total cadmium.			86
23. Calcium—total [4], milligrams per liter.	EDTA titration; atomic absorption	84	692	102
23(a). Calcium—dissolved, milligrams per liter.	0.45 micron filtration and reference method for total calcium.			86
24. Chromium VI, milligrams per liter.	Extraction and atomic absorption; colorimetric.	429		94
24(a). Chromium VI—dissolved, milligrams per liter.	0.45 micron filtration and reference method for total chromium VI.			86
25. Chromium—total [4], milligrams per liter.	Atomic absorption; colorimetric	210, 426	692, 403	104
25(a). Chromium—dissolved, milligrams per liter.	0.45 micron filtration and reference method for total chromium.			86
26. Cobalt—total [4], milligrams per liter.	Atomic absorption [5]		692	
26(a). Cobalt—dissolved, milligrams per liter.	0.45 micron filtration and reference method for total cobalt.			86
27. Copper—total [4], milligrams per liter.	Atomic absorption; colorimetric	210, 430	692, 410	106
27(a). Copper—dissolved, milligrams per liter.	0.45 micron filtration and reference method for total copper.			86
27(b). Gold—total [4], milligrams per liter.	Atomic absorption [5]			
27(c). Iridium—total [4], milligrams per liter.	do [5]			
28. Iron—total [4], milligrams per liter	Atomic absorption; colorimetric	210, 433	692, 152	108
28(a). Iron—dissolved, milligrams per liter.	0.45 micron filtration and reference method for total iron.			86
29. Lead—total [4], milligrams per liter.	Atomic absorption; colorimetric	210, 436	692	110
29(a). Lead—dissolved, milligrams liter.	0.45 micron filtration and reference method for total lead.			86
30. Magnesium—total [4], milligrams per liter.	Atomic absorption; gravimetric	210, 416, 201	692	112

TABLE I.—*List of approved test procedures*—Continued

Parameter and units	Method	References (page Nos.)		
		Standard methods	ASTM	EPA methods
30(a). Magnesium—dissolved, milligrams per liter.	0.45 micron filtration and reference method for total magnesium.			86
31. Manganese—total,[4] milligrams per liter.	Atomic absorption	210	692	114
31(a). Manganese—dissolved, milligrams per liter.	0.45 micron filtration and reference method for total manganese.			86
32. Mercury—total, milligrams per liter.	Flameless atomic absorption [7]			
32(a). Mercury—dissolved, milligrams per liter.	0.45 micron filtration and reference method for total mercury.			86
33. Molybdenum—total,[4] milligrams per liter.	Atomic absorption [5]			
33(a). Molybdenum—dissolved, milligrams per liter.	0.45 micron filtration and reference method for total molybdenum.			86
34. Nickel—total,[4] milligrams per liter.	Atomic absorption; colorimetric [8]	443	692	
34(a). Nickel—dissolved, milligrams per liter.	0.45 micron filtration and reference method for total nickel.			86
34(b). Osmium—total,[4] milligrams per liter.	Atomic absorption [5]			
34(c). Palladium—total,[4] milligrams per liter.	do [5]			
34(d). Platinum—total,[4] milligrams per liter.	do [5]			
35. Potassium—dissolved, milligrams per liter.	Atomic absorption; colorimetric; flame photometric.	283, 285	326	115
35(a). Potassium—dissolved, milligrams per liter.	0.45 micron filtration and reference method for total potassium.			86
35(b). Rhodium—total,[4] milligrams per liter.	Atomic absorption [5]			
35(c). Ruthenium—total,[4] milligrams per liter.	do [5]			
36. Selenium—total,[4] milligrams per liter.	do [5]			
36(a). Selenium—dissolved, milligrams per liter.	0.45 micron filtration and reference method for total selenium.			86
36(b). Silica—dissolved, milligrams per liter.	0.45 micron filtration and molybdosilicate-colorimetric.	303	83	86, 273
37. Silver—total,[4] milligrams per liter.	Atomic absorption [5]	210		
37(a). Silver—dissolved, milligrams liter.	0.45 micron filtration and reference method for total silver.			86
38. Sodium—total,[4] milligrams per liter.	Flame photometric; atomic absorption.	317	326	118
38(a). Sodium—dissolved, milligrams per liter.	0.45 micron filtration and reference method for total sodium.			86
39. Thallium—total,[4] milligrams per liter.	Atomic absorption [5]			
39(a). Thallium—dissolved, milligrams per liter.	0.45 micron filtration and reference method for total thallium.			86
40. Tin—total,[4] milligrams per liter.	Atomic absorption [5]			
40(a). Tin-dissolved, milligrams[4] per liter.	0.45 micron filtration and reference method for total tin.			86
41. Titanium-total, milligrams per liter.	Atomic absorption [5]			
41(a). Titanium—dissolved, milligrams per liter.	0.45 micron filtration and reference method for total titanium.			86
42. Vanadium—total,[4] milligrams per liter.	Atomic absorption [5]; colorimetric	357		
42(a). Vanadium—dissolved, milligrams per liter.	0.45 micron filtration and reference method for total vanadium.			86
43. Zinc—total,[4] milligrams per liter.	Atomic absorption; colorimetric	210, 444	692	120
43(a). Zinc-dissolved, milligrams per liter.	0.45 micron filtration and reference method for total zinc.			86
Analytical Methods for Nutrients, Anions, and Organics:				
44. Organic nitrogen (as N), milligrams per liter.	Kjeldahl nitrogen minum ammonia nitrogen.	468		149
45. Otho—phosphate (as P)	Direct single reagent; automated single reagent or stannous chloride.	532	42	235, 246, 259
46. Sulfate (as SO_4)	Gravimetric; turbidimetric; automated colorimetric—barium chloranilate.	331, 334	51, 52	286, 288
47. Sulfide (as S^-), milligrams per liter.	Titrimetric—iodine	551		294
47(a). Sulfide (as S^-), milligrams per liter.	Methylene blue photometric for levels less than 1 mg per liter.	558		
48. Sulfite (as SO_3^-), milligrams per liter.	Tritrimetric; iodine-iodate	337	261	
49. Bromide, milligrams per liter	do		216	
50. Chloride, milligrams per liter	Silver nitrate; mercuric nitrate; automated colorimetric-ferricyanide.	90, 97	23, 21	29, 31
51. Cyanide, total, milligrams per liter.	Distillation—silver nitrate titration or pyridine pyrazolone (or barbituric acid) colorimetric.	397	556	41

TABLE I.—*List of approved test procedures*—Continued

Parameter and units	Method	References (page Nos.)		
		Standard methods	ASTM	EPA methods
51(a). Cyanide amenable to chlorination, milligrams per liter.	Colorimetric		538	
52. Fluoride, milligrams per liter	Distillation—probe or SPADNS after distillation; automated complexone.	171, 174 173	191, 194	64, 66, 72
53. Chlorine—total, residual milligrams per liter.	Iodometric; amperometric titration	382	223	
54. Oil and grease,[2] milligrams per liter.	Liquid-liquid extraction with trichlorotrifluorethane-gravimetric or spectrophotometric (I.R.).	254		
55. Phenols, milligrams per liter	Colorimetric, 4 AAP	502	445	332
56. Surfactants, milligrams per liter	Methylene blue; colorimetric	339	619	131
57. Algicides, milligrams per liter	Gas chromatography [3]			
58. Benzidine, milligrams per liter	Oxidation—colorimetric [10]			
59. Chlorinated organic compounds (except, pesticides), milligrams liter.	Gas chromatography [3]			
60. Pesticides, milligrams per liter	Gas chromatography [3]			
Analytical methods for physical and biological parameters:				
61. Color, platinum-cobalt units or dorminant wavelength, hue, luminance, purity.	Colorimetric; spectrophotometric	169, 392		38
62. Specific conductance micromho per centimeter at 25° C.	Wheatstone bridge	323	163	284
62(a). Temperature degrees C	Calibrated glass or electrometric thermometer.	348		296
63. Turbidity jackson units	Turbidimeter	350	467	308
64. Fecal streptococci bacteria number per 100 ml.	MPN; membrane filter; plate count	689, 690 691		
65. Coliform bacteria (fecal) number per 100 ml.	MPN; membrane filter	689, 684		
65(a). Coliform bacteria (fecal) in in presence of chlorine number per 100 ml.	MPN	689		
66. Coliform bacteria (total) number per 100 ml.	MPN; membrane filter	664, 679		
66(a). Coliform bacteria (total) in presence of chlorine number per 100 ml.	MPN; membrane filter with enrichment.	664, 682, 683		
Radiological parameters:				
67. Alpha—total, pCi per liter	Proportional counter; schtillation counter.	598	509	
68. Alpha—counting error, pCi per liter.	do	598	512	
69. Beta—total, pCi per liter	Proportional counter	598	478	
70. Beta—counting error, pCi per liter	do	598	478	
71. Radium—total, pCi per liter	Proportional counter; scintillation counter.	611, 617	674	

[1] Robert F. Thomas and Robert L. Booth, "Selective Electrode Measurement of Ammonia in Water and Wastes," "Environmental Science and Technology," Vol. 7, No. 6, pp. 523–526, 1973. A detailed method description is also available from the Methods Development and Quality Assurance Research Laboratory (MDQARL), National Environmental Research Center (NERC), USEPA, Cincinnati, Ohio 45268.

[2] R. F. Addison and R. G. Ackman, "Direct Determination of Elemental Phosphorus by Gas-Liquid Chromatography," "Journal of Chromatography," Vol. 47, No. 3, pp. 421–426, 1970.

[3] A number of such systems manufactured by various companies are considered to be comparable in their performance. In addition, another technique, based on Combustion-Methane Detection, is also acceptable.

[4] For the determination of total metals the sample is not filtered before processing. Choose a volume of sample appropriate for the expected level of metals. If much suspended material is present, as little as 50–100 ml of well-mixed sample will most probably be sufficient. (The sample volume required may also vary proportionally with the number of metals to be determined.)

Transfer a representative aliquot of the well-mixed sample to a Griffin beaker and add 3 ml of concentrated distilled HNO_3. Place the beaker on a hotplate and evaporate to dryness making certain that the sample does not boil. Cool the beaker and add another 3 ml portion of distilled concentrated HNO_3. Cover the beaker with a watch glass and return to the hotplate. Increase the temperature of the hotplate so that a gentle reflux action occurs. Continue heating, adding additional acid as necessary until the digestion is complete, generally indicated by a light colored residue. Add (1:1 with distilled water) distilled concentration HCl in an amount sufficient to dissolve the residue upon warming. Wash down the beaker walls and the watch glass with distilled water and filter the sample to remove silicates and other insoluble material that could clog the atomizer. Adjust the volume to some predetermined value based on the expected metal concentrations. The sample is now ready for analysis. Concentrations as determined shall be reported as "total." For a more complete discussion of sample handling and preparation for atomic absorption analysis, see pp. 83–97 of EPA Methods.

For the measurement of the noble metal series (gold, iridium, osmium, palladium, platinum, rhodium and ruthenium), an aqua regia digestion is to be substituted for the nitric acid digestion in the paragraph above as follows:

Transfer a representative aliquot of the well-mixed sample to a Griffin beaker and add 3 ml of conc. redistilled HNO_3. Place the beaker on a steam bath and evaporate to dryness. Cool the beaker and cautiously add a 5 ml portion of aqua regia. (See below for preparation of aqua regia*.) Cover the beaker with a wash glass and return to the steam bath. Continue heating the covered beaker for 50 minutes. Remove cover and evaporate to dryness. Cool and take up the residue in a small quantity of 1:1 HCl. Wash down the beaker walls and wash glass with distilled water and filter the sample to remove silicates and other insoluble material that could clog the atomizer. Adjust the volume to some predetermined value based on the expected metal concentration. The sample is now ready for analysis.

*Aqua regia—prepare immediately before use by carefully adding three volumes of conc. HCl to one volume of conc. HNO_3.

[5] Atomic absorption method available from Methods Development and Quality Assurance Research Laboratory, National Environmental Research Center, USEPA, Cincinnati, Ohio 45268.

[6] See D.C. Manning, "Technical Notes", "Atomic Absorption Newsletter," Vol. 10, No. 6, p. 123, 1971. Available from Perkin-Elmer Corporation, Main Avenue, Norwalk, Connecticut 06852.

Footnotes continued on next page.

[1] For updated method, see: "Journal of the American Water Works Association 64," No. 1, pp. 20-25 (Jan. 1972) or ASTM Method D 3223-73, American Society for Testing and Materials Headquarters, 1916 Race Street, Philadelphia, Pennsylvania 19103.

[2] Method for infrared spectrophotometric determination of oil and grease is available from the MDQARL, NERC, USEPA, Cincinnati, Ohio 45268.

[3] Interim procedures for algicides, chlorinated organic compounds, and pesticides can be obtained from the Methods Development and Quality Assurance Research Laboratory, National Environmental Research Center, USEPA, Cincinnati, Ohio 45268.

[4] Adequately tested methods for benzidine are not available. Until approved methods are available, the following interim method can be used for the estimation of benzidine: 1. "Method for Benzidine and its salts in wastewaters." Method available from Methods Development and Quality Assurance Research Laboratory, National Environmental Research Center, USEPA, Cincinnati, Ohio 45268.

NOTE.—Dissolved metals are defined as those constituents which will pass through a 0.45 micron membrane filter. A prefiltration is permissible to free the sample from larger suspended solids.

Dated: May 30, 1975.

RUSSELL E. TRAIN,
Administrator.

[FR Doc.75-14776 Filed 6-6-75;8:45 am]

[40 CFR Part 180]

[OPP-280002; FRL 384-3]

PINE OIL

Proposed Exemption From Requirement of a Tolerance

Section 408(e) of the Federal Food, Drug, and Cosmetic Act provides that the Administrator may at any time, upon his own initiative, propose the issuance of a regulation exempting a pesticide chemical from the requirement of a tolerance. It is proposed that pine oil, used as a deodorant, be exempted from the requirement of a tolerance when used in accordance with good agricultural practice as an inert ingredient in formulation with the bee repellent butanoic anhydride. Based on available data, it is concluded that the proposed regulation will protect the public health.

Any person who has registered or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act which contains any of the ingredients listed herein may request, within 30 days after publication of this notice, that this proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, Room 401, East Tower, 401 M Street, SW, Washington, DC 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and others interested in inspecting them. The comments must be received on or before July 9, 1975 and should bear a notation indicating the subject (OPP-280002). All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

It is proposed that Part 180, Subpart D, be amended by adding § 180.1035.

Dated: June 2, 1975.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

(Sec. 408(e) Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346(a)(e)))

It is proposed that Part 180, Subpart D, be amended by adding § 180.1035 to read as follows.

* * * * *

§ 180.1035 Pine oil; exemption from the requirement of a tolerance.

Pine oil is exempted from the requirement of a tolerance when used as a deodorant at no more than 12 percent in formulation with the bee repellent butanoic anhydride applied in an absorbent pad over the hive.

[FR Doc.75-14876 Filed 6-6-75;8:45 am]

[40 CFR Part 421]

[FRL 384-7]

NONFERROUS METALS MANUFACTURING POINT SOURCE CATEGORY

Effluent Limitations and Guidelines

The purpose of this notice is to propose amendments to Subpart A—Bauxite Refining, and Subpart C—Secondary Aluminum Smelting, of 40 CFR Part 421—Nonferrous Metals Manufacturing Point Source Category. On April 8, 1974, the Environmental Protection Agency published a notice of final rulemaking establishing effluent limitations guidelines for existing sources and standards of performance and pretreatment standards for new sources for three subcategories of the nonferrous metals category—bauxite refining, primary aluminum smelting and secondary aluminum smelting. 40 CFR Part 421. The Agency has continued to review the regulations, both in the context of litigation filed on these particular regulations (Reynolds Metals Co. v. EPA, C.A. 4, Civ. No. 74-1760) and in considering the impact of issues raised in other guideline reviews on Part 421. As a result of this review, it has been determined that certain amendments would be appropriate. These amendments are the subject of this notice.

In Part 421 the Administrator established for the bauxite refining subcategory an effluent limitation for existing plants of "no discharge of process waste water pollutants to navigable waters." The treatment technology relied upon in defining the effluent limitations was total impoundment. Recognizing the difficulty in achieving "no discharge," in the face of significant rainfall, the regulations allow for discharge of excess rainfall that falls within the impoundment. Under the circumstances, precise definition of the term "within the impoundment" is important. While the Agency is not prepared to define the impoundment area to include the entire countryside draining into the plant area, some expansion of the area beyond the impoundment dam itself appears to be appropriate. It is therefore proposed that a definition similar to that proposed for inclusion in the hydrochloric acid subcategory of the inorganic chemicals industry (40 FR 1712, January 9, 1975) be adopted for the bauxite refining subcategory. The proposed definition would make it clear that the term "within the impoundment" refers to the water surface area within the impoundment dam at maximum capacity, the area of the inside and outside slopes of the dam, the surface area between the outside edge of the seepage ditches and the bottom of the outside slope of the dam. The effect of the proposed definition is to give credit for all rainfall within this extended drainage area, in the calculation of the volume of water which may be discharged from the impoundment.

With regard to the regulations for the secondary aluminum smelting subcategory (40 CFR Part 421, Subpart C), an issue was raised during litigation concerning a possible ambiguity as to the applicability of the regulations to various waste streams. In developing the guidelines and standards of performance applicable to these sources, the Agency concentrated on wastes in fume-scrubbing wastewaters where aluminum fluoride is used in the magnesium removal process and wastewaters from metal cooling, establishing a limitation of "no discharge," and on wastes in fume-scrubbing wastewaters where chlorine is used in the magnesium removal process and in wet residue milling wastewaters, establishing numerical limitations for these two waste streams. It was not intended that the regulations apply at this time to wastes in a fourth, less significant, waste stream including waste from furnace wet scrubbers. In reviewing the regulations, however, some ambiguity as to the intent to exclude this latter waste stream from coverage of the regulations appears to exist. An amendment to Subpart C of the regulations is therefore proposed, to clarify the applicability of the regulations to the various waste streams.

Interested persons may participate in the rulemaking by submitting written comments in triplicate to the EPA Office of Public Affairs, Environmental Protection Agency, Washington, D.C. 20460, Attention: Ms. Ruth Brown, A-107. Comments on all aspects of the proposed regulations are solicited. In the event comments are in the nature of criticisms as to the adequacy of data available, or which may be relied upon by the Agency, comments should identify and if possible provide any additional data which may be available and indicate why such data are essential to the development of the regulations. In the event comments address the approach taken by the Agency,

EPA solicits suggestions as to what alternative approach should be taken and why and how this approach better satisfies the detailed requirements of sections 301, 304(b) and 306 of the Act.

A copy of all public comments received will be available for inspection and copying at the EPA Freedom of Information Center, Room 204, West Tower, Waterside Mall, 401 M St. SW., Washington, D.C. All of the materials made available during the initial rulemaking leading to promulgation of the regulations proposed to be amended will also continue to be maintained at this location for public review and copying. The EPA Information regulation, 40 CFR Part 2, provides that a reasonable fee may be charged for copying.

All comments received on or before July 9, 1975 will be considered.

In consideration of the foregoing, it is proposed that 40 CFR Part 421 be amended as set forth below.

Dated: June 3, 1975.

RUSSELL E. TRAIN,
Administrator.

Subpart A—Bauxite Refining Subcategory

§ 421.11 [Amended]

Paragraph 421.11 is amended by adding new sections (d) and (e) to read as follows:

* * * * *

(d) For all impoundments the term "within the impoundment" for purposes of calculating the volume of process wastewater which may be discharged, shall mean the surface area within the impoundment at the maximum capacity plus the area of the inside and outside slopes of the impoundment dam and the surface area between the outside edge of the impoundment dam and seepage ditches upon which rain falls and is returned to the impoundment. For the purpose of such calculations, the surface area allowance for external appurteances to the impoundment shall not be more than 30 percent of the water surface area within the impoundment dam at maximum capacity.

(e) The term "pond water surface area" for the purpose of calculating the volume of waste water shall mean the area within the impoundment for rainfall and the actual water surface area for evaporation.

Subpart C—Secondary Aluminum Smelting

Section 421.30 is amended to read as follows:

§ 421.30 Applicability; description of the secondary aluminum smelting subcategory.

The provisions of this subpart are applicable to discharges of fume-scrubbing wastewaters where aluminum fluoride or chlorine is used in the magnesium removal process and to wet residue milling and metal cooling wastewaters resulting from the recovery, processing, and remelting of aluminum scrap to produce metallic aluminum alloys.

[FR Doc.75-14998 Filed 6-6-75;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 20419]

RENEWAL OF BROADCAST STATION LICENSE

Revision of FCC Form 303 Application; Order Extending Time for Filing Comments

Revision of FCC Form 303 Application for Renewal of Broadcast Station License And Certain Rules Relating Thereto

1. On April 11, 1975, the Commission released a "Notice of Inquiry and Notice of Proposed Rulemaking" in the above-captioned proceeding and publication was made in the FEDERAL REGISTER on April 15, 1975, 40 FR 16967. Comments and replies thereto are scheduled to be filed on June 3, 1975 and June 18, 1975, respectively.

2. The Commission has received several requests for an extension of time within which to file comments in this proceeding. The National Association of Broadcasters requests a two-week extension in order to afford interested parties, especially small market broadcasters whose time and available personnel are limited, a greater opportunity to participate in this important proceeding. The licensee of radio and television Stations WCCO, Minneapolis, Minnesota, submits that because of the relationship of the instant proceeding to that in Docket No. 19715, the date for the filing of comments herein should be extended to June 30, 1975.[1] In the alternative, it is suggested that resolution of Docket No. 19715 should precede the submission of comments in the instant proceeding.

3. We are not persuaded that submission of comments in this proceeding need await final resolution of Docket No. 19715. Questions 20–22 of proposed Form 303–R deal with the manner in which the renewal applicant can document its ascertainment efforts. We would expect that comments herein be directed to that matter, rather than to the continuous ascertainment procedures being explored in Docket No. 19715. While we are of the view that this proceeding should continue to go forward, we do believe that the public interest would be served by extending the time within which to file comments. It is hoped that our action herein will further encourage participation in this important proceeding not only by broadcasters, but also by interested parties from all segments of the public.

4. *Accordingly, it is ordered*, That the dates for filing comments and reply comments in this proceeding are extended to and including June 30, 1975 and July 15, 1975, respectively.

5. *It is further ordered*, That the requests for extension of time to file comments, filed by the National Association of Broadcasters and Midwest Radio-Television, Inc., on May 16, 1975 and May 23, 1975, respectively, are granted to the extent indicated above and are denied in all other respects.

6. This action is taken pursuant to authority found in section 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

Adopted: May 29, 1975.

Released: June 3, 1975.

[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.75-14953 Filed 6-8-75;8:45 am]

[47 CFR Part 73]

[Docket No. 20418, RM-2346]

VHF STATIONS; TELEVISION TABLE OF ASSIGNMENTS

Order Extending Time for Filing Comments and Reply Comments

In the matter of petition for rulemaking to amend television table of assignments to add new VHF stations in the top 100 markets and to insure that the new stations maximize diversity of ownership, control and programming.

1. On April 1, 1975, the Commission adopted a notice of proposed rulemaking in the above-entitled proceeding. Publication was made in the FEDERAL REGISTER on April 18, 1975, 40 FR 17321. The dates for filing comments and reply comments are presently July 11 and August 11, 1975.

2. On May 15, 1975, the Association of Maximum Service Telecasters, Inc. (MST) by Counsel, requested that the time for filing comments be extended to and including October 15, 1975. Counsel states that the Commission's Notice specifies a host of topics to be discussed and adds that old materials must be reviewed, updated information must be marshalled, and material on new issues must be compiled. Counsel states the job is big and time-consuming therefore necessitating the requested additional time.

3. We are of the view that the public interest would be served by extending the time in this proceeding. *Accordingly, it is ordered*, That the dates for filing comments and reply comments are extended to and including October 15, 1975 and November 18, 1975, respectively.

4. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), and 303(r) of the Communications Act

[1] Docket No. 19715 concerns the ascertainment of community problems by broadcast applicants, including those seeking renewal of their broadcast licenses. On May 15, 1975, the Commission released a Further Notice of Inquiry and Proposed Rulemaking and provided for the filing of comments only by June 30, 1975. 40 FR 22092, published May 20, 1975. Because of the extensive record earlier developed in that proceeding, the filing of reply comments was not solicited and extension of the filing date for comments was not contemplated.

of 1934, as amended, and §§ 0.281 and 1.46 of the Commission's rules.

Adopted: June 2, 1975.

Released: June 4, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.75-14954 Filed 6-6-75;8:45 am]

FEDERAL ENERGY ADMINISTRATION

[10 CFR Part 205]

DISALLOWANCE AND ORDERS OF DISALLOWANCE

Proposed Procedures

FEA regulations 10 CFR 212.83(f) provide:

> Whenever a firm uses a landed cost which is computed by use of its customary accounting procedures, the FEA may allocate such costs between the affiliated entities if it determines that such allocation is necessary to reflect the actual costs of these entities or the FEA may disallow costs which it determines to be in excess of the proper measurement of costs.

Further, FEA may require adjustment in landed costs pursuant to 10 CFR 212.84. To clarify the procedures which will be used by FEA in issuing notices of proposed disallowance and orders of disallowance pursuant to these sections, FEA is hereby giving notice of proposed amendments to the procedural regulations of Part 205.

The proposed regulations provide that persons receiving notices of proposed disallowance shall have 10 days to respond before orders of disallowance are issued; the proposed regulations prescribe the method of filing responses and the content of such responses. Notices of proposed disallowance shall automatically ripen into orders of disallowance if no reply is received within the 10-day notice period. Upon review of any reply, FEA will issue a final order of disallowance as appropriate. Orders of disallowance are made appealable. These regulations if adopted will become effective as of the date of this notice.

Interested persons are invited to submit written data, views, or arguments with respect to the revision and amendments to Executive Communications, Room 3309, Federal Energy Administration, Box DK, The Federal Building, Washington, D.C. 20461. Comments should be identified on the outside of the envelope and on the documents submitted to the Federal Energy Administration with the designation "Notice of Proposed Disallowance and Order of Disallowance." Fifteen (15) copies should be submitted. All comments received by 4:30 p.m., e.d.s.t., June 19, 1975, will be considered by the Federal Energy Administration in evaluating the revision and amendments.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

FEA finds that the proposed regulation is not "likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses." Therefore, the provision of section 7(i)(1)(C) of the Federal Energy Administration Act, Pub. L. 93-275, relating to an opportunity for oral presentation of views, data, and arguments, is hereby waived.

In accordance with the provisions of section 7(c)(2) of the Federal Energy Adminisration Act of 1974, which provide for submission of proposed rules for comment by the Administrator of the Environmental Protection Agency, these amendments have been appropriately reviewed. The Administrator has advised FEA that he has no comment.

(Federal Energy Administration Act of 1974, Pub. L. 93-275; E. O. 11790, 39 FR 23185; Trade Expansion Act of 1962, Pub. L. 87-794, as amended; Proc. No. 3279, 24 FR 1781, as amended by Proc. No. 4210, 38 FR 9645, Proc. No. 4227, 38 FR 16195, Proc. No. 4317, 38 FR 35103, Proc. No. 4341, 40 FR 3956, Proc. No. 4355, 40 FR 10437, and Proc. No. 4370, 40 FR 19421, and Proc. No. 4377, 40 FR 23429)

In consideration of the foregoing, it is proposed that Part 205 of Chapter II, Title 10 of the Code of Federal Regulations be amended as set forth below, effective June 4, 1975.

Issued in Washington, D.C., June 4, 1975.

ROBERT E. MONTGOMERY, Jr.,
General Counsel,
Federal Energy Administration.

1. Subpart O is amended in the caption to read as follows:

Subpart O—Notice of Probable Violation, Remedial Order, Notice of Proposed Disallowance, and Order of Disallowance

2. Section 205.190 is amended in paragraph (a) as follows:

§ 205.190 Purpose and scope.

(a) This subpart establishes the procedures for determining the nature and extent of violations of the FEA regulations and the procedures for issuance of a notice of probable violation, a remedial order, a remedial order for immediate compliance, a notice of proposed disallowance, or an order of disallowance.

* * * * *

3. Section 205.194 is revised to read as follows:

§ 205.194 Notice of proposed disallowance and order of disallowance.

(a) The FEA shall begin a proceeding under this section by issuing a notice of proposed disallowance pursuant to § 212.83(f) or § 212.84(d).

(b) Within 10 days of the service of a notice of proposed disallowance, the person upon whom the notice is served may file a reply with the FEA office that issues the notice of proposed disallowance at the address provided in § 205.12. The FEA may extend the 10-day period for good cause shown.

(c) The reply shall be in writing and signed by the person filing it. The reply shall contain a full and complete statement of all relevant facts pertaining to the act or transaction that is the subject of the notice of proposed disallowance.

(d) The reply shall include a discussion of all relevant authorities, including, but not limited to, FEA rulings, regulations, interpretations, and decisions on appeals and exceptions relied upon to support the particular position taken.

(e) The reply should indicate whether the person requests or intends to request a conference regarding the notice. Any request not made at the time of the reply shall be made as soon thereafter as possible to insure that the conference is held when it will be most beneficial. A request for a conference must conform to the requirements of Subpart M of this part.

(f) If a person has not filed a reply with the FEA within the 10-day period provided, and the FEA has not extended the 10-day period, that person shall be deemed to have conceded the accuracy of the factual allegations and legal conclusions stated in the notice of proposed disallowance, and the notice of disallowance shall become an order of disallowance.

(g) If the FEA finds, after the 10-day period provided in § 205.194, and after consideration of any reply filed, that an order of disallowance is appropriate, it shall issue such an order.

(h) If the FEA finds, after the 10-day period provided in § 205.194(b) or after that period as extended by FEA pursuant to that paragraph, that for any reason the issuance of an order of disallowance would not be appropriate, or that the amount of the disallowance or the means of affecting the disallowance, as stated in a notice of proposed disallowance, should be modified, it shall notify, in writing, the person to whom a notice of proposed disallowance has been issued that the notice is rescinded or modified, setting out the modification and the reasons therefor.

(i) A disallowance order issued under this section shall be effective upon issuance, in accordance with its terms, until stayed, suspended, modified, or rescinded. An order of disallowance shall remain in effect notwithstanding the filing of an application to modify or rescind it under Subpart J of this part.

(j) An order of disallowance may be referred at any time to the Department of Justice for appropriate action in accordance with Subpart P.

4. Section 205.195 is revised to read as follows:

§ 205.195 Remedies.

A remedial order, a remedial order for immediate compliance, or an order of disallowance may require the person to whom it is directed to roll back prices, to refund amounts paid to such person that are in excess of the amount permitted under Part 212 of this chapter or to take such other action as the FEA determines

is necessary to eliminate or to compensate for the effects of a violation.

5. Section 205.196 is added to read as follows:

§ 205.196 Appeal.

(a) No notice of probable violation or notice of proposed disallowance issued pursuant to this subpart shall be deemed to be an action of which there may be an administrative appeal pursuant to Subpart H of this part.

(b) Any person to whom a remedial order, a remedial order for immediate compliance, or an order of disallowance is issued pursuant to this subpart may file an appeal with the FEA Office of Exceptions and Appeals or with the appropriate Regional Office in accordance with Subpart H of this part. The appeal must be filed within 10 days of service of the order from which the appeal is taken, or within 10 days of the date at which a notice of proposed disallowance has become an order of disallowance pursuant to § 205.194(b).

[FR Doc.75-14935 Filed 6-4-75;2:16 pm]

FEDERAL POWER COMMISSION

[18 CFR Parts 2, 154, 157]

[Docket No. RM75-14]

NATURAL GAS

National Rates for Jurisdictional Sales; Further Extension of Time

MAY 30, 1975.

National rates for jurisdictional sales of natural gas dedicated to interstate commerce on or after January 1, 1973, for the Period January 1, 1975, to December 31, 1976.

Notice is hereby given that the date for filing comments in the above-designated rulemaking, fixed by order issued December 4, 1974, (39 FR 43093, December 10, 1974) and most recently extended by notice issued May 13, 1975 (40 FR 22006, May 20, 1975), is further extended to and including June 10, 1975. The date for filing reply comments is extended to and including July 10, 1975.

By direction of the Commission.

MARY B. KIDD,
Acting Secretary.

[FR Doc.75-14914 Filed 6-6-75;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

Internal Revenue Service

PROHIBITIONS ON SECURITIES TRANSACTIONS WITH CERTAIN BROKER DEALERS, REPORTING DEALERS AND BANKS

Notice of Extension of Exemption

CROSS REFERENCE: For a document concerning an extension of an exemption by both the Internal Revenue Service and the Department of Labor relating to certain securities transactions between employee benefit plans and certain broker-dealers, reporting dealers and banks from the prohibited transaction provisions of section 4975 of the Internal Revenue Code of 1954 and section 406 of the Employee Retirement Income Security Act of 1974, see FR Doc. 75-15120, infra.

DEPARTMENT OF DEFENSE

Department of the Army

ARMY ADVISORY PANEL ON ROTC AFFAIRS

Meeting

In accordance with Pub. L. 92-463, dated October 6, 1972, notice is given of a meeting of the Army Advisory Panel on ROTC Affairs, as follows:

Date of Meeting: July 8-10, 1975.
Place: Fort Knox, Kentucky.

PROPOSED SCHEDULE OF ACTIVITIES

JULY 8

0830-1730 Observe ROTC Cadet Training.

JULY 9

0820-1700 Conference. Proposed Discussion Topics Include:
- ROTC Cadet Attrition.
- ROTC Scholarship Program.
- Senior ROTC Curriculum.
- ROTC Recruiting and Publicity Activities.
- Future ROTC Programs.
- Army Assistance to Military Colleges.
- ROTC Camp Peer Ratings.
- How PMS Fares in Relation to Their Counterparts.
- Army Assistance to Military Institutes.

JULY 10

0740-1130 Attend ROTC Basic Camp Activities.

This meeting is open to the public.

Dated: June 2, 1975.

CLINTON A. FIELDS,
Major, GS, Army Advisory Panel Executive Secretary, on ROTC Affairs.

[FR Doc.75-14884 Filed 6-6-75;8:45 am]

Department of the Navy

CHIEF OF NAVAL OPERATIONS EXECUTIVE PANEL ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Chief of Naval Operations Executive Panel Advisory Committee will hold a closed meeting on July 9-10, 1975, at the Pentagon, Washington, D.C. The sessions will commence at 9 a.m. and terminate at 5:30 p.m. daily.

The agenda will consist of matters required by Executive Order to be kept secret in the interest of national defense, including intelligence systems and applications, security programs, advanced and specialized technology, and long-range Navy plans. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that this meeting be closed to the public because it will be concerned with matters listed in section 552(b)(1) of title 5, U.S.C.

Dated: June 3, 1975.

WILLIAM O. MILLER,
Rear Admiral, JAGC, U.S. Navy, Deputy Judge Advocate General.

[FR Doc.75-14945 Filed 6-6-75;8:45 am]

Office of the Secretary

DEFENSE SCIENCE BOARD TASK FORCE ON DEPARTMENT OF DEFENSE SPACE SHUTTLE UTILIZATION

Advisory Committee Meeting

The Defense Science Board Task Force on Department of Defense Space Shuttle Utilization scheduled to meet in closed session on 18 and 19 June 1975 is cancelled and is rescheduled to meet on June 23 and 24, 1975, at the Pentagon, Washington, DC 20301.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Director of Defense Research and Engineering on overall research and engineering and to provide long range guidance in these areas to the Department of Defense.

The Task Force will examine how the Space Shuttle with its new capabilities can lead to more effective military space operations in the future.

In accordance with Pub. L. 92-463, section 10, Paragraph (d), it has been determined that Defense Science Board meetings concern matters listed in section 552(b) of Title 5 of the United States code, particularly Subparagraph (1) thereof, and that the public interest requires such meetings to be closed insofar as the requirements of subsections (a)(1) and (a)(3) of section 10, Pub. L. 92-463 are concerned.

MAURICE W. ROCHE,
Director, Correspondence and Directives OASD (Comptroller).

JUNE 4, 1975.

[FR Doc.75-14975 Filed 6-6-75;8:45 am]

DEFENSE SCIENCE BOARD TASK FORCE ON "ELECTRONIC TEST EQUIPMENT"

Advisory Committee Meeting

Pursuant to the provisions of Pub. L. 92-463, notice is hereby given that the Defense Science Board Task Force on "Electronic Test Equipment" will meet in open session on July 9 and 10, in Room 9W67, National Center Building #1, 2511 Jefferson Davis Highway, Arlington, Virginia. The session will commence at 9:00 a.m. each day.

The mission of the Defense Science Board is to advise the Secretary of Defense and Director of Defense Research and Engineering on overall research and engineering and to provide long-range guidance in these areas to the Department of Defense.

The primary responsibility of the Task Force is to examine the greater use of the Department of Defense of privately-developed, commercially-available, off-the-shelf electronic test equipment, including modifications thereof, with the goal of achieving economy and reliability benefits for the several Armed Services and to recommend policies and procedures which will maximize these benefits.

This will be the fifth meeting of the Task Force. The planned agenda will cover three general areas:

1. Procurement.
2. Logistics.
3. Applications, Requirements and Equipment.

The detailed discussions and investigations into these general areas will be conducted by working groups made up of designated Task Force members of their designated representatives and selected Task Force observers. Each working group will formulate proposals related to its general area of responsibility corresponding to one of the three specified above. The working group proposals as approved by the Task Force will form the basis for the ultimate Task Force recommendations.

Persons wishing to attend are advised that a reasonable quantity of seating for observers will be available on a first-come, first-seated basis. No specific arrangements or notification of desire to attend is necessary.

The Executive Secretary for the Task Force is Mr. Rudolph J. Sgro, OASD (I&L) WS, Room 2A318, Pentagon, Washington, D.C. 20301.

MAURICE W. ROCHE,
Director, Correspondence and Directives OASD (Comptroller).

JUNE 4, 1975.

[FR Doc.75-14976 Filed 6-6-75;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM 25711]

NEW MEXICO

Application

MAY 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), Llano, Inc. has applied for a 4 inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN,
NEW MEXICO

T. 21 S., R. 32 E.
Sec. 11, SW¼NE¼, E½SW¼ and NW¼SE¼.

This pipeline will convey natural gas across .566 miles of national resource land in Lea County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, PO Box 1397, Roswell, NM 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.75-14946 Filed 6-6-75;8:45 am]

Fish and Wildlife Service

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant. Cape Romain National Wildlife Refuge, Route 1, Box 191, Awendaw, South Carolina 29429, Mr. George R. Garris.

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

OMB NO. 42-R1429

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED:
(a) Scientific migratory patterns, environmental pollutant studies, and behavioral patterns by Patuxent Research Center and Refuge personnel, on Brown Pelicans, including banding.
(b) Authority to collect dead birds or parts.

3. APPLICANT, (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Cape Romain NWR
Mr. George R. Garris
Route 1, Box 191
Awendaw, S. C., 29429
Phone 803-928-3368

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☐ MS.
HEIGHT | WEIGHT
DATE OF BIRTH | COLOR HAIR | COLOR EYES
PHONE NUMBER WHERE EMPLOYED | SOCIAL SECURITY NUMBER
OCCUPATION

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Scientific Study, Banding, Collecting on South Carolina Rookery or Colony Areas. Principal areas are on Cape Romain NWR

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☐ NO
(If yes, list license or permit number)
US FWS Permit 6250

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☒ YES ☐ NO
(If yes, list jurisdictions and type of documents)
Memo of Authority to Band from S. C. Wildlife Resources Dept. 3/15/71 - Good until revoked.

9. CERTIFIED CHECK OR MONEY ORDER (If applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$ NA

10. DESIRED EFFECTIVE DATE
May, 1975

11. DURATION NEEDED
1 year

12. ATTACHMENTS: THE SPECIFIC INFORMATION REQUIRED FOR THIS TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(a)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
50 C F R 13, 13.12 (b)
50 C F R 17, 17, 23

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) George R. Garris | DATE 4/14/75

3-200 (6/74)

George R. Garris

Part 12, Attachments: From 50 CFR 13, Section 13.12(b); 50 CFR 17, Section 17.23,

Type of permit	*Section*
Endangered wildlife permits	17.23 (50 CFR 17)
Scientific	

50 CFR 17.23.

A. (1) Pelican, Brown (Pelecanus occidentalis).

Banding—up to 300, at flight stage, collection of eggs from nest marked for special sampling, and collection of whole or parts of dead birds.

(2) NA.

(3) Under Refuge Management Study established on a cooperative basis between Cape Romain NWR and Patuxent Wildlife Research Center, the study was initiated to extend over a five year period terminating in August, 1975.

The study, "Relations of the Brown Pelican to Certain Environmental Pollutants" conducted by Lawrence S. Blus, involves observation, banding, egg collecting to determine shell thickness, egg fertility and other factors influenced by certain pollutants, i.e., DDE, DDD, DDT, Dieldrin, etc.

(4) Dead birds (whole or parts), egg shells and contents will be used or maintained at Patuxent Wildlife Research Center Fish and Wildlife Service, U.S. Department of the Interior, Laurel, Maryland, 20811.

(5) NA. Does not involve importation.
(6) NA.
(7) NA.
B. (1) NA.
(2) NA.
C. (1) NA.
(2) NA.
(3) NA.
(4) Expertise and facilities adequate.
(5) NA limited egg removal, approximately 50.
D. NA no importation.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the

Service's office in Suite 600, 1612 K Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. All relevant comments received on or before July 9, 1975, will be considered.

Dated: June 2, 1975.

C. R. BAVIN,
Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service.

[FR Doc.75-15007 Filed 6-6-75;8:45 am]

Office of Hearings and Appeals

[Docket No. M 75-111]

BISHOP COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, (30 U.S.C. 861(c) (1970)), Bishop Coal Company has filed a petition to modify the application of 30 CFR 75.1101-4 to the following mines: Bishop Nos. 33-37, 34 and 36 Mines, located in McDowell County, West Virginia.

30 CFR 75.1101-4 provides:

As a part of the deluge-type water spray system, two or more branch lines of nozzles shall be installed. The maximum distance between nozzles shall not exceed 8 feet.

Petitioner requests modification of § 75.1101-4 to permit use of a single line of nozzles as part of its deluge water spray system at main and secondary belt-conveyor drives in the above-captioned mines.

(1) Nozzles on the proposed single line would be maintained at a distance of not more than eight feet apart in accordance with § 75.1101-4.

(2) The proposed modification will at times guarantee no less than the same measure of protection afforded the miners by use of the branch line system required by § 75.1101-4.

(3) The capability of the single line system to meet the intent of the subject regulation has been confirmed by Mr. Will Jamison of the Lee Engineering Company. Mr. Jamison was a member of a research team which operated under MESA's Technical Support Group to determine the efficiency of the proposed single line system. The preliminary report of this Technical Support Group concluded that a single line system with nozzles spaced not more than eight feet apart is as efficient for safety purposes as the branch line system. Petitioner already has installed several single line systems in its mines after obtaining the concurrence of Mr. William R. Parks, former MESA District 4 Manager, on December 5, 1970.

(4) Petitioner requests the modification herein described for reasons of economy. The cost of piping, nozzles and man-hours of installation and maintenance of branch line systems is approximately double the cost of the equally effective single line system.

(5) *Petitioner's Alternate Method.* (a) The Petitioner shall install a single line of nozzles as part of its deluge-type spray system at main and secondary belt-conveyor drives in the above-captioned mines.

(b) The single branch line shall have a minimum inside diameter of 2 inches, shall be installed at or above the plane of the top belt, and shall be offset to one side of the belt.

(c) The nozzles shall be installed at intervals of between 6 and 8 feet and shall be positioned so as to insure that a pattern of water released by the nozzles will be directed at the top and bottom surfaces of the top belt and the top surface of the bottom belt.

(d) Petitioner's proposed system shall meet the requirements of §§ 75.1101-1, 75.1101-2, and 75.1101-3 of the regulations.

(e) All supplementary firefighting equipment and fire-detection systems for belt conveyor installations and permanent electrical installations shall be provided as required by subpart L of the Code of Federal Regulations.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before July 9, 1975. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia, 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director,
Office of Hearings and Appeals.

MAY 29, 1975.

[FR Doc.75-14885 Filed 6-6-75;8:45 am]

[Docket No. M 75-112]

ITMANN COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Itmann Coal Company has filed a petition to modify the application of 30 CFR 75.1101-4 to the following mines: Itmann Nos. 1, 2, 3 and 4 Mines, located in Wyoming County, West Virginia.

30 CFR 75.1101-4 provides:

As a part of the deluge-type water spray system, two or more branch lines of nozzles shall be installed. The maximum distance between nozzles shall not exceed 8 feet.

Petitioner requests modification of § 75.1101-4 to permit use of a single line of nozzles as part of its deluge water spray system at main and secondary belt-conveyor drives in the above-captioned mines.

(1) Nozzles on the proposed single line would be maintained at a distance of not more than eight feet apart in accordance with § 75.1101-4.

(2) The proposed modifications will at all times guarantee no less than the same measure of protection afforded the mintrs by use of the branch line system required by § 75.1101-4.

(3) The capability of the single line system to meet the intent of the subject regulation has been confirmed by Mr. Will Jamison of the Lee Engineering Company. Mr. Jamison was a member of a research team which operated under MESA's Technical Support Group to determine the efficiency of the proposed single line system. The preliminary report of this Technical Support Group concluded that a single line system with nozzles spaced not more than eight feet apart is as efficient for safety purposes as the branch line system. Petitioner already has installed several single line systems in its mines after obtaining the concurrence of Mr. William R. Parks, former MESA District 4 Manager, on December 5, 1970.

(4) Petitioner requests the modification herein described for reasons of economy. The cost of piping, nozzles and man-hours of installation and maintenance of branch line systems is approximately double the cost of the equally effective single line system.

(5) *Petitioner's Alternate Method.* (a) The Petitioner shall install a single line of nozzles as part of its deluge-type spray system at main and secondary belt-conveyor drives in the above-captioned mines.

(b) The single branch line shall have a minimum inside diameter of 2 inches, shall be installed at or above the plane of the top belt, and shall be offset to one side of the belt.

(c) The nozzles shall be installed at intervals of between 6 and 8 feet and shall be positioned so as to insure that a pattern of water released by the nozzles will be directed at the top and bottom surfaces of the top belt and the top surface of the botton belt.

(d) Petitioner's proposed system shall meet the requirements of §§ 75.1101-1, 75.1101-2, and 75.1101-3 of the regulations.

(e) All supplementary firefighting equipment and fire-detection systems for belt conveyor installations and permanent electrical installations shall be provided as required by subpart L of the Code of Federal Regulations.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before July 9, 1975. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director,
Office of Hearings and Appeals.

MAY 29, 1975.

[FR Doc.75-14886 Filed 6-6-75;8:45 am]

[Docket No. M 75-110]

POCAHONTAS FUEL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Pocahontas Fuel Company has filed a petition to modify the application of 30 CFR 75.1101-4 to the following mines:

Mine	Location by County and State
Beechfork	McDowell, W. Va.
Buckeye	Wyoming, W. Va.
Cook No. 6	Wyoming, W. Va.
Crane Creek Nos. 6, 11, and 12	Mercer, W. Va.
Dorothy Eagle No. 5	Wyoming, W. Va.
Eckman Nos. 11 and 12	McDowell, W. Va.
Eckman-Page	McDowell, W. Va.
Hernshaw No. 2	Wyoming, W. Va.
Jenkinjones	McDowell, W. Va.
Laurel No. 2	Tazewell, Va.
Lynco No. 2	Wyoming, W. Va.
Maitland	McDowell, W. Va.
Matthews	Claiborne, Tenn.
Modoc	Mercer, W. Va.
Rowland Nos. 2, 3, 4, and 10	Raleigh, W. Va.
Turkey Gap	Mercer, W. Va.

30 CFR 75.1101-4 provides:

As a part of the deluge-type water spray system, two or more branch lines of nozzles shall be installed. The maximum distance between nozzles shall not exceed 8 feet.

Petitioner requests modification of § 75.1101-4 to permit use of a single line of nozzles as part of its deluge water spray system at main and secondary belt-conveyor drives in the above-captioned mines.

(1) Nozzles on the proposed single line would be maintained at a distance of not more than eight feet apart in accordance with § 75.1101-4.

(2) The proposed modification will at all times guarantee no less than the same measure of protection afforded the miners by use of the branch line system required by § 75.1101-4.

(3) The capability of the single line system to meet the intent of the subject regulation has been confirmed by Mr. Will Jamison of the Lee Engineering Company. Mr. Jamison was a member of a research team which operated under MESA's Technical Support Group to determine the efficiency of the proposed single line system. The preliminary report of this Technical Support Group concluded that a single line system with nozzles spaced not more than eight feet apart is as efficient for safety purposes as the branch line system. Petitioner already has installed several single line systems in its mines after obtaining the concurrence of Mr. William R. Parks, former MESA District 4 Manager, on December 5, 1970.

(4) Petitioner requests the modification herein described for reasons of economy. The cost of piping, nozzles and man-hours of installation and maintenance of branch line systems is approximately double the cost of the equally effective single line system.

(5) *Petitioner's Alternate Method.* (a) The Petitioner shall install a single line of nozzles as part of its deluge-type spray system at main and secondary belt-conveyor drives in the above-captioned mines.

(b) The single branch line shall have a minimum inside diameter of 2 inches, shall be installed at or above the plane of the top belt, and shall be offset to one side of the belt.

(c) The nozzles shall be installed at intervals of between 6 and 8 feet and shall be positioned so as to insure that a pattern of water released by the nozzles will be directed at the top and bottom surfaces of the top belt and the top surface of the bottom belt.

(d) Petitioner's proposed system shall meet the requirements of §§ 75.1101-1, 75.1101-2, and 75.1101-3 of the regulations.

(e) All supplementary firefighting equipment and fire-detection systems for belt conveyor installations and permanent electrical installations shall be provided as required by subpart L of the Code of Federal Regulations.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before July 9, 1975. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director,
Office of Hearings and Appeals.

MAY 29, 1975.

[FR Doc.75-14887 Filed 6-6-75;8:45 am]

DEPARTMENT OF STATE

[Public Notice CM-5/59]

GOVERNMENT ADVISORY COMMITTEE ON INTERNATIONAL BOOK AND LIBRARY PROGRAMS

Meeting

The Government Advisory Committee on International Book and Library Programs will meet in open session in Room 1406 in the Department of State, 2201 C Street, NW., Washington, D.C. from 9 a.m. to 4:30 p.m. on July 17, 1975. Members of the public are invited to attend.

The Committee will discuss:

1. The UNESCO seminar on reading.
2. The Florence and Beirut Agreements, and
3. A future Committee meeting on information programs of other countries.

For purposes of fulfilling building security requirements, anyone wishing to attend the meeting must advise the Executive Secretary by telephone in advance of the meeting. Telephone: 632-2841.

Dated: June 2, 1975.

CAROL M. OWENS,
Executive Secretary.

[FR Doc.75-14948 Filed 6-6-75;8:45 am]

DEPARTMENT OF AGRICULTURE

Forest Service

CARRIZO GRAZING ADVISORY BOARD

Meeting

The Carrizo Grazing Advisory Board will meet at 2 p.m. on July 11, 1975, at the District Ranger's Office, 212 East 10th Street, Springfield, Colorado 81073.

The purpose of this meeting is to discuss drought conditions and management situations on the Carrizo Unit of the Comanche National Grassland.

This meeting will be open to the public. Persons who wish to attend should notify the District Ranger's Office, P.O. Box 127, Springfield, Colorado 81073, (303) 523-6591. Written statements may be filed with the board before or after the meeting.

The board has no established rules for public participation.

Dated: June 2, 1975.

R. N. RIDINGS,
Forest Supervisor.

[FR Doc.75-14942 Filed 6-6-75;8:45 am]

RIO GRANDE NATIONAL FOREST TIMBER MANAGEMENT PLAN REVISION

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the Timber Management Plan for the Rio Grande National Forest. The Forest Service report number is USDA-FS-R2-FES(Adm) FY-75-02.

This proposal is to revise the 1962 (Rev.) Timber Management Plan for the Rio Grande National Forest. Such plans are required to regulate the flow of timber products from National Forest lands.

The draft environmental statement was transmitted to CEQ on December 4, 1974.

This final environmental statement was transmitted to CEQ on June 2, 1975.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service
So. Agriculture Bldg., Room 3230
12th St. and Independence Ave., SW
Washington, D.C. 20250

USDA, Forest Service
11177 West 8th Avenue
P.O. Box 25127
Denver, Colorado 80225

USDA, Forest Service
Rio Grande National Forest
1803 West Highway 160
Monte Vista, Colorado 81144

A limited number of single copies are available upon request to W. J. Lucas, Regional Forester, USDA Forest Service, 11177 West 8th Avenue, P.O. Box 25127, Denver, Colorado 80225.

Copies of the environmental statement have been sent to various Federal, State,

and local agencies as outlined in the CEQ guidelines.

Dated: June 2, 1975.

CLAYTON B. PIERCE,
Director, Multiple Use and Environmental Quality Coordination.

[FR Doc.75-14949 Filed 6-6-75;8:45 am]

TIMPAS UNIT GRAZING ADVISORY BOARD

Meeting

The Timpas Unit Grazing Advisory Board will meet at 1:30 p.m. on July 15, 1975, at the Forest Service office, East Highway 50, La Junta, Colorado 81050.

The purpose of this meeting is to discuss drought conditions and management situations on the Timpas Unit of the Comanche National Grassland.

This meeting will be open to the public. Persons who wish to attend should notify the District Ranger's Office, PO. Box 817, La Junta, Colorado 81050, (303) 384-2181. Written statements may be filed with the board before or after the meeting.

The board has no established rules for public participation.

Dated: June 2, 1975.

R. N. RIDINGS,
Forest Supervisor.

[FR Doc.75-14941 Filed 6-6-75;8:45 am]

WALLOWA VALLEY PLANNING UNIT

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Wallowa Valley Planning Unit, Wallowa-Whitman National Forest, Oregon. USDA-FS-R6-75-17-DES-(Adm.)

The environmental statement concerns a proposed resource allocation.

This draft environmental statement was transmitted to CEQ on June 2, 1975.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service
South Agriculture Bldg., Room 3230
12th St. and Independence Ave., SW
Washington, D.C. 20250.

USDA, Forest Service
Pacific Northwest Region
319 SW Pine Street
Portland, Oregon 97204

Wallowa-Whitman National Forest
Federal Building
Baker, Oregon 97814

A limited number of single copies are available upon request to Forest Supervisor, A. G. Oard, Wallowa-Whitman National Forest, Federal Building, Baker, Oregon 97814.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public, and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested.

Comments concerning the proposed action and requests for additional information should be addressed to A. G. Oard, Wallowa-Whitman National Forest, P.O. Box 907, Baker, Oregon 97814. Comments must be received by August 11, 1975, in order to be considered in the preparation of the final environmental statement.

ROBERT R. TYRREL,
Director,
Planning, Programing and Budgeting.

JUNE 2, 1975.

[FR Doc.75-14939 Filed 6-6-75;8:45 am]

Soil Conservation Service

BAYOU PLAQUEMINE BRULE WATERSHED PROJECT, LOUISIANA

Availability of Final Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; Part 1500 of the Council on Environmental Quality Guidelines (38 FR 20550, August 1, 1973); and Part 650 of the Soil Conservation Service Guidelines (39 FR 19650, June 3, 1974); the Soil Conservation Service, U.S. Department of Agriculture, has prepared a final environmental impact statement (EIS) for the Bayou Plaquemine Brule Watershed Project, Acadia and St. Landry Parishes, Louisiana, USDA-SCS-EIS-WS-(ADM)-75-3-(F)-LA.

The EIS concerns a plan for watershed protection, flood prevention, and drainage. The planned works of improvement include conservation land treatment supplemented by channel work. The channel work will include clearing on 26 miles of channels and 203 miles of channel excavation in a flatland watershed that is 80 percent cropland and grassland. Of the 229 miles of channel work proposed, 218 miles will involve those with ephemeral flow, 5 miles with intermittent flow, and 6 miles with ponded water. Only 2 miles of the total work will be undertaken on unmodified natural channels. The majority of the work, 227 miles, is on channels which are manmade or previously modified.

The final EIS has been filed with the Council on Environmental Quality.

Bayou Plaquemine Brule Watershed, Louisiana, Notice of Availability of Final Environmental Impact Statement.

A limited supply is available at the following location to fill single copy requests:

Soil Conservation Service, USDA
3737 Government Street
Post Office Box 1630
Alexandria, Louisiana 71301

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services)

Dated: May 30, 1975.

WILLIAM B. DAVEY,
Deputy Administrator for Water Resources, Soil Conservation Service.

[FR Doc.75-14943 Filed 6-6-75;8:45 am]

KICKAPOO CREEK WATERSHED (LIPAN) PROJECT, TEXAS

Availability of Final Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; Part 1500 of the Council on Environmental Quality Guidelines (38 FR 20550, August 1, 1973); and Part 650 of the Soil Conservation Service Guidelines (39 FR 19650, June 3, 1974); the Soil Conservation Service, U.S. Department of Agriculture, has prepared a final environmental impact statement (EIS) for the Kickapoo Creek Watershed (Lipan) Project, Erath, Hood, Palo Pinto, and Parker Counties, Texas, USDA-SCS-EIS-WS-(ADM)-74-17(F)-TX.

The EIS concerns a plan for watershed protection and flood prevention. The planned works of improvement provide for conservation land treatment and six floodwater retarding structures.

The final EIS has been filed with the Council on Environmental Quality.

A limited supply is available at the following location to fill single copy requests:

Soil Conservation Service, USDA, First National Bank Building, Temple, Texas 76501.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

Dated: May 30, 1975.

WILLIAM B. DAVEY,
Deputy Administrator for Water Resources, Soil Conservation Service.

[FR Doc.75-14944 Filed 6-6-75;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

ESCALADE, INC.

Petition for Determination

A petition by Escalade, Inc., of White Plains, New York, was accepted for filing on June 4, 1975, under section 251 of the Trade Act of 1974 and in conformity with "Adjustment Assistance Certification Regulations for Firms," 15 CFR Part 350, 40 FR 14921 (April 3, 1975) (the "Regulations"). The petitioner asserts that imported articles classified in items 700.35, 700.43, 700.45 and 700.55 of the Tariff Schedules of the United States ("TSUS") are like or directly competitive with footwear for men, women, misses, and children produced by the

firm's subsidiary, the Williams Manufacturing Company of Portsmouth, Ohio. Consequently, the United States Department of Commerce has instituted an investigation to determine whether increased imports into the United States contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the subject matter in the proceedings (as described in § 350.40(b) of the Regulations) may request a public hearing on the matter. A request for a hearing conforming to § 350.40 of the regulations must be received by the Director, Office of Trade Adjustment Assistance, Room 3011, Domestic and International Business Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of June 19, 1975.

(Catalog of Federal Domestic Assistance Program No. 11.106, Trade Adjustment Assistance)

HAROLD A. BRATT, Jr.,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.75-14937 Filed 6-6-75;8:45 am]

NATIONAL INDUSTRIAL ENERGY CONSERVATION COUNCIL

Cancellation of Meeting

On Friday, May 16, 1975, a notice appeared in the FEDERAL REGISTER (40 FR 21504), announcing a meeting of the Sub-Council on Public Awareness of the National Industrial Energy Conservation Council for Monday, June 16, 1975, at 10 a.m. in Conference Room "D", First Floor, Main Commerce Building, 14th and Constitution Avenue, Washington, D.C. 20230.

This meeting of the Sub-Council on Public Awareness has been cancelled.

HERBERT K. SCHMITZ,
Executive Director, National Industrial Energy Conservation Council.

[FR Doc.75-14881 Filed 6-6-75;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health

NATIONAL COMMISSION ON ARTHRITIS AND RELATED MUSCULOSKELETAL DISEASES

Meeting

Pursuant to Pub. L. 92-463, the National Institute of Arthritis, Metabolism, and Digestive Diseases hereby gives notice of the meeting of the National Commission on Arthritis and Related Musculoskeletal Diseases on June 26, 1975, from 9 a.m. to 5 p.m., in Building 1, Conference Room 6, Bethesda, Maryland. The entire meeting will be open to the public from 9 a.m. to 5 p.m. on June 9, 1975.

At the meeting on June 2, the Commission decided on consultants to serve as chairmen of the work groups. This meeting will serve as a follow-up for the consultants and Commission members to discuss the organization of the work for preparing the Arthritis Plan. Stringent time constraints precluded earlier notice.

Mr. Victor Wartofsky, Information Officer, NIAMDD, National Institutes of Health, Building 31, Room 9A04, Bethesda, Maryland 20014, (301) 496-3583, will provide summaries of the meeting and rosters of the Commission members.

(Catalog of Federal Domestic Assistance Program No. 13.846, National Institutes of Health)

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

JUNE 5, 1975.

[FR Doc.75-15113 Filed 6-5-75;4:45 pm]

Office of Education

NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION

Meeting; Correction

In the FEDERAL REGISTER on May 1, 1975, page 19032, there was an announcement of the National Advisory Council on Indian Education meeting to be held in Duluth, Minnesota. The location has now been changed to the United Tribes Development Center, Bismarck, North Dakota. The dates, June 27, 28, 29, 1975, remain the same.

DORRANCE D. STEELE,
Acting Executive Director.

[FR Doc.75-14919 Filed 6-6-75;8:45 am]

SPECIAL COMMUNITY SERVICE AND CONTINUING EDUCATION PROJECTS

Priorities for Funding of Applications Submitted for Fiscal Year 1975

On page 13021 of the FEDERAL REGISTER of March 24, 1975, there were published Proposed Priorities for Special Community Service and Continuing Education Projects for Fiscal Year 1975. Interested persons were given 30 days in which to submit written comments, suggestions, or objectives regarding the proposed priorities.

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

Effective date. The notice of proposed rulemaking was transmitted to Congress on March 19, 1975 pursuant to section 431(d) of the General Education Provisions Act (20 U.S.C. 1232(d)). The time period set forth therein for congressional action has expired without such action having been taken. Therefore these priorities shall become effective on June 9, 1975.

(Catalog of Federal Domestic Assistance Number 13.587; Higher Education—University Community Service—Special Projects)

Dated: May 14, 1975.

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

Approved: June 3, 1975.

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

Notice is hereby given that, pursuant to the authority contained in section 106 of Title I of the Higher Education Act, as amended (20 U.S.C. 1005a), the Commissioner of Education, with the approval of the Secretary of Health, Education, and Welfare, has established the priorities set forth below for reviewing applications submitted by institutions of higher education (or combinations thereof) for Special Projects under the Community Service and Continuing Education Program. These priorities are supplemental to the provisions set forth in the regulations governing this Program (45 CFR Part 173).

The proposed priorities are:

A. Experimentation with and refinement of the process of educating special-interest groups with regard to such community problems as consumer affairs, regional or national energy policy, and environmental pollution (including effectiveness testing of multimedia instructional programs on selected target groups).

B. Development of institutional models of community service and continuing education which would increase access to higher education resources, particularly for women, prison inmates, and elderly or handicapped citizens, to enable them to participate more fully in the life of their communities.

C. Demonstrations of effective programs of continuing education for employers, employees and organized labor in relation to the problem of technological unemployment.

D. Development of experimental models of city hall-university cooperation combining current urban research with the education and training of local government officials.

E. Evaluation of institutional programs of continuing education that employ creative techniques and methods in educating adults for community problem solving.

[FR Doc.75-14972 Filed 6-6-75;8:45 am]

Office of the Secretary

OFFICE OF EDUCATION

Statement of Organization, Functions, and Delegations of Authority

Part 2 (Office of Education), Section 2-B, Organizations and Functions, of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare is hereby amended to attain the purposes of the Indian Education Act, Title IV of the Education Amendments of 1972 by establishing divisions under the Office of Indian Education.

Therefore previously published statements in the FEDERAL REGISTER are hereby amended as follows:

The statement published in the FEDERAL REGISTER on February 7, 1975, at 40 FR 5807 is amended under the heading "Office of Indian Education" by addition of the following new statements immediately after the statements following that heading.

Division of Local Educational Agency Assistance. Administers formula grants providing financial assistance to local educational agencies for the following purposes: (1) planning and developing programs designed to meet the special educational needs of Indian students; (2) establishing, maintaining, and oprating such programs; (3) minor remodeling of classroom or other space; or (4) purchasing equipment. Provides technical assistance to local education agencies and local Indian community representatives and parent groups regarding their participation in the program.

Division of Special Projects and Programs. Administers discretionary grants and contracts for projects to improve educational opportunities for Indian adult education for Indians, and programs of financial assistance to schools on or near reservations to meet the special educational needs of Indian students. Provides technical assistance to potential and actual applicants and to approved grantees.

Dated: June 2, 1975.

JOHN OTTINA,
Assistant Secretary for Administration and Management.

[FR Doc.75-14971 Filed 6-6-75;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[Docket No. NFD-276; FDAA-468-DR]

KENTUCKY

Amendment to Notice of Major Disaster

Notice of Major Disaster for the State of Kentucky, dated May 24, 1975, is hereby amended to include the following county among those counties determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of May 24, 1975:

The County of:

Knott.

Dated: May 30, 1975.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

[FR Doc.75-14928 Filed 6-6-75;8:45 am]

[Docket No. NFD 277; FDAA-468-DR]

KENTUCKY

Amendment to Notice of Major Disaster

Notice of Major Disaster for the State of Kentucky, dated May 24, 1975, and amended on May 30, 1975, is hereby further amended to include the following county among those counties determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of May 24, 1975:

The County of: Perry.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

Dated: June 3, 1975.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.75-14988 Filed 6-6-75;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 75-115]

BUNGE CORP.

Qualification as Citizen of United States

This is to give notice that pursuant to 46 CFR 67.23-7, issued under the provisions of section 27A of the Merchant Marine Act, 1920, as added by the Act of September 2, 1958 (46 U.S.C. 883-1), Bunge Corporation of One Chase Manhattan Plaza, New York, New York 10005, incorporated under the laws of The State of New York, did on April 21, 1975, file with The Commandant, United States Coast Guard, in duplicate, an oath for qualification of a corporation as a citizen of the United States following the form of oath prescribed in form CG-1260.

The oath shows that:

(a) A majority of the officers and directors of the corporation are citizens of the United States (list of names, home addresses, and citizenship attached to the oath);

(b) Not less than 90 percent of the employees of the corporation are residents of the United States;

(c) The corporation is engaged primarily in a manufacturing or mineral industry in the United States, or in a Territory, District, or possession thereof;

(d) The aggregate book value of the vessels owned by the corporation does not exceed 10 percent of the aggregate book value of the assets of the corporation; and

(e) The corporation purchases or produces in the United States, its Territories or possessions not less than 75 percent of the raw materials used or sold in its operations.

The Commandant, United States Coast Guard, having found this oath to be in compliance with the law and regulations on May 30, 1975, issued to Bunge Corporation a certificate of compliance on form CG-1262, as provided in 46 CFR 67.23-7.

The certificate and any authorization granted thereunder will expire three years from the date thereof unless there first occurs a change in the corporate status requiring a report under 46 CFR 67.23-7.

Dated: June 4, 1975.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc.75-14965 Filed 6-6-75;8:45 am]

Federal Aviation Administration

TERMINAL INSTRUMENT PROCEDURES (TERPs) WORKING GROUP ON VISIBILITY CREDITS FOR LIGHTS

Meeting

Notice is hereby given that the Working Group on Visibility Credits for Lights will hold a meeting beginning at 9 a.m., e.d.t., June 24 and 25, in Conference Rooms 8A and B, at the Federal Aviation Administration Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. The following agenda item is scheduled for this meeting:

Discussion. Review of the technical adequacy of the approach lighting systems associated with instrument runways for credits to reduce visibility as applied in Tables 9 and 10 of the TERPs Handbook. This review will include discussion of papers relevant to visibility credits for lighting systems and to develop a consensus as to the technical adequacy of present lighting systems.

All those interested in attending the meeting should contact Earnest E. Callaway, Chairman, Working Group on Visibility Credits for Lights, Federal Aviation Administration, Flight Inspection National Field Office, P.O. Box 25082, Oklahoma City, Oklahoma 73125. Telephone: (405) 686-4164. The meeting will be open to the public.

Issued in Washington, D.C., on June 2, 1975.

JAMES A. FORGAS,
Chairman, U.S. Terminal Instrument Procedures (TERPs) Advisory Committee.

[FR Doc.75-14918 Filed 6-6-75;8:45 am]

National Highway Traffic Safety Administration

[Docket No. EX 75-4; Notice 2]

C. H. WATERMAN INDUSTRIES

Petition for Temporary Exemption From Federal Motor Vehicle Safety Standards

The National Highway Traffic Safety Administration (NHTSA) has decided to grant C. H. Waterman Industries a temporary exemption for an electric powered passenger car on grounds that it would facilitate the development and field evaluation of a low-emission motor vehicle. The exemption expires May 1, 1977.

Notice of the petition was published on February 28, 1975 (40 FR 8585) and an opportunity afforded for comment.

Waterman intends to import a small passenger car manufactured in the Netherlands and widely marketed throughout Europe but not in the United States. The vehicle therefore does not

conform to many of the Federal motor vehicle safety standards. Upon arrival in the United States, these vehicles will have their gasoline engines removed and electric motors substituted. They will be marketed under a Waterman Industries label. The company has experimented with such conversions since 1969. It asked for a 2-year exemption and states that it will not import more than 2,500 vehicles during any 12-month period that the exemption is in effect. The following is a list of Federal standards, or portions thereof, for which exemption was requested;

No. 101 *Control Location, Identification and Illumination* (S4.3—Control identification will not be illuminated).

No. 103 *Defrosting and Defogging Systems* (an electrically operated defrosting/defogging system will be provided but cannot be tested exactly as specified in the standard).

No. 104 *Windshield Wiping and Washing Systems* (wipers have only one speed; system has not been tested according to the standard).

No. 105/105–75 *Hydraulic Brake Systems* (vehicle has dual hydraulic system but has not been fully tested according to the standard).

No. 202 *Head Restraints.*

No. 205 *Glazing Materials* (windshield is AS–2 glass).

Exemptions were also requested from the following standards on the basis that the compliance status is uncertain because no tests have been conducted: No. 201, *Occupant Protection in Interior Impact*, No. 203 *Impact Protection for the Driver from the Steering Control System*, No. 204 *Steering Control Rearward Displacement*, No. 206 *Door Locks and Door Retention Components*, No. 207 *Seating Systems*, No. 210 *Seat Belt Assembly Anchorages*, No. 212 *Windshield Retention*, No. 214 *Side Door Strength*, No. 215 *Exterior Protection*, No. 216 *Roof Crush Resistance*, and No. 302 *Flammability of Interior Materials*. While the exemptions are in effect, funds would be generated for development of the vehicles and compliance with the standards at the end of the exemption period.

The company argued that the exemptions would not unreasonably degrade the safety of the vehicle, as it already conforms to the standards of the European countries where it is presently sold. During the 9-year period in which it has been marketed "no history of unusual safety hazards has accumulated on this auto." The petitioner also felt that its low maximum speed (50 mph maximum) will limit its exposure to major traffic hazards.

There were two comments in response to the notice. Consumers Union (CU) opposed it. CU believes that a blanket exemption from so many standards is not in the public interest, and that if small electric vehicles are to be seriously considered as alternatives to conventional automobiles, their development must integrate safety considerations from the beginning. CU also believes that the petitioner has asked for an exemption for a number of units far larger than needed for prototype development. The California Highway Patrol opposed an exemption from Standard No. 205.

Pursuant to 15 U.S.C. 1410(a)(1)(c) the Administrator may grant a temporary exemption if he finds "that such temporary exemption would facilitate the development or field evaluation of a low-emission motor vehicle and would not unreasonably degrade the safety of such vehicle." With deference to CU's concern, this agency notes that full compliance of electric vehicles with all Federal motor vehicle safety standards prior to their introduction into the marketplace was not the intent of Congress in providing exemption authority. The Administrator has been granted the discretion to balance the need for motor vehicle safety against the desirability of a low-pollutant power plant in granting temporary exemptions. Section 1410(d)(2) provides that no low-emission vehicle manufacturer "shall be eligible to apply for exemption * * * for more than 2,500 vehicles to be sold in the United States in any 12 month period * * *" Although Waterman could legally import up to the statutory maximum, the agency understands that only a limited number of vehicles are to be imported until the existence and size of the market is determined. If the venture is commercially viable, Waterman intends to test the vehicles for conformance by the time the exemption terminates, and modify them as necessary. Waterman's arguments that the vehicle already conforms to the standards of the European countries where it is presently sold and that it has demonstrated no history of unusual safety hazards have been persuasive in determining that exemption with one exception would not unduly degrade the safety of the vehicle. That exception is Standard No. 205 *Glazing Materials*. Petitioner has not demonstrated that an excuse from providing AS–1 windshield glazing would facilitate low-emission vehicle development, and NHTSA has determined that occupants should be provided this elementary protection. Accordingly the petition of exemption from Standard No. 205 is denied. Because of the importance of insuring that seat belt assemblies are properly installed and securely attached to provide maximum protection, the exemption provided from Standard No. 210, *Seat Belt Assembly Anchorages*, is for a shorter period than the other exemptions, and expires May 1, 1976. The other exemptions terminate on May 1, 1977. With respect to other standards the NHTSA urges the petitioner to determine and effect conformance at the earliest practicable time rather than waiting until the end of the exemption period.

In consideration of the foregoing the Administrator finds that a temporary exemption from the standards listed below would facilitate the development and field evaluation of a low-emission motor vehicle and would not unduly degrade the safety of the vehicle. Accordingly C. H. Waterman Industries is hereby granted NHTSA Temporary Exemption No. 75–4 from 49 CFR 571.210 (Motor Vehicle Safety Standard No. 210) expiring May 1, 1976, and from 49 CFR §§ 571.101 (S4.3 only), 571.103, 571.104, 571.105/10575, 571.201, 571.202, 571.203, 571.204, 571.206, 571.207, 571.212, 571.214, 571.215, 571.216, and 571.302 (Motor Vehicle Safety Standards Nos. 101, 103, 104, 105/105–75, 201, 202, 203, 204, 206, 207, 212, 214, 215, 216, and 302) expiring May 1, 1977.

(Sec. 3, Pub.L. 92–543, 86 Stat 1159 (15 U.S.C. 1410); delegation of authority at 49 CFR 1.51)

Issued on June 2, 1975.

JAMES B. GREGORY,
Administrator.

[FR Doc.75–14874 Filed 6–6–75;8:45 am]

[Docket No. 74–37; Notice 8]

HIGHWAY SAFETY ACT SANCTIONS REVIEW BOARD; PUERTO RICO

Postponement of Sanctions Hearing

Information has been received by the Department of Transportation, indicating that the Governor of the Commonwealth of Puerto Rico has signed a bill establishing a 0.10 percent blood alcohol level as prima facie evidence of unlawful driving. Since such legislation may meet the requirements of the Department, the Sanctions hearing, scheduled for June 6, 1975 (40 FR 17310), is postponed until June 17, 1975, so that officials of the Department can review the legislation.

Issued on June 5, 1975.

HERBERT H. KAISER, Jr.,
Presiding Officer,
Sanctions Hearing Board.

[FR Doc.75–15108 Filed 6–5–75;4:45 pm]

OCCUPANT CRASH PROTECTION

Date for Comments on Passive Restraints

This notice requests that comments be submitted on the subject of passive restraints not later than June 16, 1975.

The National Highway Traffic Safety Administration held a public meeting on the subject of passive restraints as a means of occupant crash protection, during the week of May 19–23, 1975. The public was invited to submit oral comments at the meeting, and if appropriate to supplement them with written comments to the rulemaking docket. A number of manufacturers were asked to submit answers in either form to a list of questions on passive restraints.

In the interest of proceeding in an orderly fashion with decision-making in this area, it is requested that any information prepared for submittal to the NHTSA in connection with that public meeting or the questionnaire be provided to this agency not later than the close of business on June 16, 1975. Persons who made audio-visual presentations at the public meeting are reminded that copies of all exhibits, including

films and slides, must be provided to the NHTSA for the public docket.

(Sec. 103, 112, Pub. L. 89-563, 80 Stat. 718, 15 U.S.C. 1392, 1401; delegations of authority at 49 CFR 1.51 and 49 CFR 501.8)

Issued on June 5, 1975.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

[FR Doc.75-15034 Filed 6-5-75;11:04 am]

[Docket No. 27767; Order 75-6-11]

CIVIL AERONAUTICS BOARD

AIR JAMAICA (1968) LTD.

Order Dismissing Complaint Regarding First-Class Excursion Fares

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 4th day of June 1975.

By tariffs filed April 14, 1975 for effect May 14, 1975, Air Jamaica (1968) Limited (Air Jamaica) established round-trip first-class excursion fares between points in the U.S. and Kingston/Montego Bay, Jamaica and Nassau, Bahamas. The fares are set at 140 percent of the IATA mid-week peak-season economy excursion fares (except Miami-Jamaica which is at 150 percent), are available all year, are subject to a maximum stay of 21 days with no minimum-stay requirement, and permit two fee stopovers in addition to point of turnaround.[1]

Pan American World Airways, Inc. (Pan American) has filed a complaint requesting that the fares be suspended pending investigation on grounds that they are unreasonably low and that the lack of restrictions on their use will result in unwarranted dilution of first-class fare yield. Pan American contends that the fare undercuts the Miami-Kingston normal all-year economy fare, that the New York-Kingston fare is only slightly above that level, and that, when coupled with the lack of a minimum-stay requirement, the excursion fares will be totally dilutionary in these markets. Finally, it is alleged that the excursion fare will not generate any new traffic but, rather, will divert from normal first-class services and, in the case of Miami, from normal economy service as well.

Air Jamaica has answered the complaint and requests that it be dismissed both on its merits and on technical grounds. The carrier states the purpose of the fare is to maximize the earnings potential of its aircraft, and fill unused space in the first-class compartment by inducing economy passengers to upgrade, thereby freeing additional economy seats for sale. Since the volume of business travel is small, Air Jamaica contends that the level of the fare is important in achieving this objective. As for the level of the Miami-Jamaica first-class excursion fare, the carrier contends that the IATA first-class excursion fare, which was discontinued in April 1973, similarly undercut the normal economy-class fare in that market; and, in any event, the first-class excursion fare is not comparable to the normal economy fare since the former is valid only 21 days whereas the latter has a validity of one year.

Finally, the carrier contends that the complaint should be dismissed on technical grounds, since it was not filed in time to permit compliance with various advance-notice and time requirements contained in the United States-Jamaica Air Transport Services Agreement, the Board's Procedural Regulations and the Federal Aviation Act; and since Pan American has suspended its Miami-Kingston/Montego Bay service, and does not establish that it will be harmed by the proposed fares.

Upon consideration of the complaint, the response and all relevant factors, the Board has concluded to dismiss Pan American's complaint.

The relationship of Air Jamaica's fares to other fares within the present fare structure is similar to that which obtained in early 1973 when first-class excursion fares were part of the IATA-agreed fare package. At that time, the IATA first-class excursion fare undercut the normal economy fare in the Miami-Jamaica markets. Thus, the present relationship reverts to an historic pattern.

As a matter of general policy, the Board has long been opposed to the offering of excursion fares in first-class service, essentially because first-class travel is largely for business purposes and the probability of unnecessary and uneconomic diversion from the regular fare is high. However, the addition of the 3-day minimum-stay requirement for travel in this vacation market should limit diversion while, at the same time, Air Jamaica retains the opportunity to induce some passengers to up-grade to first-class service.[2] Under these circumstances, and considering the limited number of markets affected and the fact that international transportation is involved, we are reluctant to investigate or suspend the proposal.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 1002 thereof;

It is ordered, That:

The complaint of Pan American World Airways, Inc. in Docket 27767 be and hereby is dismissed.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.75-14970 Filed 6-6-75;8:45 am]

[1] John M. Sampson, Agent, Tariff C.A.B. No. 15, 40th Revised Page 274D and Rule No. 93, 6th Revised Page 74B.

[2] In its response, Air Jamaica indicated a willingness to file a minimum-stay requirement, similar to that now applicable to economy-class excursion fares. Such an amendment has now been filed.

COMMISSION ON CIVIL RIGHTS

MARYLAND STATE ADVISORY COMMITTEE

Agenda and Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Maryland State Advisory Committee (SAC) to this Commission will convene at 7:30 p.m. on June 23, 1975, Towson Unitarian Church, 1710 Dulaney Valley Road, Lutherville, Maryland.

Persons wishing to attend this meeting should contact the Commission 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 a Subcommittee meeting to discuss the pros and cons of the studing the housing situation in Maryland.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., June 4, 1975.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee
Management Officer.

[FR Doc.75-15008 Filed 6-6-75;8:45 am]

MICHIGAN STATE ADVISORY COMMITTEE

Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a factfinding meeting of the Michigan State Advisory Committee (SAC) to this Commission will convene at 9 a.m. on June 26, 1975, recess at 10 p.m. the same day, and reconvene at 9 a.m. on June 27, at the State of Michigan Law Building, 525 West Ottawa Street, First Floor, Lansing, Michigan.

Persons wishing to attend this meeting should contact the Committee Chairperson or the Midwestern Regional Office of the Commission, Room 3251, 230 South Dearborn Street, Chicago, Illinois 60604.

The purpose of this meeting is to gather information on the impact of the 1974 Housing and Community Development Act upon Model Cities programs, staff, and citizen participation in the eight Michigan cities which have had Model Cities programs.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C. June 3, 1975.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee
Management Officer.

[FR Doc.75-15009 Filed 6-6-75;8:45 am]

MICHIGAN STATE ADVISORY COMMITTEE

Agenda and 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 Michigan State Advisory Committee (SAC) to the Commission will convene at 7 p.m. on June 25, 1975, Olds Plaza Hotel, 125 West Michigan, Lansing, Michigan, room to be posted.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, Room 3251, 230 South Dearborn Street, Chicago, Illinois 60604.

The purpose of this meeting is to review the schedule of witnesses for the Committee's June 26–27 factfinding meeting and to review plans for the hearing process to be used at that meeting.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C. June 3, 1975.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.75-15010 Filed 6-6-75;8:45 am]

CIVIL SERVICE COMMISSION

FEDERAL EMPLOYEES PAY COUNCIL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, Pub. L. 92-463, notice is hereby given that the Federal Employees Pay Council will meet at 10:00 a.m. on Wednesday, July 2, 1975. This meeting will be held in room 5323 of the U.S. Civil Service Commission building, 1900 E Street NW., and will consist of continued discussions on the fiscal year 1976 comparability adjustment for the statutory pay systems of the Federal Government.

The Chairman of the U.S. Civil Service Commission is responsible for the making of determinations under section 10(d) of the Federal Advisory Committee Act as to whether or not meetings of the Federal Employees Pay Council shall be open to the public. He has determined that this meeting will consist of exchanges of opinions and information which, if written, would fall within exemptions (2) or (5) of 5 U.S.C. 552(b). Therefore, this meeting will not be open to the public.

For the President's Agent.

RICHARD H. HALL,
Advisory Committee Management Officer for the President's Agent.

[FR Doc.75-14969 Filed 6-6-75;8:45 am]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1975

Proposed Additions

Notice is hereby given pursuant to section 2(a)(2) of Pub. L. 92-28; 85 Stat. 79, of the proposed addition of the following commodities and services to Procurement List 1975, November 12, 1974 (39 FR 39964).

CLASS 6530

Urinal, Incontinent
6530-00-290-8292 (with plastic disc)

CLASS 7530

Folder, File, Pressboard
7530-00-286-6923
7530-00-286-6924
7530-00-286-8570
7530-00-286-7287

INDUSTRIAL CLASS 7699

Repair and Maintenance of Adding Machines and Calculators: for following locations:
U.S. Department of Labor, 1515 Broadway (Floors 32-37), New York, New York.
Bureau of the Mint, U.S. Assay Office, 32 Old Slip, New York, New York.

Comments and views regarding these proposed additions may be filed with the Committee not later than 30 days after the date of this FEDERAL REGISTER. Communications should be addressed to the Executive Director, Committee for Purchase from the Blind and Other Severely Handicapped, 2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201.

This notice is automatically cancelled six months from the date of this FEDERAL REGISTER.

By the Committee.

C. W. FLETCHER,
Executive Director.

[FR Doc.75-14921 Filed 6-6-75;8:45 am]

PROCUREMENT LIST 1975

Additions to Procurement List

Notice of proposed additions to Procurement List 1975, November 12, 1974 (39 FR 39964) were published in the Federal Register on March 21, 1975 (40 FR 12838) and May 2, 1975 (40 FR 19232).

Pursuant to the above notices the following Military Resale Items and service are added to the Procurement List:

Description and Item No.	*Price*
Tennis racket 450 (IB)-------each--	$15.75
Tennis racket 452 (IB)-------do----	10.75
Industrial Class 7349	
Janitorial/custodial (SH), BLM district building, Roseburg, Oreg., square feet----------	$0.645

By the Committee.

C. F. FLETCHER,
Executive Director.

[FR Doc.75-14922 Filed 6-6-75;8:45 am]

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. 75-2]

BAY AREA MATTRESS CO. AND KEVA MATTRESS CO.

Hearing

In the Matter of Charles Castro, an individual trading as Bay Area Mattress Company and Keva Mattress Company, CPSC Docket No. 75-2.

Please take notice that the public hearing in the above-entitled proceeding will commence on June 19, 1975, at 9:30 a.m. (p.d.s.t.) in Suite 500, at 100 Pine Street, San Francisco, California 94111.

In addition to the issues set forth in the Notice of Enforcement published in the FEDERAL REGISTER on April 21, 1975, (40 FR 17632) evidence will be received relating to the following issues:

1. Whether the 600 mattresses sold by Respondents between June 22 and December 22, 1973, constitued transactions in interstate commerce and as such are subject to the provisions of the Flammable Fabrics Act, the Federal Trade Commission Act, the Standard for Flammability FF4-72, and the Rules and Regulations issued thereunder.

2. Did Respondents violate section 5(c)(3) of regulation FF4-72 by failing to affix certain labelling on 600 mattresses manufactured during the six months following the effective date of the Standard, which did not comply with the testing and acceptance test criteria contained in section 3 (a) and (b) of said Standard.

3. Whether the Consumer Product Safety Commission is guilty of laches by not commencing the enforcement action until March 11, 1975, although it had prior notice of all the facts and acts of Respondents occurring in 1973.

4. Whether 517 of the mattresses are exempt from regulation since they were manufactured according to the exact specifications of the County of Alameda, California.

5. Whether the mattresses are custom-made and as such qualify for the "one of a kind" exemption pursuant to section 2(d) of regulation FF4-72, upon which exemption Respondent alleges he relied. Did Respondents in fact delay on such exemption?

6. Whether the Flammable Fabrics Act is ambiguous, vague, and uncertain so as to fail to give adequate notice to Respondents of the penalties which the Consumer Product Safety Commission can impose on them.

7. Whether the Consumer Product Safety Commission has the statutory authority pursuant to section 30 of the Consumer Product Safety Act to issue a cease and desist order under the Federal Trade Commission Act, which is broad enough to require Respondents to refund the full-purchase price of the mattresses or replace same as proposed in the Notice of Enforcement.

8. Whether Respondents can avail themselves of the allowance for use deduction from the refund required in section 15(d)(3) of the Consumer Product Safety Act, and, if so, in what amounts should the net refunds be fixed.

Dated: June 3, 1975.

PAUL N. PFEIFFER,
Administrative Law Judge.

[FR Doc. 75-14936 Filed 6-6-75;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 383-6]

3M CO.

Renewal of Temporary Tolerance

The 3M Co., P.O. Box 33221, St. Paul, MN, 55133, was granted a temporary tolerance for residues of the herbicide 1,1,1-trifluoro - *N* - [2-methyl-4-(phenylsulfonyl) phenyl] methanesulfonamide in or on cottonseed at 0.01 part per million

on May 21, 1974, in connection with Pesticide Petition No. 4G1423 (notice was published in FEDERAL REGISTER of May 31, 1974 (39 FR 19266)). This temporary tolerance expired May 21, 1975.

The company has requested a 1-year renewal of the temporary tolerance to obtain additional experimental data. It is concluded that such a renewal of temporary tolerance will protect the public health. A condition under which this temporary tolerance is renewed is that the herbicide be used in accordance with the temporary permits which are being issued concurrently and which provide for distribution under the 3M Co. name.

This temporary tolerance expires June 4, 1976. Residues remaining in or on the above raw agricultual commodity after expiration of this tolerance will not be considered actionable if the pesticide is legally applied during the term, and in accordance with provisions of the temporary permits/tolerance.

This action is taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 516; 21 U.S.C. 346a(j)), the authority transfered to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (39 FR 18805).

Dated: June 4, 1975.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.75-15001 Filed 6-6-75;8:45 am]

[FRL 384-5]

ROHM & HAAS CO.

Establishment of Temporary Tolerances

Rohm & Haas Co., Independence Mall West, Philadelphia, PA 19105, submitted a petition (PP # 5G1581) requesting establishment of temporary tolerances for negligible residues of the herbicide 2-chloro-1-(3-ethoxy-4-nitrophenyl)-4-(trifluoromethyl)benzene and its metabolites containing the diphenyl ether linkage in or on corn and soybeans at 0.05 part per million.

It has been determined that these temporary tolerances will protect the public health. They are therefore established on the condition that the herbicide be used in accordance with the temporary permits being issued concurrently and which provide for distribution under the Rohm & Haas Co., name.

These temporary tolerances expire June 4, 1976. Residues remaining in or on the above raw agricultural commodities after expiration of these tolerances will not be considered actionable if the pesticide is legally applied during the term, and in accordance with provisions of the temporary permits/tolerances.

This section is taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 516; 21 U.S.C. 346a(j)), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (39 FR 18805).

Dated: June 4, 1975.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.75-15000 Filed 6-6-75;8:45 am]

[FRL 383-7]

UPJOHN CO.

Amended Temporary Tolerances

At the request of the Upjohn Co., Kalamazoo MI 49001, temporary tolerances were established for combined residues of the insecticide N'-(2,4-dimethylphenyl) - N - [[(2,4 - dimethylphenyl) imino]methyl] - N - methylmethanimidamide and its metabolites N'-(2,4-dimethylphenyl) - N - methylmethanimidamide and N - (2,4 - dimethylphenyl)formamide in or on apples and pears, intended for the fresh fruit market only, at 1 part per million on February 28, 1975, for a period of one year. (Notice was published in FEDERAL REGISTER of March 7, 1975; 40 FR 10713.)

The company has requested the removal of the fresh fruit market only restriction on these commodities. Based on additional data submitted it has been determined that such an amendment of the temporary tolerances will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 516; 21 U.S.C. 346a(j)), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (39 FR 18805), notice is given that said temporary tolerances have been amended by deleting the phrase "intended for the fresh fruit market only."

Dated: June 4, 1975.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.75-15002 Filed 6-6-75;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19419; FCC 75-533]

AMERICAN TELEPHONE & TELEGRAPH CO. AND WESTERN UNION TELEGRAPH CO.

Instituting Investigation

1. On February 28, 1975, revised tariff schedules were filed by the American Telephone and Telegraph Company-Long Lines Department (AT&T) under Transmittal No. 12299 to become effective April 1, 1975. These schedules would revise AT&T's Private Line Service Tariff F.C.C. No. 260 by offering revised multipoint Remote Terminal Interface Arrangements which permit the interface leads of the Type 209 data set to be extended to two or more points each of which is more than fifty feet from, but in the same exchange as, the 209 data set. Under the present 260 Tariff schedule the Remote Terminal Interface Arrangement limits the use of the interface leads of the Type 209 data set to one extension point which is not more than fifty feet from, but in the same exchange as, the 209 data set. The present Remote Terminal Interface Arrangement was initially offered in connection with the introduction of the Type 209 data set, under revised tariff schedules filed, on March 4, 1974, in AT&T Transmittal No. 11983.

In other words, there appears to be ample justification for investigation of the rates and practices set out in AT&T's tariff revisions, and because of this we will follow our previous practice and merge such investigation into Docket 19419. However, we are concerned about the delay that the inclusion of these new matters could cause in resolving the issues already pending in Docket 19419. Therefore, consistent with this view, we will set the issues raised by AT&T's Transmittal No. 12299 for investigation in Docket 19419 on a provisional basis. We shall leave to the discretion of the Administrative Law Judge presiding over Docket 19419 whether this new filing can be considered in the current phase of that proceeding without significantly delaying the conclusion of that proceeding or whether the new issues should be considered as a separate phase in that proceeding, to be addressed either concurrently or subsequent to the issuance of a decision of the existing hearing issues.[1]

5. *Accordingly, it is ordered*, That pursuant to Sections 201, 202, 203, 204, 205 and 403 of the Communications Act of 1934, as amended, an investigation is instituted herein into the lawfulness of the tariff schedules filed February 28, 1975 by AT&T with its Transmittal No. 12299 including any cancellations, amendments or reissues thereto;

6. *It is further ordered*, That the above investigation shall be added to and the scope of the issues to be determined shall be defined by Docket 19419;

7. *It is further ordered*, That the Administrative Law Judge presiding over Docket 19419 shall, by subsequent order, prescribe the procedure for investigation of the aforesaid tariff revisions;

8. *It is further ordered*, That IDCMA's Petition to Suspend and Investigate Tariff Provisions, filed March 18, 1975, is granted to the extent indicated herein and otherwise denied.

Adopted: May 8, 1975.

Released: May 23, 1975.

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

[FR Doc.75-14955 Filed 6-6-75;8:45 am]

[1] See, F.C.C. No. 75-334 of March 27, 1975.

BROADCASTING-SATELLITE, FIXED-SATELLITE, AND MOBILE (EXCEPT AERONAUTICAL MOBILE) SERVICES IN THE 11.7–12.2 CHZ BAND

Public Meeting

JUNE 4, 1975.

Tuesday, June 24, 1975, Time: 2:00 p.m., Room: 8210–2025 "M" Street, NW., Washington, D.C. 20554.

The purpose of this meeting is to establish a Joint Industry-Government Committee and appropriate working groups to assist in preparation of the position to be set forth by the United States at the 1977 World Administrative Radio Conference (1977 WARC) concerning the use of the frequency band 11.7–12.2 GHz.

The International Telecommunications Union (ITU) allocated this band to the Fixed, Fixed-Satellite (Space-to-Earth), Mobile (except aeronautical mobile), Broadcasting and Broadcasting-Satellite Services in Region Two which encompasses North and South America, Guam, Hawaii, and the Samoan Islands. The United States has in turn designated this band for the Broadcasting-Satellite, Fixed-Satellite (Space) and Mobile domestic Public-Land, Mobile (except aeronautical mobile) services.

The use of this band in Region 2 is limited by two conditions set forth in the International Radio Regulations as follows:

(405BB) Terrestrial radiocommunications services in the band 11.7–12.2 GHz in Region 2 shall be introduced only after the elaboration and approval of plans for the space radiocommunications services, so as to ensure compatibility between the uses that each country decides for this band.

(405BC) The use of this band 11.7–12.2 GHz in Region 2 by the broadcasting-satellite and fixed-satellite services is limited to domestic systems and is subject to previous between the administrations concerned and those having services, operating in accordance with the Table which may be affected (see Article 9A and Resolution No. Spa 2–3).

Footnotes appended to the designated United States use of the band include 405BC (above) and NG 105 which reads:

In the band 11.7–12.2 GHz, assignments in the Broadcasting-Satellite and Fixed-Satellite Services will not be made pending further Order of the Commission.

May 9, 1975, the FCC released a Notice of Inquiry (Docket 20468) seeking comments on the use of the 11.7–12.2 GHz band. The due dates for comments and reply comments on that Notice are August 1, 1975 and September 2, 1975 respectively. These dates have been set sufficiently in advance in the hope that requests for extensions of time will not be required. Positions to be put forth by the United States must be available to the Department of State by mid-1976. A specific meeting date for the 1977 WARC (Space Broadcasting) has not yet been announced, but it is expected to be convened as early as January 1977. Length of the conference is uncertain, but a period of six weeks has been proposed. This conference will be convened in accord with a resolution adopted in 1973 by a Plenipotentiary Conference of the ITU held at Malega, (Torremolinos) Spain. The United States as a participating administration in the ITU is obliged to respond to this resolution.

Following the adoption of the 1973 ITU Resolution, the Interdepartment Radio Advisory Committee (IRAC) established the Ad Hoc 143 committee to commence study of the government position for the 1977 WARC. HEW, NASA, USIA, OTP and FCC were the initial participants.

The United States has designated the band 11.7–12.2 GHz as nongovernment, hence the FCC will ultimately be the agency responsible for authorizing use of the band. Ad Hoc Committee 143 will become a party to this Joint Industry-Government Committee so that both government and non-government needs can be amply defined in the development of the United States position. It is quite necessary that the fixed services which will include industry and government users be included in this proceeding also because of the shared usage. At this meeting working groups will be formulated with specific assignments to study the comments received by the Commission in response to the Notice of Inquiry. On those issues where comments might be insufficient, the working groups will be called upon to assist the Commission in preparation of any further Notices of Inquiry or requests for contract study programs. It is anticipated that those government agencies having an interest in the use of the 11.7–12.2 GHz band will submit their comments in Docket 20468, so that all available data and information will be in the public record. For example, through an exchange of notes, FCC has requested NASA to study specific areas of concern. NASA has accepted this request and agreed to conduct certain specific studies. This arrangement will be fully described at the scheduled meeting.

The Agenda for this meeting will include:

1. Review of the establishment of AD HOC 143—IRAC.
2. Review of some government activities under way or planned in preparation for the 1977 WARC.
3. Report from applicable National CCIR study groups.
4. Reports, comments, and open discussion by government or non-government organizations or individuals.
5. Establishment of Working Groups. The following are proposed:
   A. Definitions of Services and user needs—space and terrestrial.
   B. Spectrum and Orbit Sharing.
   C. Power Flux Density Limitations.
   D. Evolution of Band Usage.

The initial Joint Industry-Government meeting is to be conducted in accord with the provisions of Pub. L. 92–463, known as the Federal Advisory Committee Act. Any interested party may attend and participate in accord with that Public Law. The working groups appointed at this meeting may conduct their business as deemed necessary by the appointed Chairmen. The responsibility of the working groups is to report to the Chairman of the Joint Committee who will then introduce the findings of each group at subsequent Public Meetings announced in accord with the Pub. L. Notices of these meetings will be mailed to those who have already indicated to the FCC their interest in the matter. Again, as stated above any party of interest can attend and will be accorded participation rights. Minutes of this public meeting will be transcribed by a commercial firm and will be available to interested parties upon purchase from that firm. Such minutes will also be available as a part of the proceedings in Docket 20468 at the Public Reference Room of the FCC, Room 209, 1919 "M" St., NW., Washington, D.C. 20554.

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

[FR Doc.75–14956 Filed 6–6–75;8:45 am]

RADIO TECHNICAL COMMISSION FOR AERONAUTICS

Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the Radio Technical Commission for Aeronautics Special Committee 125—MLS Implementation. It is to be held on July 9–10, 1975, in Conference Room 3201, FAA Transport Building, 2100 Second Street, SW., Washington, D.C., commencing at 9:30 a.m.

The Agenda is as follows:

1. Welcome by Chairman.
2. Summary of 14–15 May 1975 meeting by Secretary.
3. Introduction of new members and guests.
4. FAA MLS Status Report.
5. Reports of *ad hoc* Groups:
   a. Benefits.
   b. Military Planning and Costs
   c. Civil Costs
   d. Airborne Systems Operational Capabilities
   e. Implementation Strategies
   f. PERT Chart.
6. Interim Report Status.
7. Discussion on *ad hoc* Groups findings and recommended courses of action and interaction.
8. Update discussion of strawman.
9. Special assignments.
10. Announcements.
11. Other Business.
12. Date and place of next meeting.

Meetings of Special Committee 125 are open to the public subject to limitations of space available, and any member of the public may present oral statements at the meeting, subject to time available, or may submit written statements to the RTCA Secretariat. Persons planning to attend or who desire additional information concerning this meeting are requested to contact the RTCA Secretariat, Suite 655, 1717 H Street, NW., Washington, D.C. 20006, or telephone Area Code (202) 296–0484.

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

[FR Doc.75–14958 Filed 6–6–75;8:45 am]

RADIO TECHNICAL COMMISSION FOR MARINE SERVICES

Meetings

In accordance with Pub. L. 92–463, "Federal Advisory Committee Act," Radio Technical Commission for Marine Services (RTCM) meeting scheduled for the future is as follows:

SPECIAL COMMITTEE No. 68

MARINE RADIOTELEPHONE OPERATOR EDUCATION

Thursday, June 26, 1975—10:00 a.m. (All-day meeting), Conference Room A205, 1229 20th Street, NW., Washington, D.C.

AGENDA

1. Call to Order.
2. Adoption of Agenda.
3. Reports on Work Assignments.[1]
4. Other business.
5. Establishment of next meeting date.

A. Newell Garden, Chairman, SC–68, Raytheon Company, 141 Spring Street, Lexington, Massachusetts 02173, Phone: [617] 862–6600 (Ext. 414).

To Comply with the advance notice requirements of Pub. L. 92–463, a comparatively long interval of time occurs between publication of this notice and the actual meeting. Consequently, there is no absolute certainty that the listed meeting room will be available on the day of the meeting. Those planning to attend the meeting should report to the room listed in the notice. If a room substitution has been made, the new meeting room location will be posted at the room listed in this notice.

Agendas, working papers, and other appropriate documentation for the meeting is available at the meeting. Those desiring more specific information may contact either the designated Chairman or the RTCM Secretariat. (Phone (202) 632–6490).

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. Problems are studied by Special Committees and the final report is approved by the RTCM Executive Committee. All RTCM meetings are open to the public.

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

[FR Doc.75–14957 Filed 6–6–75;8:45 am]

[1] This meeting will deal exclusively with the revision of the RTCM handbook, "Marine Radio Telephony" (MRT).

WIRELINE TELEPHONE COMPANIES AND RADIO COMMON CARRIER

Interconnection Meetings

JUNE 2, 1975.

The Commission's Common Carrier Bureau has scheduled the first of a series of meetings concerning interconnection between the wireline telephone companies and the Radio Common Carriers (RCCs), which furnish two-way radiotelephone and one-way signaling service to the public. The first meeting will be held at 10 a.m. on Friday, June 20, 1975, in Room A–110 of the Commission's Annex, 1229 20th Street, NW., Washington, D.C.

In its Memorandum Opinion and Order in Offer of Facilities for Use by Other Common Carriers (Docket No. 20099, FCC 75–450, released May 7, 1975), the Commission noted that the Illustrative Tariff which was part of the settlement agreement in that proceeding, and which would be incorporated into the existing Bell System tariffs, defines Other Common Carrier (OCC) as Specialized Common Carriers, Domestic and International Record Carriers and Domestic Satellite Carriers. The Commission found that the apparent intent of the provision is to exclude RCCs from the class of carriers to which interconnection facilities are offered under the OCC facility tariffs. RCCs presently deal with the Bell System primarily on a contract basis. The Commission found a substantial question as to: (1) Whether, rather than continuing the present contractual relationship, Bell should be required to offer interconnection facilities to RCCs pursuant to the OCC tariffs represented by the Illustrative Tariff, or (2) whether the rates, terms and conditions governing the provision of interconnection facilities to the RCCs should be contained in a different set of tariffs on file with the Commission. The Commission thus directed the Chief, Common Carrier Bureau, to conduct informal meetings with Bell, interested RCCs and other interested parties, in order to consider these questions, at the conclusion of which the Commission will decide what further action, formal or otherwise, is necessary or appropriate.

The June 20 meeting will initiate these informal proceedings. At that meeting the areas to be discussed will be established and dates for future meetings will be set. Representatives of the independent (non-Bell) wireline companies which interconnect with RCCs are encouraged to attend.

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

[FR Doc.75–15068 Filed 6–6–75;8:45 am]

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 212]

GENERAL AIR FREIGHT CORP.

Order of Revocation

By letter dated April 28, 1975, General Air Freight Corp., 222 Spring Garden Street, Philadelphia, Pennsylvania 19123 was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 212 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission on or before May 20, 1975.

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4, further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

General Air Freight Corp. has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised) § 7.04(g) (dated September 15, 1973);

It is ordered, That Independent Ocean Freight Forwarder License No. 212 be returned to the Commission for cancellation.

It is further ordered, That Independent Ocean Freight Forwarder License No. 212 of General Air Freight Corp. be and is hereby revoked effective May 20, 1975.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served upon General Air Freight Corp.

ROBERT S. HOPE,
Managing Director.

[FR Doc.75–14974 Filed 6–6–75;8:45 am]

FEDERAL POWER COMMISSION

[Docket Nos. RP71–7, RP73–77]

ALABAMA-TENNESSEE NATURAL GAS CO.

Proposed PGA Rate Adjustment and Minor Tariff Changes

MAY 30, 1975.

Take notice that on May 27, 1975, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee), P.O. Box 918, Florence, Alabama 35630, tendered for filing as part of its FPC Gas Tariff, Third Revised Volume No. 1, Tenth Revised Sheet No. 3–A, First Revised Sheet No. 33 and First Revised Sheet No. 36–H. These revised tariff sheets are proposed to become effective as of July 1, 1975.

Alabama-Tennessee states that the purpose of Tenth Revised Tariff Sheet No. 3–A is to adjust Alabama-Tennessee's rates pursuant to the PGA provisions of section 20 and 22 of the General Terms and Conditions of its tariff to reflect decreased rates to become effective on July 1, 1975, to be charged by its sole supplier, Tennessee Gas Pipeline Company and to reflect an offsetting credit for a demand charge adjustment to Alabama-Tennessee's rates.

The revised tariff sheet provides for the following rates:

Rate schedule	*Tenth revised sheet No. 3–A*
G–1	
Demand	$3.01
Commodity	56.03
SG–1	
Commodity	78.04
I–1	
Commodity	58.05

The revisions contained in First Revised Sheet No. 33 and First Revised

Sheet No. 36–H are designed to reflect a reduction in the period of notice for Purchased Gas Cost Adjustment Rate Changes as provided for in the Tariff from 45 days to 30 days in conformity with the Commission's currently effective rules and regulations.

Alabama-Tennessee states that copies of the filings have been mailed to all of its jurisdictional customers and affected State regulatory Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, 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 June 17, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-14888 Filed 6-6-75;8:45 am]

[Docket Nos. AR64-1, etc.]

AREA RATE PROCEEDING, ET AL.

Order on Rehearing

MAY 30, 1975.

On April 16, 1975, Cities Service Gas Company (Cities) applied for rehearing of the Commission's order issued in the above-entitled proceeding on March 17, 1975. This order directed the disbursement and flow-through of producer refunds resulting from the establishment of area rates applicable to natural gas produced in the Hugoton-Anadarko area. (44 FPC 761; 44 FPC 1166). In requiring the flow-through by purchasers of all refunds allocable to their jurisdictional customers, the Commission rejected the doctrine of equitable entitlement, originally enunciated in Texas Eastern Transmission Corporation, Opinion and Order No. 540, issued May 3, 1968, 39 FPC 630; affirmed, "Texas Eastern Transmission Corp. v. F.P.C.", 414 F. 2d 344 5th Cir. 1969). Under the doctrine of equitable entitlement, a purchaser (in almost all cases a natural gas pipeline) is afforded an opportunity to demonstrate its entitlement to all or part of the producer refunds it receives because it earned less than a just and reasonable rate of return during the period to which the refunds are applicable. However, the circumstances under which a purchaser could claim producer refunds under the doctrine of equitable entitlement were strictly circumscribed by the Commission in Texas Eastern. The opportunity was available only to those purchasers who actually incurred increased purchased gas costs but did not increase their own rates to recoup such costs, and further, the opportunity was foreclosed completely from and after May 3, 1968, the date on which the Texas Eastern opinion was issued. (39 FPC 643).

After giving the matter further consideration, the Commission in its order of March 17, 1975, rejected the concept of equitable entitlement on both policy and practical grounds, and required purchasers to flow all refunds through to their jurisdictional customers. The only exception made was for those purchasers whose approved rate settlements specifically reserved to them the right to attempt to demonstrate their entitlement to producer refunds on equitable grounds pursuant to Texas Eastern.

Cities was the only purchaser to seek rehearing of the March 17 order. It argues that the order "* * * was issued without proper notice or opportunity to be heard, it is not supported by the record, and it does not contain the required statement of supporting findings and rationale. It is arbitrary, capricious, unduly preferential and discriminatory, and applies a new refund flow-through policy retroactively to past periods when Cities had no notice of the new policy in a manner wholly contrary to fundamental fairness and justice."

Carried to their logical conclusion, Cities' arguments amount to a contention that the Texas Eastern opinion granted to gas purchasers the immutable right to claim producer refunds on equitable grounds, and that the Commission is foreclosed from re-evaluating and changing its policy there announced. We cannot accept such a proposition. We believe instead that where, upon further review of the facts and principles involved, a change in policy is required in the public interest and in carrying out the purposes of the Natural Gas Act, that change can and should be made. It should be remembered that Texas Eastern itself represented a signal departure from the then-existing refund policy of the Commission. Prior to Texas Eastern, the Commission's policy had been to require flow-through only in cases where the purchaser had itself filed for and collected increased rates reflecting the increased producer rates resulting in the refund. We must therefore reject the contention that the order of March 17 was unlawful.

Other facts disclosed in the application for rehearing, however, persuade us that Cities' right to seek equitable entitlement to certain specific producer refunds must be recognized. Cities points out that on March 24, 1971, the Commission ordered a hearing in Docket No. RP64-9 (1971 Phase), to determine Cities' possible equitable entitlement to refunds due from Amoco Production Company. Subsequently, on October 23, 1971, a proposed settlement agreement was filed with the Commission, which, if approved, would settle Cities' rights with regard to the Amoco refunds and refunds of certain other producers, all of which resulted from company-wide producer rate settlements.

We believe fairness dictates that the proposed settlement agreement be judged according to the policies and standards prevailing at the time the settlement was submitted to the Commission for approval. Conversely, the proposed settlement agreement, assuming it is otherwise reasonable, should not be rejected as a result of the retroactive application of the new policy announced in the order of March 17. In order to resolve this issue we have reviewed the settlement agreement filed on October 28, 1971, and have, by separate order issued concurrently herewith, approved the settlement agreement as representing a reasonable disposition of the refunds under the policies which existed prior to the order of March 17.

It should be emphasized that the refunds provided for in the above settlement agreement resulted from company-wide producer rate settlements and not from the establishment of Hugoton-Anadarko area rates. As a result the refund monies associated with the settlement dockets are not affected by the order of March 17, insofar as that order requires the disbursement and flow-through of refunds resulting from the Hugoton-Anadarko area rate orders. The March 17 order does affect the settlement refunds insofar as it would have abolished Cities' claim of equitable entitlement to those refunds. This latter issue has become moot upon our approval of Cities' refund settlement.

It follows, therefore, that no modification of the March 17 order is required, since Cities has established no claim of equitable entitlement to the refunds resulting from the Commission's Hugoton-Anadarko area rate orders. Accordingly, Cities will be required to flow-through all of the refunds disbursed to it by producers under the order of March 17.

Cities requests the Commission to confirm the fact that the order of March 17 is not intended to prejudice Cities' rights in pending court review proceedings involving a dispute as to the amount of refunds due Cities from Western Natural Gas Company and its successor in interest, Atlantic Richfield Company. The March 17 order is not intended to have any effect on the court review proceedings.

The Commission orders. (A) Except to the extent granted by this order, supra, Cities' application for rehearing is denied.

(B) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.75-14915 Filed 6-6-75;8:45 am]

[Docket No. E-8884 (Phase II)]

CAROLINA POWER AND LIGHT CO.

Further Extension of Procedural Dates

JUNE 2, 1975.

On May 27, 1975, Electricities of North Carolina and the Cities of Camden and Bennettsville, South Carolina jointly filed a motion to extend the procedural dates fixed by order issued August 26, 1974, as most recently modified by notice issued

May 12, 1975, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Intervenor's Testimony, July 18, 1975.
Service of Staff's Testimony, August 18, 1975.
Service of Company's Rebuttal, September 2, 1975.
Service of Intervenor's Rebuttal Testimony, September 15, 1975.
Hearing, September 30, 1975 (10 a.m., edt).

MARY B. KIDD,
Acting Secretary.

[FR Doc.75-14889 Filed 6-6-75;8:45 am]

[Docket No. RP75-86]

COLORADO INTERSTATE GAS CO.

Order Granting Interventions

MAY 30, 1975.

On March 31, 1975, the Colorado Interstate Gas Company (CIG), tendered for filing proposed changes in its FPC Gas Tariff, Second Revised Volume No. 1. Notice of CIG's filing was issued by the Commission on April 7, 1975, with protests and petitions to intervene due on or before April 21, 1975.

Protests and petitions to intervene were filed by, inter alia, Citizens Utilities Company, City & County of Denver, Western Slope Gas Company, Cheyenne Light, Fuel & Power Company, Public Service Company of Colorado, and Natural Gas Pipeline Company of America, and Peoples Natural Gas Division of Northern Natural Gas Company.

Having reviewed the above petitions to intervene, we believe that the petitioners have sufficient interest in the proceedings to warrant interventions.

The Commission finds it is desirable and in the public interest to allow the above-named petitioners to intervene.

The Commission orders. (A) The above-named petitioners are hereby permitted to intervene in these proceedings subject to the rules and regulations of the Commission: *Provided, however,* That participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to intervene: *And provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(B) The interventions granted herein shall not be the basis for delaying or deferring any procedural schedules heretofore established for the orderly and expeditious disposition of this proceeding.

(C) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.75-14890 Filed 6-6-75;8:45 am]

[Docket Nos. RP74-82, RP74-81]

COLUMBIA GAS TRANSMISSION CORP. AND COLUMBIA GAS TRANSMISSION CO.

Further Extension of Procedural Dates

JUNE 2, 1975.

On May 14, 1975, Columbia Gas Transmission Corporation and Columbia Gas Transmission Company filed a motion to extend the procedural dates fixed by order issued May 31, 1974, as most recently modified by notice issued May 8, 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 Intervenor's Testimony, July 3, 1975.
Service of Company Rebuttal, July 17, 1975.
Hearing, August 5, 1975 (10 a.m., edt).

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-14891 Filed 6-6-75;8:45 am]

[Docket No. RP73-65, (PGA 75-5)]

COLUMBIA GAS TRANSMISSION CORP.

Extension of Procedural Dates

MAY 29, 1975.

On May 23, 1975, Staff Counsel filed a motion to extend the procedural dates fixed by order issued February 28, 1975, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Staff's Testimony, September 2, 1975.
Service of Intervenor's Testimony, September 23, 1975.
Service of Company Rebuttal, October 7, 1975.
Hearing, October 21, 1975 (10 a.m., e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-14892 Filed 6-6-75;8:45 am]

[Docket Nos. RP71-77, RP72-104, RP73-107, RP74-90]

CONSOLIDATED GAS SUPPLY CORP.

Order Granting Motion To Sever and Consolidate Depreciation Issues and To Extend Procedural Dates

MAY 30, 1975.

In Opinion No. 703 issued August 28, 1974, we approved certain increased depreciation rates for Consolidated Gas Supply Corporation (Consolidated) in Docket No. RP71-77, relying upon our decision in Opinion No. 645 (United Gas Pipe Line Company, Docket No. RP71-41), 49 FPC 141 (1973), which was subsequently reversed in "Memphis Light, Gas and Water Division v. Federal Power Commission," 504 F.2d 225 (CADC, September 3, 1974). In Opininon No. 703-A issued March 28, 1975, we found that "there is insufficient evidence available to satisfy the standards of the court in Memphis" and, accordingly, reopened the record insofar as it pertains to those depreciation rates and remanded it to an administrative law judge to afford Consolidated an "opportunity to introduce evidence that will meet these standards."

The Commission staff, on April 29, 1975, moved to sever the depreciation issues from Consolidated's subsequent rate filings in Docket Nos. RP73-107 and RP74-90 (which proceedings had previously been consolidated with one another and with Docket No. RP75-11) and to consolidate those severed depreciation issues with the reopened and remanded proceeding in Docket No. RP 71-77 stating, "Staff believes that the issue of a proper rate of depreciation in Docket Nos. RP74-90 and RP73-107 involves substantially the same issues of law and fact as the remanded proceeding in Docket No. RP71-77." Consolidated filed an answer on May 6, 1975, opposing the staff's motion because (1) "the level of the depreciation rates in the latter dockets is different from the depreciation rates in Docket No. RP71-77", (2) "rates applicable to the latter test periods in Docket Nos. RP74-90 and RP73-107 will involve additional facts than those involved in the earlier proceeding" and (3) the staff's motion "overlooks the substantially different procedural posture of the RP71-77 proceeding and the latter dockets." Furthermore, Consolidated asserts, consolidation will undoubtedly delay the resolution of Docket No. RP71-77 which, in turn, should materially expedite the resolution of the depreciation issues in the latter dockets.

Additionally, the Public Service Commission of the State of New York (New York) filed a response on May 2, 1975, indicating (1) that while it does not object to the staff's proposed severance and consolidation of the depreciation issues such action should be expanded to embrace the depreciation issue in Consolidated's Docket No. RP 72-104 which, in turn, is presently pending before an administrative law judge for initial decision and (2) that New York "does not necessarily concede that the same result is appropriate with respect to the depreciation issue in all four dockets."

We have no doubt that there are many similarities among Docket Nos. RP 71-77, RP 72-104, RP 73-107 and RP 74-90 and that they contain many common questions of law and/or fact as incident to their embracing four successive rate filings by a single natural-gas company. Such common questions give us authority under § 1.20(b) of our rules of practice and procedure to consolidate the proceedings or common parts of them. And while we can appreciate that different test periods and rate levels may be involved, and that there may be differences in the postures of the proceedings, we believe on balance that such differences are outweighed by the common veins among the proceedings and, consequently, that it is appropriate and in the public interest to sever the depreciation issues from Docket Nos. RP 72-104, RP 73-107 and RP 74-90 and to consoli-

date those severed issues with the depreciation issue in Docket No. RP 71–77 for the purposes of hearing and decision.

The staff advises, and it appears, that there is no opposition to its proposed extended procedural dates in Docket Nos. RP73–107 and RP74–90 and, consequently those dates are approved as follows:

Service of staff testimony, May 30, 1975.
Service of intervenor testimony, June 17, 1975.
Service of company rebuttal, July 3, 1975.
Hearing, July 15, 1975.

The Commission orders. (A) The motion of the Commission staff filed April 29, 1975, is granted.

(B) The depreciation issues are severed from Docket Nos. RP72–104, RP73–107 and RP74–90 and those severed issues are consolidated with the depreciation issue in Docket No. RP71–77 for the purposes of hearing and decision.

(C) The procedural dates in Docket Nos. RP73–107 and RP74–90 are extended as set forth in the body of this order.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.75–14893 Filed 6–6–75;8:45 am]

[Docket No. E–9091]

GEORGIA POWER CO.

Further Extension of Procedural Dates

MAY 30, 1975.

On May 27, 1975, Staff Counsel filed a motion to extend the procedural dates fixed by order issued December 26, 1974, as most recently modified by notice issued March 27, 1975, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Staff's Testimony, July 15, 1975.
Service of Intervenor's Testimony, July 29, 1975.
Service of Company Rebuttal, August 12, 1975.
Hearing, September 10, 1975 (10 a.m., edt).

MARY B. KIDD, *Acting Secretary.*

[FR Doc.75–14895 Filed 6–6–75;8:45 am]

[Docket Nos. CP66–110, CP70–19, CP71–222, etc.]

GREAT LAKES GAS TRANSMISSION CO.

Petition To Amend Import Authorization

JUNE 2, 1975.

Take notice that on May 21, 1975 Great Lakes Gas Transmission Company (Great Lakes) filed a petition to amend the Commission's orders in the above-captioned proceedings to permit Great Lakes to continue the importation of natural gas purchased from TransCanada Pipelines Limited (TransCanada) at the new rates of $1.40 (Cdn) per MMBTU to be effective on August 1, 1975 and $1.60 (Cdn) per MMBTU to be effective on November 1, 1975. Great Lakes' petition states that such rates have been announced by the Minister of Energy, Mines and Resources of the Government of Canada in his statement issued May 5, 1975. Great Lakes is presently purchasing gas from TransCanada at a rate of $1.00 (Cdn) per MMBTU.

The petition alleges that if Great Lakes' import authorizations are not amended as requested prior to August 1, 1975 Great Lakes will be faced with termination of imports of gas from TransCanada.

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 June 16, 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.75–14896 Filed 6–6–75;8:45 am]

[Project No. 2458]

GREAT NORTHERN NEKOOSA CORP.

Application for Amendment of License

JUNE 2, 1975.

Public notice is hereby given that application was filed on March 19, 1975 and amended on April 16, 1975, under the Federal Power Act (16 U.S.C. 791a–825r) by Great Northern Nekoosa Corporation (Correspondence to Mr. Ronald D. Jones, Leboeuf, Lamb, Leiby & MacRae, 140 Broadway, New York, New York 10005) for Amendment of license at the Dolby Development of Penobscot Mills Project No. 2458 located in the county of Penobscot, Maine on the West Branch of the Penobscot River.

Applicant requests Commission approval to replace generating units 5, 6, and 7 at the Dolby Hydro Station with two new turbines and generators installed in place of units 6 and 7. Installation of the new units will increase the project generating capacity from 14,100 kw to 16,980 kw. The new units would also be 60 cycle generation as opposed to the present 40 cycle generation of units 5, 6, and 7. Applicant desires additional 60 cycle power to meet the needs of new manufacturing equipment in its mills. In addition, new headgates and trash racks on units 6 and 7 and new trash rakes for units 6, 7, and 8 would be installed. A gate house would also be installed to protect the new equipment from the weather. New switch gear on units 6, 7, and 8, with supervisory control and automatic safety equipment would be provided to control units 6, 7, and 8 from Applicant's East Millinocket mill. In addition, Applicant will construct a 60 kv transmission line about 11.8 miles long to connect the new units with Applicant's mills. Approximately 1.2 miles will be constructed within the project boundary on existing right-of-way and 10.6 miles will be constructed parallel to existing right-of-way which will require an additional 20 feet of right-of-way to be included within the project boundary.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 14, 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 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.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.75–14897 Filed 6–6–75;8:45 am]

[Docket No. E–7740]

INDIANA AND MICHIGAN ELECTRIC CO.

Order Denying Motion for Stay and Denying Motion To Recall Order

MAY 30, 1975.

On June 13, 1972, Indiana and Michigan Electric Company (I&M) tendered for filing with the Commission a wholesale rate increase applicable to 23 mu-

nicipal and cooperative customers. Of these customers, Richmond Power and Light (Richmond), Anderson, Indiana (Anderson) and a group of cooperatives (Cooperatives),[1] filed motions to reject I&M's filing as it pertained to them, claiming their contracts with I&M prohibited unilateral changes in rates by I&M, referring to the Supreme Court's decisions in Mobile-Sierra.[2]

By order issued August 11, 1972, the Commission accepted I&M's proposed rate increase for filing, suspended its effectiveness for five months, and established hearing procedures thereon. The Commission also denied the motions to reject, holding that the parties' agreements with I&M did not constitute fixed-rate contracts within the definition of Mobile-Sierra. The Commission, by order of October 6, 1972, denied the motions for rehearing filed by the three parties.

Richmond, Anderson and the Cooperatives each petitioned the Court of Appeals for the District of Columbia Circuit for review of the Commission's orders denying the motions to reject I&M's filing and the order denying rehearing. In "Richmond Power and Light Company v. F.P.C.,"[3] the Court held that I&M's contracts with Richmond and Anderson precluded I&M from filing a unilateral rate increase under section 205 and remanded those cases to the Commission with directions to reject I&M's filings for Richmond and Anderson.

The Commission, subsequent to a Supreme Court refusal to review the Richmond decision, filed with the Court of Appeals a motion requesting a remand to the Commission of the record of the Cooperatives' appeal so that we might review the Cooperatives' contracts in light of the Richmond decision. Upon a remand, opportunity for all parties to file briefs, and a reconsideration of the subject contracts, we held that I&M's June 13, 1972 rate increase filing with respect to the Cooperatives was contractually impermissible under section 205 of the Federal Power Act. We therefore rejected I&M's filing under section 205 of the Act with respect to the Cooperatives and ordered refunds to be made to the Cooperatives of all amounts collected in excess of the rates effective at the time of the June 13, 1972 filing.[4]

Subsequent to our order denying rehearing of our June 3, 1974 order[5] I&M petitioned the U.S. Court of Appeals for the D.C. Circuit for review of those orders. That appeal is still pending.

On April 10, 1975, the Cooperatives filed a Motion for Enforcement Action with this Commission requesting the Commission to implement its powers under sections 314, 315 and 316 of the Federal Power Act and enforce its order of June 3, 1974. In support of this motion the Cooperatives pointed out that I&M did not request of the Court or of the Commission a stay of the Commission's June 3, 1974 order and that the order therefore remained in effect and required I&M to make the appropriate refunds. By order issued May 9, 1975, in this docket, we granted the Cooperatives' Motion by ordering I&M, within twenty days of the issuance of our order, to make the refunds of all amounts collected in excess of the rates in effect prior to its June 13, 1972 filing.

On May 14, 1975, I&M, stating that it had not received a copy of the Cooperatives' April 10, 1975 Motion, filed with the Commission a motion for a stay of our orders of June 3, 1974 and August 2, 1974, insofar as those orders required I&M to make refunds. On May 19, 1975, I&M filed a motion to recall our order issued May 9, 1975, so as to permit I&M the opportunity to file a response to the Cooperatives' Motion of April 10, 1975. On May 23, 1975, I&M filed its response to the Cooperatives' April 10, 1975 motion for enforcement action. The underlying position of I&M in each of these pleadings is that the Commission should recall its May 9, 1975 order requiring the payment of refunds by I&M in order that I&M may pursue its court appeal without any suggestion that the legal issues involved therein have been rendered moot.

I&M further maintains that its failure to earlier request a stay of the Commission's orders of June 3, 1974 and August 2, 1974, wherein this Commission originally ordered the payment of refunds, was based on the assumption that the Commission would not take any action to enforce its orders during the pendency of its appeal.

I&M finally argues in support of its request that the Commission recall its order of May 9, 1975, and stay its orders of June 3, 1974 and August 2, 1974, that I&M would suffer irreparable injury if it was required to refund to the Cooperatives all amounts collected in excess of the rates in effect prior to its June 13, 1972 filing.

By May 28, 1974 order from the U.S. Court of Appeals for the D.C. Circuit the Commission's orders of June 3, 1974 and August 2, 1974 were stayed "in order to afford the Court an opportunity more fully to consider the matter without expressing at the time any view on the merits of the motion."

Upon a complete review of I&M's motions, its response to the Cooperatives motion, and the arguments contained therein, we must deny I&M's motion to recall our order of May 9, 1975, and deny I&M's motion for a stay of our orders of June 3, 1974 and August 2, 1974 in this proceeding. However, in light of the D.C. Circuit's stay of our June 3 and August 2, 1974 orders we shall require I&M to place those amounts which may be refundable to the cooperatives in escrow and require that those amounts be charged to FPC Account No. 134—Other Special Deposits pending further Commission order.

I&M's Motion For Stay

I&M's reason for not earlier requesting a stay of the Commission's June 3, 1974 and August 2, 1974 orders—that it assumed the Commission would not take action to enforce those orders pending a court decision—does not persuade us either that such delay was justified or that a stay would now be appropriate. Section 313(c) of the Federal Power Act quite clearly states that the filing for court review of an order of this Commission does not, unless specifically ordered, operate as a stay of the Commission's order. It was at best presumptuous of I&M to assume the Commission would not take action to enforce an order merely because court review proceedings had commenced. If it had been the intent of Congress that the Commission's orders lack potency and authority pending a court review it could have provided that all such orders be automatically stayed.

We are further precluded from granting I&M's request on the ground that it has failed to meet the stringent test required under "Virginia Jobbers v. F.P.C."[6] which this Commission has held must be met to secure a stay of an order. Under the test there enunciated by the U.S. Circuit Court of Appeals for the D.C. Circuit, the petitioner must show:

(1) The likelihood of prevailing on the merits of its requested review;

(2) That it will suffer irreparable injury if the stay is not granted;

(3) That other parties will not be substantially harmed by granting the stay; and

(4) That the public interest will be served by granting the stay.

I&M, in its motion for a stay of our June 3, 1974 and August 2, 1974 orders, made no attempt to meet the tests required before this Commission will grant a stay of its orders. In its answer to the Cooperatives' motion for enforcement action I&M alleged that if it were required to now make refunds to the Cooperatives it may suffer irreparable injury in the event it could not recollect such amounts after a favorable court review decision. Even if this allegation were accurate, an argument we will reach later in this order, I&M's citation of this potential injury is not sufficient to meet the Virginia Jobbers four-pronged test. We must therefore deny I&M's motion for a stay of our orders of June 3, 1974 and August 2, 1974.

I&M's Request For Recall of Our May 9, 1975 Order

We now reach our disposition with respect to our order of May 9, 1975, requiring I&M to make refunds to the Cooperatives of the amounts collected in excess of the rates in effect prior to

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[1] Indiana Statewide Rural Electric Cooperative, Inc., Pruit Belt Electric Cooperative, Jay County Rural Electric Membership Corporation, Noble County Rural Electric Membership Corporation, Paulding-Putnam Electric Cooperatives, Inc., United Rural Electric Corporation, Wayne County Rural Electric Membership Corporation, and Whitley County Rural Electric Membership Corporation.

[2] United Gas Pipeline Co., v. Mobile Gas Service Corp., 350 U.S. 332 (1956); F.P.C. v. Sierra-Pacific Power Co., 350 U.S. 348 (1956).

[3] 481 F.2d 490 (D.C. Cir. 1973).

[4] Order on Reconsideration, Docket No. E-7740, issued June 3, 1974.

[5] Order Denying Rehearing, Docket No. E-7775, issued August 2, 1974.

[6] 259 F.2d 921 (D.C. Cir. 1958).

the June 13, 1972 filing. I&M's motion to recall our May 9, 1975 order, and its response to the Cooperatives' April 10, 1975 motion petitioning such action, request this Commission to delay the requirement of refunds until the U.S. Court of Appeals has issued a decision on the validity of the orders now pending review. In support of this request I&M argues (a) that it would not be proper for the Commission to now enforce its orders of June 3, 1974 and August 2, 1974 since it has not taken any action on those orders until the present; and (b) that I&M would suffer irreparable injury if it were now required to make refunds to the Cooperatives since it may not be able to recollect the amounts in the event of a favorable court decision.

I&M's first averment is without merit. It may be true that this Commission has not taken any action to enforce its orders of June 3, 1974 and August 2, 1974 until its order of May 9, 1975. However, our orders were final orders with respect to the issues presented and they therefore required a disposition of the subject refunds. Moreover, as earlier indicated in this order, it was incumbent upon I&M to seek a stay of the Commission decisions in order to be relieved temporarily of their binding requirements.

We understand the concern expressed by I&M in its second averment. I&M is concerned that in the event the Court of Appeals renders a decision favorable to its position, and it has been required to make refunds to the Cooperatives, it may be unable to recollect such amounts. It maintains that this Commission may be unable or unwilling to order the Cooperatives to repay to I&M the amounts so refunded on the basis that such a repayment may be considered an unlawful retroactive collection of rates.[1] We do note however that the Cooperatives are on the record as having stated that they would be willing to repay such amounts to I&M in the event I&M prevails in its court review.[2] It is therefore unlikely that this Commission would face a situation wherein it would have to order the Cooperatives to repay such amounts to I&M. Moreover, this Commission is required under Virginia Jobbers to balance petitioners' likelihood of success on appeal. On balance we conclude that our present disposition is proper and necessary.

I&M's citation of the Commission position in the recent appeals in Docket Nos. 73-2193 and 74-1032, wherein the Commission argued that it did not have the authority to permit I&M to place its increased rates into effect retroactively, will not be dispositive of our position in the event the Cooperatives are unwilling to repay I&M. We note that that review proceeding involved a requested effective date prior to I&M's filing date. In the present proceeding not only did I&M's filing date precede the requested effective date, but the increased rates were subject to the maximum suspension period permitted under the Federal Power Act. Upon consideration of I&M's concern over the possibility of being precluded by this Commission from recollecting any refunded amounts in the event of a favorable court decision we conclude that such concern over this Commission's authority is unwarranted.

We conclude therefore that I&M has not presented sufficient grounds to permit this Commission to order a stay of its orders of June 3, 1974 and August 2, 1974 or to require this Commission to recall its order of May 9, 1975.

The Commission finds. (1) Good cause has not been shown for this Commission to grant I&M's May 14, 1975 motion for a stay of our orders of June 3, 1974 and August 2, 1974.

(2) Good cause has not been shown for this Commission to grant I&M's May 19, 1975 motion to recall our order of May 9, 1975 in this docket.

(3) In light of the May 28, 1974 order of the U.S. Court of Appeals for the D.C. Circuit staying Commission orders of June 3, 1974 and August 2, 1974, good cause exists to require I&M to establish an escrow account for the amounts which may be refundable to the cooperatives as hereinafter ordererd.

The Commission orders. (A) I&M's May 14, 1975 motion for a stay of our orders of June 3, 1974 and August 2, 1974 is hereby denied.

(B) I&M's May 19, 1975 motion to recall our order of May 9, 1975 issued in this docket is hereby denied.

(C) I&M is hereby ordered to place those amounts which may be refundable to the cooperatives under the June 13, 1972 rate filing in escrow and shall charge those amounts to FPC Account No. 134—Other Special Deposits of the Commission's Uniform System of Accounts for Public Utilities and Licensees pending further Commission order.

(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.75-14898 Filed 6-6-75;8:45 am]

[1] I&M implies that this Commission may have the authority to direct the repayment to I&M of the amounts which may be refunded. We do not lay claim to such authority.

[2] The Cooperatives' April 10, 1975 Motion for Enforcement Action states in part: "While it is inconceivable that I&M could prevail ultimately, even if it did it would not be irreparably injured by a stay not being granted by the Court, since in that event the Cooperatives would be required to pay the full amount of the increased rates to I&M. The Cooperatives hereby state for the record that they are aware of this fact and would, of course, voluntarily make the necessary payments to I&M were I&M to prevail ultimately." (at 7).

[Docket No. CI74-319]

JAMES M. FORGOTSON, AND GULF COAST VENTURE

Order Setting Hearing Date, Establishing Procedures and Granting Untimely Intervention

JUNE 2, 1975.

On November 5, 1973, James M. Forgotson, Operator for Gulf Coast Venture (Forgotson), filed in Docket No. CI74-319 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon the sale of natural gas to Valley Gas Transmission, Inc. (Valley Gas), from certain wells in the Southeast Alice Area, Jim Wells County, Texas, all as more fully set forth in the application in this proceeding.

Applicant in his November 5, 1973, application proposed to abandon the sale of gas to Valley Gas from the Gulf Coast Venture No. 7 Charles Muil well and Gulf Coast Venture No. 1 Tom Collard well. According to Forgotson, these wells are not longer producing. The Muil well was completed February 21, 1965, from perforations between 5,046 and 5,050 feet and, after ceasing to produce, was shut in on August 11, 1973. The Collard well was completed from perforations between 5,353 and 5,362 feet in September 1962. This zone was abandoned at the end of 1964. The well was produced from perforations from 4,762 to 4,768 feet from January 1965 until said sand watered out and the well ceased to produce. Both wells were the subject of a contract for the sale of said gas dated June 25, 1962, as amended December 12, 1962, on file as Forgotson's FPC Gas Rate Schedule No. 6.

The wells on certain of the leases described in Forgotson's FPC Gas Rate Schedule No. 6 are said to have been depleted and abandoned and the gas wells on certain other leases described in that rate schedule are said to be dead. Subsequent to the filing of the application Forgotson indicated that he wished to rework the Muil Nos. 4 and 7 wells and the Collard No. 1 well in the hope of finding new gas or to drill another well on the property.

Forgotson filed on December 18, 1973, a notice of cancellation of his FPC Gas Rate Schedule No. 6. His position, apparently, was that, although the contract date of termination was not reached, the contract could be terminated and the sale could be abandoned because the wells could not produce any gas under the terms of the contract. He desired to sell any additional gas found to Valley Gas, but not at the then applicable price of 16 cents per Mcf at 14.65 psia.

A remedy provided in a situation such as that faced by Forgotson is to submit a request for special relief pursuant to § 2.76 of the policy and interpretations (18 CFR 2.76), which permits independent producers to apply for relief from area rates with respect to sales of natural

gas from reservoirs where reduced pressures, the need for reconditioning or deeper drilling make further production uneconomical at existing prices. Accordingly, by letter filed on April 30, 1974, Forgotson requested that the application for abandonment in the instant docket be considered as a petition for special relief pursuant to § 2.76. Section 2.76 provides, however, that applicants for relief under such policy shall establish economic justification for their request, including information on additional costs, the unit price which would justify the additional expenditure and the amount of gas to be recovered and sold in the interstate market.

Forgotson filed, as part of the required data, a contract amendment dated May 10, 1974, providing for a 60.0-cent per million Btu charge for the gas, plus tax reimbursement. Later, he filed supporting data for his price. He indicated a plan to test three possible producing zones in the Muil No. 4 and Muil No. 7 wells and four possible producing zones in the Collard No. 1 well, each at an estimated cost of $6,000 per zone. To test each zone he indicated it would be necessary to squeeze off the present nonproductive perforations, to perforate the next zone to be tested, set tubing and packer above perforations, swab the well and possibly acidize. In the Muil No. 4 well it would be necessary to drill out the cast iron plug which was set above a possible gas sand.

Forgotson had hoped to produce from a minimum of four sands. Based on the production history of five wells on the subject acreage, including the three proposed to be tested, he anticipated total productivity of the three wells to be approximately 1.0 million Mcf and total product life to be five years. He estimated total operating expenses over the five-year depletion period would be approximately $88,000, including the cost of compression.

On July 23, 1974, in Sun Oil Company, Docket No. RI74-236, the Commission declared that a producer applicant seeking relief "must furnish not only opinion evidence on the cost of the project and gas supply issues but also sufficient underlying data so that the reasonableness and credibility of the opinion evidence can be weighed by application of traditional evidentiary standards." Forgotson was thereupon requested to furnish additional information consistent with the guidelines set forth in the Sun order. In lieu thereof, however, he reiterated his request for abandonment authorization and cancellation of the applicable rate schedule. He states that attempts to recomplete the Muil No. 7 well have been unsuccessful. He has further furnished information in the form of a letter from Valley Gas to him stating that Valley Gas is not in a position either to accept his offer to farm out the acreage to it or to attempt the compression of existing perforations.

After due notice by publication in the FEDERAL REGISTER of the application for abandonment in the instant docket, and after due notice by publication in the FEDERAL REGISTER on July 19, 1974 (39 FR 26488), of Forgotson's request to construe the application as a petition for special relief, a petition to intervene in support of the special relief was untimely filed by Valley Gas on July 30, 1974. In its petition Valley Gas stated that it did not oppose the application for abandonment.

The Commission finds. (1) The participation of Valley Gas in this docket would not delay these proceedings nor unduly inconvenience any other party.

(2) The intervention of Valley Gas in this proceeding may be in the public interest.

(3) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the issues in this proceeding be scheduled for hearing in accordance with the procedures set forth below.

The Commission orders. (A) Valley Gas is hereby permitted to intervene in this proceeding, subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervener shall be limited to matters affecting asserted rights and interests as specifically set forth in said petition for leave to intervene: *And, provided, further,* That the admission of said intervener shall not be construed as recognition by the Commission that it might be aggrieved by any order or orders of the Commission entered in this proceeding.

(B) 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, a public hearing shall be held on July 29, 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 issue of whether the available supply of natural gas is depleted to the extent that the continuance of service is unwarranted, or that the present or future public convenience or necessity permit such abandonment.

(C) On or before July 17, 1975, Forgotson and any supporting party shall file with the Commission and serve upon all parties, including Commission Staff, their testimony and exhibits in support of their positions.

(D) An Administrative Law Judge to be designated by the Chief Administrative Law Judge—See Delegation of Authority, 18 CFR 3.5(d)—shall preside at, and control this proceeding in accordance with the policies expressed in the Commission's rules of practice and procedure and the purposes expressed in this order.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-14894 Filed 6-6-75;8:45 am]

[Docket Nos. RP73-14, RP73-102, PGA 75-3 AP 75-3]

MICHIGAN WISCONSIN PIPE LINE CO.

Proposed Changes in F.P.C. Gas Tariff

JUNE 2, 1975.

Take notice that on May 29, 1975, Michigan Wisconsin Pipe Line Company (Michigan Wisconsin), tendered for filing Substitute Ninth Revised Sheet No. 27F to its F.P.C. Gas Tariff, Second Revised Volume No. 1 to be effective May 2, 1975, pursuant to Commission order dated May 15, 1975.

Michigan Wisconsin states that this filing reflects elimination of payments made to Exxon Company, U.S.A. included in the rate increase filing of March 13, 1975.

Michigan Wisconsin further states that copies of the filing were served upon the Company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 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 June 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.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-14899 Filed 6-6-75;8:45 am]

[Docket Nos. CP74-316 etc.]

MICHIGAN WISCONSIN PIPE LINE CO. ET AL.

Findings and Order After Statutory Hearing Issuing Certificates of Public Convenience and Necessity

JUNE 2, 1975.

Michigan Wisconsin Pipe Line Company, Docket Nos. CP74-316, CP75-182 and CP75-195; Natural Gas Pipeline Company of America, Docket Nos. CP 72-279 and CP75-274; Great Lakes Gas Transmission Company, Docket No. CP 74-317; Northern Natural Gas Company, Docket Nos. CP75-21; and CP75-237; Michigan Consolidated Gas Company, Docket Nos. CP75-199 and CP75-200.

The applications in this proceeding are all in some way related to the providing of storage service and the increasing of peak day sales in the service areas of certain major interstate pipeline companies. The applications relate to short and long-term arrangements involving the pipeline system of Michigan Wisconsin Pipe Line Company (Mich Wis). The primary facilities proposed are those involving Mich Wisc's proposal to acquire, develop, and operate three underground storage fields in Michigan. Other appli-

cations relate to arrangements for temporary storage service pending construction of Mich Wisc's underground storage facilities or to long-term transportation and storage service proposed by Mich Wisc. The proceedings in certain dockets herein are to be set for formal hearing on a consolidated record. Certain of the proposals concern transactions which are planned for the near future and seem to have some urgency about them. The Commission will grant temporary certificates herein in the case of those proposals. The total cost of facilities involved herein is approximately $136,500,000. The Commission is granting temporary authorization to construct and operate facilities estimated to cost over $40,000,000.

DEVELOPMENT OF THE STORAGE FIELDS

On June 7, 1974, Mich Wisc filed in Docket No. CP74–316 an application pursuant to section 7 (c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Mich Wisc to acquire and develop three depleted gas fields, the Muttonville, Capac and Leonard Fields, into natural gas storage fields and to acquire, construct and operate facilities necessary therefor, all as more fully set forth in the application in Docket No. CP74–316.

Mich Wisc states that the Muttonville Field is a substantially depleted gas field located in Lenox Township, Macomb County, Michigan, approximately seven miles from the existing pipeline facilities of Great Lakes Gas Transmission Company (Great Lakes) in St. Clair County, Michigan. Mich Wisc estimates that upon full development the field will provide 11.1 million Mcf of storage capacity for the 1976–77 winter period. Mich Wisc states that it has contracted to acquire existing wells together with related facilities and approximately 25 percent of the storage rights in the field and has commenced appropriate proceedings before the Michigan Public Service Commission for a certificate authorizing it to acquire the remaining storage and surface rights in the field by condemnation. To develop the Muttonville Field Mich Wisc proposes to drill additional facility wells and to construct and operate a gathering system, two 3,000 horsepower class units at the new Muttonville Compressor Station and a 6.7-mile 20-inch transmission line to connect the Muttonville Storage Field to the existing pipeline facilities of Great Lakes.

The application in Docket No. CP74–316 states that the Capac Field is a substantially depleted gas field located in Mussey and Lynn Townships, St. Clair County, Michigan, and Imlay Township, Lapeer County, Michigan, approximately seven miles from the existing pipeline facilities of Great Lakes in Lapeer County. Mich Wisc estimates that upon full development the field will provide 30 million Mcf of storage capacity for the 1977–78 winter period. Mich Wisc further states it is acquiring the existing production facilities, has acquired substantial storage rights in the field and is actively seeking to acquire the remaining storage rights required to develop and operate the field for storage. To develop the Capac Field Mich Wisc proposes to drill new facility wells, construct and operate a gathering system, three 4,500 horsepower class units at the Capac Compressor Station and a 7.1-mile 24-inch transmission line to connect the Capac Storage Field to the existing pipeline facilities of Great Lakes.

The third storage field described in the application in Docket No. CP74–316 is the Leonard Field, located in Addison Township, Oakland County, Michigan, approximately 12 miles from the existing pipeline facilities of Great Lakes in Lapeer County. Mich Wisc states that it has contracted with Michigan Consolidated Gas Company (Mich Con) to acquire all of the latter's facilities and other property in the field including storage rights and will acquire, as soon as practicable, all remaining storage rights and interests necessary to develop and operate the field for storage. Mich Wisc states that to develop the field for storage it will be necessary to drill additional facility wells and to construct and operate a field gathering system, two 2,000 horsepower class units at the new Leonard Compressor Station and a 11.6-mile 16-inch transmission line to connect the Leonard Storage Field to the existing pipeline facilities of Great Lakes in Lapeer County. Mich Wisc estimates that upon full development the Leonard Field will provide 11.2 million Mcf of storage capacity for the 1977–78 winter period.

Mich Wisc anticipates that all three fields can be fully developed and necessary facilities constructed over the next three years. Mich Wisc claims that the proposed storage development will provide 52,300,000 Mcf of additional working storage capacity, of which 45,900,000 Mcf are proposed to be cycled, and will enable Mich Wisc to obtain an aggregate maximum daily withdrawal from the storage fields at the end of March each year of 110,000 Mcf per day for 1975–76, 295,000 Mcf per day for 1976–77, and 500,000 Mcf per day for 1977–78.

Mich Wisc states in the application in Docket No. CP74–316 that additional storage capacity is essential to: (1) provide for gas sought to offset the decline in Mich Wisc's existing reserves which will have to be taken at essentially 100 percent load factor, (2) permit Mich Wisc's customers to alter their purchase patterns (creating increased winter seasonal and peak day requirements) in order to shift portions of their existing annual contract entitlement into higher end use markets, (3) provide for the anticipated growth in peak day and winter period requirements of Mich Wisc's existing distribution customers for future winter periods, and (4) assist in maintaining deliveries from Mich Wisc's pipeline suppliers.

Mich Wisc estimates the cost of facilities proposed in Docket No. CP74–316 is $70,016,000 which, Mich Wisc states, will be financed initially with funds generated internally, together with borrowings from banks under short-term lines of credit. Mich Wisc states that any bank borrowings will be refinanced with permanent debt and equity funds as market conditions permit.

To effect transportation and delivery of gas for injection into and withdrawal from the Muttonville, Capac and Leonard storage fields, Mich Wisc has entered into a transportation agreement dated May 20, 1974, with Great Lakes.

On June 7, 1974, Great Lakes filed in Docket No. CP74–317 its related application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity. Great Lakes proposes to transport up to 291,000 Mcf of natural gas per day for Mich Wisc, for 20 years, from the interconnection of their two systems near Farwell, Clare County, Michigan, to the points of interconnection to be established near storage facilities proposed to be developed by Mich Wisc at the Capac, Leonard and Muttonville Fields.

Mich Wisc will deliver to Great Lakes during the storage injection cycle, in the months of April through October of each year, 90,000 Mcf of gas during the first contract year, 182,000 Mcf during the second contract year, and 291,000 Mcf during the third and remaining years of the contract, at the exchange point near Farwell, and other points of interconnection as may be mutually agreed upon. Great Lakes will redeliver equivalent volumes to the proposed storage fields of Mich Wisc. The May 20, 1974, contract also provides that Great Lakes upon request by Mich Wisc may transport and deliver such excess quantities as Mich Wisc may request, when in Great Lakes' judgment such transportation is feasible.

The application in Docket No. CP74–317 states that under the exchange agreement between Great Lakes and Mich Wisc, approved by the Commission order issued April 30, 1970, in Docket Nos. CP70–19 and CP70–21 (43 FPC 635), as amended October 18, 1973 (50 FPC 1119),[1] Mich Wisc will deliver the stored volumes to Great Lakes at the storage field interconnections and Great Lakes will redeliver equivalent volumes to Mich Wisc at the Fortune Lake delivery point near Crystal Falls in the Upper Peninsula of Michgian.

In furtherance of the agreement of May 20, 1974, Great Lakes proposes in Docket No. CP74–317 to construct the following additional facilities during the period from 1974–1977; a total of 53.3 miles of 36-inch diameter loop pipeline at certain points between the exchange point near Farwell and the delivery points at the proposed storage fields, one 8,000 H.P. addition at the Farwell compressor station, an impeller replacement at the compressor station near Otisville, Michigan, and interconnection facilities at the proposed storage fields. Great

[1] Under the amending order of October 18, 1973, Great Lakes and Mich Wisc are authorized to exchange up to 500,000 Mcf per day.

Lakes estimates the total cost at $22,335,000, to be financed from funds generated internally, together with borrowings from banks under short-term lines of credit, if required.

Great Lakes intends to charge Mich Wisc for the transportation service, for the first year, 5 cents per Mcf for volumes of gas transported; for the second and each succeeding year, a demand charge of 82.8 cents per Mcf of monthly contract quantity and a volume charge of 2.10 cents per Mcf of gas delivered by Great Lakes to Mich Wisc.

INTERIM AND PERMANENT STORAGE ARRANGEMENTS

On December 19, 1974, Mich Wisc filed in Docket No. CP75–182 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Mich Wisc (1) to extend for one year short-term transportation and storage services for Northern Indiana Public Service Company (Nipsco), Northern Natural Gas Company (Northern), Natural Gas Pipeline Company of America (Natural), and The Peoples Gas Light and Coke Company (Peoples), and (2) to provide long-term storage and transportation service for Northern, Natural, and Peoples, all as more fully set forth in the application in Docket No. CP75–182.

Pursuant to Commission orders issued June 9, 1972, in Docket No. CP72–147 (47 FPC 1477) and September 6, 1974, in Docket No. CP74–157, et al., (52 FPC —), Mich Wisc was authorized to render a short-term transportation service for Nipsco by transporting 5,000,000 Mcf of natural gas for delivery to Mich Con during the storage injection cycle for storage for the account of Nipsco and redelivering equivalent volumes to Nipsco during the storage withdrawal cycle. Under the existing authorization, this arrangement terminated as of March 1, 1975. Nipsco has requested Mich Wisc and Mich Con, and they have agreed, to extend the arrangement for one year to March 1, 1976, with no change in the existing terms and conditions.

Pursuant to Commission orders issued October 2, 1972 (48 FPC 661), and October 9, 1973 (50 FPC 1021), in Docket No. CP72–277, and September 6, 1974, in Docket No. CP74–157, et al., Mich Wisc was authorized to render short-term transportation services for Northern and Natural and to provide for a related storage service by Mich Con. During the storage injection cycle Mich Wisc transports and delivers to Mich Con for storage 2,800,000 and 5,800,000 Mcf of natural gas for Northern and Natural, respectively, and redelivers equivalent volumes during the storage withdrawal cycle. Under existing authorizations these arrangements terminated as of March 1, 1975. Northern and Natural have requested Mich Wisc, and it has agreed, to extend the arrangements for one year to March 1, 1976, with no change in the existing terms and conditions.

Pursuant to the Commission's order issued September 6, 1974, in Docket No. CP74–157, et al, Mich Wisc was authorized to render short-term transportation service for Peoples and to provide for a related storage service by Mich Con. During the storage injection cycle Mich Wisc transports and delivers to Mich Con for storage 6,000,000 Mcf of natural gas for Peoples and redelivers equivalent volumes during the storage withdrawal cycle. Under the existing authorization these arrangements terminated as of January 31, 1975. Peoples has requested Mich Wisc, and it has agreed, to extend the arrangement for one year to January 31, 1976, with no change in the existing terms and conditions.

Mich Wisc requests in Docket No. CP75–182 authority to extend for one year the services presently being provided for Nipsco, Northern, Natural, and Peoples.

Mich Wisc in the application in Docket No. CP75–182 proposes, further, to render long-term transportation and storage services to Northern, Natural, and Peoples at the request of these companies. During the storage injection cycle, Mich Wisc proposes to transport for storage 4,200,000 Mcf of gas for Northern, 3,800,000 Mcf for Natural and 1,000,000 Mcf for Peoples. Mich Wisc states that it does not presently have available the capacity to store the 9,000,000 Mcf of gas, but that it has arranged for Mich Con to store the 9,000,000 Mcf of gas during 1975 and 5,000,000 Mcf during 1976. Mich Wisc proposes to use the storage fields proposed in Docket No. CP 74–316 eventually to provide the needed capacity. Mich Wisc intends to store in such fields 4,000,000 Mcf of the 9,000,000 Mcf of the long-term storage gas in 1976, and in subsequent years to store the full 9,000,000 Mcf.

To provide the proposed services, Mich Wisc requests authorization in Docket No. CP75–182 to construct and operate four sections of 42-inch pipeline loop with an aggregate length of 51.7 miles. The proposed pipeline looping will consist of 16.1 miles of 42-inch pipeline paralleling existing pipeline facilities on Mich Wisc's Woolfolk-to-Hamilton mainline in Michigan, 15.9 miles of 42-inch pipeline loop on Mich Wisc's Hamilton-to-Bridgman mainline in Michigan, 6.4 miles of 42-inch pipeline loop paralleling Mich Wisc's existing Bridgman-to-St. John mainline in Indiana, and 13.3 miles of 42-inch pipeline loop paralleling Mich Wisc's existing St. John-to-Sandwich mainline in Illinois. The total estimated cost of the proposed facilities is $26,693,760, which Mich Wisc states will be financed initially with treasury funds, retained earnings and other funds generated internally, together with borrowings from banks under short-term lines of credit as required.

Mich Wisc has entered into transportation and storage agreements with Northern, Natural, and Peoples providing for a primary term extending from March 1, 1975, to February 28, 1995. The agreements provide that the storage customers will pay for transportation and storage services a demand charge of $6.75 per month per Mcf of maximum daily quantity for each month of the year.

Mich Wisc has entered into a storage agreement with Mich Con under which Mich Wisc will pay Mich Con $3.54 per month per Mcf of maximum daily quantity for the storage service to be rendered by Mich Con.

On January 2, 1975, Mich Con filed in Docket Nos. CP75–199 and CP75–200 applications pursuant to section 7(c) of the Natural Gas Act for certificates of public convenience and necessity to implement its part of the temporary storage service proposed by Mich Wisc in the application in Docket No. CP75–182.

In the application in Docket No. CP 75–199 Mich Con requested authorization for continuation for one year for each company of the temporary storage service authorized by the order of September 6, 1974, in Docket No. CP74–157, et al., as described above in the discussion of Mich Wisc's application in Docket No. CP75–182.

In the application in Docket No. CP75–200 Mich Con proposes to render the natural gas storage service described by Mich Wisc in its application in Docket No. CP75–182 during the period from March 1975 through February 1977. During the summer period Mich Wisc will deliver to Mich Con for storage up to 9,000,000 Mcf in 1975 and up to 5,000,000 Mcf in 1976, plus 2 percent of the deliveries for compressor fuel. During the respective winter periods Mich Con proposes to redeliver equivalent volumes less compressor fuel to Mich Wisc at the Woolfolk Compressor Station, an existing delivery point of Mich Wisc to Mich Con.

On July 26, 1974, Northern filed in Docket No. CP75–21 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Northern to construct and operate facilities on its main line transmission system east of Northern's Ogden, Iowa, Compressor Station for the purpose of providing delivery capability which would enable Northern to accommodate the special gas storage and exchange arrangements with Mich Wisc, as described herein, as well as to accommodate arrangements with Great Lakes and Northern Illinois Gas Company. Northern's request is more fully set forth in the application in Docket No. CP75–21.

Specifically, Northern proposes in Docket No. CP75–21 to construct and operate a new 7,000 horsepower compressor station (East Dubuque) in Section 5, Township 28, Range 1, Jo Daviess County, Illinois, and 14.3 miles of 26-inch loop which will complete the 26-inch loopline between its Ogden and Waterloo compressor station to provide approximately 80,000 Mcf per day of additional delivery capability and operational flexibility on the east leg portion of Northern's pipeline system.

The estimated cost of the proposed facilities is $5,020,400 which will be financed from cash on hand, funds generated through operations and short-term bank notes as required.

By letter order issued March 13, 1975, Northern was granted temporary authorization to construct but not operate the facilities proposed in Docket No. CP75–21 conditioned to exclude the cost of such facilities from its rate base pending further Commission order.

In addition, Northern, on February 18, 1975, filed in Docket No. CP75–237 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Northern to (1) extend for one year the short-term transportation and storage arrangement with Mich Wisc described herein, (2) provide for long-term delivery of natural gas to Mich Wisc for storage and redelivery also described herein, and (3) extend for one year the authorization for an exchange of gas with Great Lakes, all as more fully set forth in the application in Docket No. CP75–237.

Northern proposes in Docket No. CP75–237 to deliver the 2.8 million Mcf pursuant to the short-term arrangement with Mich Wisc at the existing Janesville, Wisconsin, interconnection during the summer of 1975 on those days when Northern has gas available in excess of its customers' and its other storage injection requirements. The gas will be stored and redelivered to Northern, as described above. Northern states that it will pay Mich Wisc 42.72 cents per Mcf of gas delivered by Northern to Mich Wisc.

Northern also requests authorization in Docket No. CP75–237 for the long-term arrangements with Mich Wisc. According to Northern's application, Mich Wisc will cause the injection of delivered volumes into underground storage, as described above, and will redeliver such volumes to Northern by making physical delivery of gas to Great Lakes at Farwell, Michigan. Great Lakes will, in turn, deliver by displacement equivalent volumes to Northern at existing points of interconnection in Minnesota.

Northern also proposes in Docket No. CP75–237 to exchange 25,000 Mcf of gas per day with Great Lakes under terms of an agreement dated July 15, 1972, whereby Northern will receive gas from Great Lakes through existing interconnections in Minnesota and Michigan and will deliver equivalent volumes to Mich Wisc, for Great Lakes' account, near Janesville, or to Great Lakes at the Wakefield, Michigan, interconnection.

Northern indicates in the application in Docket No. CP75–237 that the long-term storage agreement with Mich Wisc calls for, (1) delivery by Northern during the summer of 1975 of 2.1 million Mcf of gas to Mich Wisc for use as base gas, (2) payment by Northern to Mich Wisc of a demand charge of $6.75 per month per Mcf of maximum daily quantity (42,000 Mcf) for each month, (3) a charge of 81 cents per Mcf of gas for any deficiencies in gas delivery by Mich Wisc to Northern during the withdrawal period, and (4) an unauthorized overrun charge against Northern of $10 per Mcf of gas.

Northern states that, besides those facilities for which authorization is sought by the application in Docket No. CP75–21, no additional facilities are required by it to effect the transportation and storage or exchange of gas proposed in its application in Docket No. CP75–237.

In order to obtain authorization for its part of the short-term storage arrangements Natural, on January 27, 1975, filed in Docket No. CP72–279 a petition to amend the order issued in said docket on December 6, 1972 (48 FPC 1206), as amended October 9, 1973 (50 FPC 1021), and September 6, 1974 (52 FPC ——), pursuant to section 7(c) of the Natural Gas Act by authorizing the continuation through February 28, 1976, of a 59,100 Mcf per day 100-day storage service under Natural's FPC Rate Schedule S–3,[1] and in accordance with the third amendment, dated December 5, 1974, to the relevant transportation and exchange agreement between Natural and Mich Wisc, all as more fully set forth in the petition to amend in Docket No. CP72–279.

The December 5, 1974, amendment extends the term of the original agreement between Mich Wisc and Natural, dated April 4, 1972, as amended March 2, 1973, and December 28, 1973, for the period through February 28, 1976, on the same terms and conditions as previously authorized in the subject docket. Pursuant to the agreement Natural will deliver to Mich Wisc near Woodstock, Illinois, the 5,910,000 Mcf of gas hereinbefore described during the summer months. Natural states that such gas will be provided by its customers by scheduling summer storage injection volumes from within said customers' effective monthly quantity entitlements.

In order to implement its part of the long-term storage arrangements Natural, on March 20, 1975, filed in Docket No. CP75–274 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Natural to provide 38,673 Mcf per day of long-term 100-day storage service to existing customers.

Natural states in its application in Docket No. CP75–274 that it has entered into a transportation and storage agreement with Mich Wisc providing for long-term transportation and storage of the 3,800,000 Mcf of natural gas hereinbefore described (3,800,000 Mcf at 1,000 Btu per cubic foot measured on a wet basis equals approximately 3,867,300 Mcf measured on a dry basis).

To support the proposed storage service, participating customers will provide to Natural volumes of natural gas from their existing entitlements, equivalent to all top gas, cushion gas and fuel gas Natural is required to deliver to Mich Wisc under the agreement, which includes, on an annual basis, a winter contract quantity of 3,800,000 Mcf, plus 5 percent of this winter contract quantity for use as compressor fuel. Mich Wisc is also to receive from Natural 1,900,000 Mcf of natural gas prior to October 31, 1976, for use as cushion gas. Natural states that the storage service will not affect its annual gas supply.

The Commission notes that neither Nipsco nor Peoples have applied for authorization to implement their parts of the transportation and storage arrangements.

Distribution Arrangements

In its petition to amend in Docket No. CP72–279 Natural states that the extension of the April 4, 1972, agreement with Mich Wisc has enabled it to offer a continued storage service, at a rate of 59,100 Mcf per day for 100 days on a pro rata basis, to its jurisdictional customers who are participants in the current year's service and that the volumes not accepted were then reoffered to accepting customers pro rata until the total volume was contracted. Natural, accordingly, also seeks authorization in its petition in Docket No. CP72–279 for service in the following quantities:

DMQ–1 customers	*Share of 59,100 M ft³*
Associated Natural Gas Co.	166
Illinois Power Co.	4,348
Iowa Electric Light & Power Co.	2,166
Iowa Illinois Gas & Electric Co.	9,643
Iowa Power & Light Co.	741
Iowa Southern Utilities Co.	389
North Shore Gas Co.	5,011
The Peoples Gas Light & Coke Co.	35,018
Wisconsin Southern Gas Co., Inc.	1,006

G–1 customers	*Share of 59,100 M ft*
Kaskaskia Gas Co.	47
Monarch Gas Co.	85
Nashville, Illinois, city of	72
Perryville, Missouri, city of	133
Pinckneyville, city of	91
Spearville, Kansas, city of	14
United Cities Gas Co.	170
Total	59,100

The proposed additional winter period service is urgently needed by Natural's customers to enable them to meet their respective presently attached peak-day requirements in the event of a severe 1975–1976 winter. No new facilities will be required in order to extend the subject service.

Natural indicates the rate for the subject service is based on the cost of storage service provided by Mich Wisc under its Rate Schedule X–29 and the allocated portion of Natural's cost of pipeline loop gas on the north end of its system said

[1] Natural's petition states that the applicable rate schedule designation will be changed to MS–3 in order to distinguish more readily between types of storage service currently in effect and additional storage service Natural plans to offer pursuant to authorization to be requested from the Commission in the near future. Among the additional storage services proposed by Natural is the long-term service proposed in Natural's application in Docket No. CP75–274, described infra.

to be required for the proposed deliveries. Said rate computes to 51.92 cents per Mcf, according to Natural.

In its application in Docket No. CP75–274 Natural states that the long-term arrangement with Mich Wisc will enable Natural to offer 38,673 Mcf per day of 100-day long-term storage service over the winter period of November 1 to March 1, to the following customers:

Customer	Share of 38,673 Mcf per day
Associated Natural Gas Co	50
Illinois Power Co	2,000
Iowa Electric Light & Power Co	1,476
Iowa-Illinois Gas & Electric Co	6,856
Iowa Power & Light Co	505
Iowa Southern Utilities Co	265
Nashville, Illinois, city of	41
North Shore Gas Co	3,412
Peoples Gas Light & Coke Co, the	23,849
Peoples Natural Gas Division	94
Spearville, Kans., city of	9
United Cities Gas Co	116
Total	38,673

The storage service will be offered for a term of 16 years, coextensive with the term of Natural's existing DMQ–1 service agreements, subject to renewal at Natural's option up to 20 years. During the 12-month period following termination of the proposed storage service, Natural proposes to redeliver the cushion gas furnished by participating customers, less 5 percent thereof for compressor fuel.

The storage service will be offered under a proposed new Rate Schedule MS–1. The proposed storage service will be billed under a demand charge per month of $7.47 for each Mcf of Buyer's Daily Withdrawal Quantity determined by dividing the sum of the annual cost Natural will pay Mich Wisc under the applicable agreement (a demand charge of $6.75 per month per Mcf of maximum daily quantity during each month of the year) plus the allocated portion of Natural's cost of north end pipeline loopings between its market storage fields and the terminus of the system by Natural's annual billing units applicable to the proposed service. In addition, it is proposed that the customers be required to bear costs to Natural which may result from reimbursing Mich Wisc for losses incurred by it in the event Natural elects to cancel the Mich Wisc agreement prior to its termination date.

Natural states that the additional winter period service is needed by its customers to enable them to meet peak day space heating requirements in the event of severe winter conditions. To the extent that a severe winter does not occur, this additional service, according to Natural, will assist Natural's customers to serve additional winter needs of new and existing high priority 1 and 2 consumers and will alleviate the need for expensive peak shaving supplies.

On December 30, 1974, Mich Wisc filed in Docket No. CP75–195 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of pipeline and compression facilities to enable Mich Wisc to meet the increased peak day requirements of its existing distribution customers and to increase deliveries to meet said requirements by approximately 92,900 Mcf of gas per day commencing September 1, 1975, all as more fully set forth in the application in Docket No. CP75–195.

Mich Wisc states that its distribution customers for the contract year commencing September 1, 1975, have nominated an increased peak-day quantity of natural gas from the existing maximum daily quantity of 3,775,879 Mcf to a proposed 3,868,781 Mcf. Mich Wisc further states that this increase in peak-day volumes only changes its customers' patterns of purchase under Mich Wisc's rate schedules without causing increase in annual gas supply and that such increase in peak-day volumes enables Mich Wisc's customers to husband their available annual gas supply and upgrade the end-use of such supply.

To transport these proposed increased peak-day volumes Mich Wisc proposes to install and operate 10.8 miles of 42-inch main-line loop paralleling existing facilities on Mich Wisc's Bridgman-to-St. John mainline in the state of Indiana, a 7,500 horsepower class compressor unit on Mich Wisc's existing Bridgman Compressor Station site in the state of Michigan, and 7.5 miles of 24-inch pipeline loop paralleling Mich Wisc's existing Madison laterals in the states of Illinois and Wisconsin. Mich Wisc states that all proposed facilities will be constructed on or adjacent to existing rights-of-way or compressor station sites.

Mich Wisc further states that the cost of the proposed facilities is estimated at $12,412,330 which will be financed with treasury funds, retained earnings and other internally generated funds, together with borrowings from banks under short-term lines of credit as required.

Based on the allegations presented by the applicants to the various applications reported herein the Commission finds that emergencies exist on the systems of Mich Wisc, Natural and Northern which require temporary authorization of the transportation and storage arrangements to enable the parties to begin injecting gas into storage and the construction and operation of facilities necessary to implement such arrangements. The Commission notes that, although it is authorizing construction of over $40 million worth of facilities, the cost of the facilities authorized shall not be included in any company's rate base until further order of the Commission.

Facts before the Commission in this and other proceedings concerning the regulatory status of Mich Con shall be considered as part of the formal hearings. Mich Con and Mich Wisc are affiliates. Both are subsidiaries of American Natural Gas Company, which owns all the outstanding voting securities of each company.

The Commission first declared Mich Con exempt from the provisions of the Natural Gas Act pursuant to section 1(c) thereof by a Declaration of Exemption issued in Docket No. G–6507 (14 FPC 535). At that time the Commission found that all natural gas received by Mich Con was received and ultimately consumed in Michigan and that the Michigan Public Service Commission was exercising regulatory jurisdiction over the rates, service and facilities of Mich Con. Mich Con was granted a continuing exemption from the provisions of the Natural Gas Act by Commission order issued November 21, 1969, in Docket No. CP70–82 (42 FPC 1030). The November 21, 1969, order exempted from Commission regulation the transportation and exchange of gas involving Mich Con, Panhandle Eastern Pipe Line Company (Panhandle) and Southeastern Michigan Gas Company (Southeastern). On September 10, 1971, Mich Con was again granted a continuing exemption from the provisions of the Act by order issued in Docket No. CP71–305, et al. (46 FPC 658), concerning a temporary transportation and exchange agreement between Mich Con and Mich Wisc so as to enable Mich Con to transport gas from its northern Michigan supply area to its southern Michigan system. The authorization was to expire on November 1, 1972, but was extended for one additional year by order issued in the same docket on December 27, 1972 (48 FPC 1528).

On July 12, 1972, by order issued in Docket No. CP72–146 (48 FPC 63), Mich Con was granted the first of its exemptions for the temporary storage arrangement Mich Con performed for Nipsco. Natural and Mich Wisc were involved in the transportation of the storage gas for Nipsco and Mich Con. Another exemption was granted for the storage service provided by Mich Con for Northern and Natural by order issued on October 2, 1972, in Docket No. CP72–277, et al., (48 FPC 661). Mich Wisc performed the necessary transportation services. The exemption for the service for Natural and Northern was continued through February 1974 by order issued October 9, 1973, in Docket No. CP72–277, et al. (40 FPC 1021).

When Mich Con applied again for continuation of the exemption pursuant to section 1(c) of the Natural Gas Act in order to continue the storage services for the benefit of Northern, Natural and Nipsco, and for an additional exemption to render a similar service to Peoples, the Commission rejected such application for continuing exemption, but granted a certificate of public convenience and necessity for the limited purpose of providing the storage services through the winter of 1975. The Commission issued the certificate to Mich Con by its order in Docket No. CP74–157 et al., issued on September 6, 1974 (52 FPC ___). Mich Con was authorized to store up to 19.6 million Mcf during the 1974 storage season by the September 6, 1974, order. In the instant order the Commission will authorize continuation of the previously authorized storage arrangements for an

additional year pursuant to another certificate of public convenience and necessity issued to Mich Con, requested by the application in Docket No. CP75–199. In addition, Mich Con is requesting, and the Commission is granting, authorization to store an additional 9 million Mcf pursuant to the application of Mich Con in Docket No. CP75–200. Mich Con is further requesting authorization to decrease the 9 million Mcf authorization to 5 million Mcf during the 1976 storage injection period, in the application in Docket No. CP75–200.

The Commission by order issued on January 3, 1975, in Docket No. CP74–306, et al. (53 FPC ___), authorized another 2 million Mcf storage service performed by Mich Con for Panhandle during the 1974 storage injection period. Mich Con had begun receiving gas pursuant to emergency authorizations. For the Panhandle storage service Mich Con had also requested a Section 1(c) exemption, but was granted a certificate of public convenience and necessity pursuant to Section 7(c). Mich Con has recently applied for a certificate of public convenience and necessity to continue the service to Panhandle for the 1975 storage injection period, in an application in Docket No. CP75–339. In its latest application Mich Con requests authorization to store for Panhandle either 3.7 million Mcf or 6.0 million Mcf, if Panhandle chooses to exercise a contractual right to increase storage service.

During the 1974 storage season Mich Con stored approximately 21.6 million Mcf pursuant to Commission authorization; during the 1975 storage season Mich Con is requesting authorization to store between 32.3 million and 36.3 million Mcf. For the 1976 storage season Mich Con has so far only requested authorization to store up to 5 million Mcf.

Mich Con has been authorized to store substantial amounts of natural gas by performing services subject to the Commission's jurisdiction. Mich Con according to a record compiled before this Commission has a substantial storage capacity which is being used as authorized by this Commission.

The situation with respect to Mich Con's status as a "natural-gas company" may thus be brought into question. If Mich Con has such a large storage capacity, why should its affiliate, Mich Wisc, be permitted to build additional storage capacity, while Mich Con is permitted to remove its capacity from the interstate system? Is interstate gas commingled in a stream with intrastate gas in Mich Con's system? If so, this Commission may have greater jurisdiction over Mich Con's system than it has been exercising. Should the Commission extend its regulatory powers over Mich Con to all Mich Con's storage service, or beyond, to Mich Con's entire system or some other part thereof? Does the Commission have authority to determine whether Mich Con should be permitted to decrease its storage service to 5 million Mcf from over 30 million Mcf, or may the Commission make a determination based only on whether 5 million Mcf of storage should be authorized without considering the substantial decrease in service? To what extent are natural gas companies subject to the Commission's jurisdiction paying for natural gas facilities that are to be used in intrastate commerce? Was Mich Con authorized to develop storage capacity in excess of that required for its intrastate operations? If Mich Con could recoup its costs of developing storage facilities from interstate natural gas companies, then retire the facilities from interstate service, should Mich Wisc be permitted to build additional storage facilities when Mich Con has such excess capacity? Should the Commission regulate Mich Con's entire storage operations, or its entire system not devoted to distribution of natural gas, in order to oversee the justness and reasonableness of the rates being charged?

Certainly all gas received by Mich Con is not received and ultimately consumed within the state of Michigan, as originally found by the order of February 3, 1955, in Docket No. G–6507 granting the section 1(c) exemption. Furthermore, there is no evidence on the record in this proceeding that the Michigan Public Service Commission is exercising regulatory jurisdiction over the rates, service and facilities of Mich Con, at least to the extent of Mich Con's storage operations. Even if the Michigan Commission is exercising jurisdiction over the storage operations, this Commission may properly have such jurisdiction, or even jurisdiction extending beyond the storage operations. As a result of the foregoing, the Commission deems it proper in this proceeding to inquire into Mich Con's regulatory status. The questions suggested above, as well as any other questions relevant to Mich Con's status are the proper subject of inquiry in this proceeding.

Notice of the applications and petition to amend in this proceeding was published in the FEDERAL REGISTER as follows:

Docket No. CP72–279 on February 20, 1975 (40 FR 7492).
Docket No. CP75–274 on April 9, 1975 (40 FR 16146).
Docket No. CP74–316 on July 22, 1974 (39 FR 26669).
Docket No. CP75–182 on January 15, 1975 (40 FR 2758).
Docket No. CP75–195 on January 15, 1975 (40 FR 2757).
Docket No. CP74–317 on July 2, 1974 (39 FR 24425).
Docket No. CP75–21 on August 22, 1974 (39 FR 30381).
Docket No. CP75–237 on March 25, 1975 (39 FR 13255).
Docket Nos. CP75–199 and CP75–200 on January 17, 1975 (40 FR 3044).

Petitions to intervene were submitted as follows:

DOCKET NO. CP72–279

Illinois Power Company [2]
Iowa-Illinois Gas and Electric Company [2]
Iowa Power and Light Company (Iowa Power)
Iowa Southern Utilities Company
Mich Wisc
The Peoples Gas Light and Coke Company and North Shore Gas Company

DOCKET NO. CP75–199

Michigan Public Service Commission (Notice of Intervention)
Mich Wisc
Natural
Nipsco
Northern
Peoples

CONSOLIDATED PROCEEDINGS

Iowa State Commerce Commission (Notice of Intervention)
Michigan Public Service Commission (Notice of Intervention)
Public Service Commission of Wisconsin (Notice of Intervention)
Associated Natural Gas Company
Cedar Falls, Iowa, Board of Trustees of Municipal Gas Utility of
Central Telephone & Utilities Corporation
City Gas Company
Duluth, City of
Greely Gas Company
Interstate Power Company [2]
Illinois Power Company
Iowa-Illinois Gas and Electric Company
Iowa Power and Light Company [2]
Iowa Public Service Company
Iowa Southern Utilities Company
Lake Superior District Power Company
Michigan Gas Utilities Company
Michigan Power Company
Minnesota Gas Company
Northern Illinois Gas Company
Nipsco
Northern States Power Company (Minnesota)
Northern States Power Company (Wisconsin)
North Central Public Service Co., Division of Donovan Companies, Inc.
Northwestern Public Service Company
Omaha, Metropolitan Utilities District of Peoples
Peoples Natural Gas Division of Northern Natural Gas Company
St. Croix Valley Natural Gas Company, Inc.
Transcanada Pipelines Limited
Watertown, South Dakota, Municipal Utilities Department of the City of
Wisconsin Fuel and Light Company
Wisconsin Gas Company
Wisconsin Michigan Power Company and Wisconsin Natural Gas Company
Wisconsin Power and Light Company
Wisconsin Public Service Corporation

No further petitions to intervene, notices of intervention or protests to the granting of the applications or petition to amend have been filed.

At a hearing held on May 28, 1975, the Commission on its own motion received and made a part of the record in the proceedings in Docket Nos. CP75–199 and CP72–279 all evidence submitted in support of said filings, including the applications and exhibits thereto. The Commission believes that a formal hearing should be convened to develop a complete record in a consolidated proceeding relating to all other dockets reported herein. The applications and exhibits thereto submitted in the proceedings in Docket Nos. CP75–182 and CP75–237 have been made a part of the record in the proceedings in those dockets only to the extent necessary to grant authorization for the short-term transportation and storage arrangements requested in said applications.

The Commission finds. (1) Emergencies exist on the systems of Mich Wisc, Northern and Natural.

[2] Late.

(2) The emergency that exists on Northern's system is such that the temporary certificate issued in Docket No. CP75–21 should be amended to permit temporary operation of the facilities for which construction authorization was granted.

(3) Mich Wisc, a Delaware corporation having its principal place of business in Detroit, Michigan, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of November 30, 1946, in Docket No. G–669 (5 FPC 953).

(4) Northern, a Delaware corporation having its principal place of business in Omaha, Nebraska, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of April 6, 1943, in Docket No. G–280 (3 FPC 967).

(5) Mich Con, a Michigan corporation having its principal place of business in Detroit, Michigan, is a "natural-gas company" within the meaning of the Natural Gas Act for the purpose of the storage service continuation of which is proposed in the application in Docket No. CP75–199 which storage service extends from the end of authorization granted by Commission order issued in Docket No. CP74–157, et al., on September 6, 1974 (52 FPC), to March 1, 1976. Consolidated was found to be a "natural-gas company" in said September 6, 1974, order for the purpose of the storage service continuation of which is proposed herein.

(6) The service described in Mich Con's application in Docket No. CP75–199 is to be in interstate commerce, subject to the jurisdiction of the Commission, and the performance of said service is subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

(7) The one-year transportation and storage service proposed by Mich Wisc in its application in Docket No. CP75–182 for Nipsco, Northern, Natural and Peoples is to be in interstate commerce, subject to the jurisdiction of the Commission, and the performance of said service is subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

(8) The one-year transportation and storage arrangement between Northern and Mich Wisc and the one-year exchange arrangement between Northern and Great Lakes proposed in Northern's application in Docket No. CP75–237 are to be in interstate commerce, subject to the jurisdiction of the Commission, and the performance of said arrangements is subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

(9) Mich Wisc, Northern and Mich Con are able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder with respect to the services described in paragraphs (6), (7) and (8) above.

(10) The performance of the services described in paragraphs (6), (7) and (8) above are required by the public convenience and necessity and certificates therefor should be issued as hereinafter ordered and conditioned.

(11) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the Commission's order issued in Docket No. CP72–279 to Natural be amended as hereinafter ordered and conditioned.

(12) The late petitioners to intervene in the proceedings reported herein are distributor customers in the service area under consideration in said proceedings and acceptance of their petitions for filing will not delay any of the proceedings herein.

(13) Participation by all petitioners to intervene may be in the public interest in the proceedings in which they have filed petitions.

(14) It is necessary and appropriate to set for formal public hearing and to consolidate the proceedings concerning permanent authorizations in the following dockets: CP74–316, CP74–317, CP75–21, CP75–182, CP75–195, CP75–200, CP75–237 and CP75–274.

(15) A prehearing conference should be convened at which may be discussed, in addition to the matters set forth in § 1.8 of the rules of practice and procedure, any request for clarification of the facts presented by the applications.

The Commission orders. (A) Upon the terms and conditions of this order, a certificate of public convenience and necessity is issued to Mich Con authorizing the transportation and storage of natural gas as hereinbefore described and as more fully described in the application in Docket No. CP75–199.

(B) Upon the terms and conditions of this order a certificate of public convenience and necessity is issued authorizing Mich Wisc to continue for an additional one-year period the short-term transportation and storage services for Nipsco, Northern, Natural and Peoples, as hereinbefore described and as more fully described in the application in Docket No. CP75–182.

(C) The certificate issued in paragraphs (A) and (B) above and the rights granted thereunder are conditioned upon Nipsco's and Peoples' filing for and receiving related authorization from this Commission.

(D) A certificate of public convenience and necessity is issued upon the terms and conditions of this order authorizing Northern to continue for one year its short-term transportation and storage arrangement with Mich Wisc and its exchange arrangement with Great Lakes, as hereinbefore described and as more fully described in the application in Docket No. CP75–237.

(E) The certificates issued in paragraphs (A), (B) and (D) above and the rights granted thereunder are conditioned upon Mich Wisc's, Northern's and Mich Con's compliance with all applicable Commission regulations under the Natural Gas Act and particularly the general terms and conditions set forth in Part 154 and paragraphs (a) and (e) of § 157.20 of such regulations.

(F) The Commission's order issued in Docket No. CP72–279 is amended as requested in Natural's application in said docket conditioned to the extent that, should the 16 percent factor for the rate of return and Federal income tax calculation requested in the proceeding in Docket No. RP74–96 be altered in that proceeding, such adjustment shall be reflected in the derivation of the 10-cent per Mcf storage charge proposed herein. In all other respects said order shall remain in full force and effect.

(G) The amendment to the certificate issued in paragraph (F) above is conditioned upon Natural's compliance with Part 154 of the Commission's regulations.

(H) The temporary certificate issued to Northern in Docket No. CP75–21 by letter order of March 13, 1975, which authorized construction but not operation of facilities estimated to cost $5,020,400, is amended to permit Northern to operate said facilities. In all other respects said order shall remain in full force and effect.

(I) A temporary certificate is issued to Mich Wisc authorizing the acquisition and development of the Muttonville Field and the construction and operation of the related facilities as set forth in Phase I (1975–1976) in the application in Docket No. CP75–316 ($9,778,000 estimated cost).

(J) The temporary certificate issued in paragraph (I) above and the rights granted thereunder are conditioned upon Mich Wisc's compliance with all applicable Commission regulations under the Natural Gas Act and particularly the general terms and conditions of paragraphs (c)(1), (c)(3), (c)(4) and (d) of § 157.20 of such regulations. The construction and acquisition authorized shall be completed within one year from the date of this order in accordance with paragraph (b) of § 157.20.

(K) The maximum inventory of the Muttonville Field at 14.73 psia and 60 degrees Fahrenheit and the maximum shut-in pressure of the field during the period of the authorization specified in paragraph (I) above shall in no event exceed 13,387,419 Mcf and 1575 psig, respectively.

(L) Mich Wisc shall file semi annual reports (to coincide with termination of injection and withdrawal cycles) containing the following information on proposed operations:

(a) The volumes of gas injected and withdrawn each month and the corresponding total volume in each of the reservoirs.

(b) The maximum daily injection and withdrawal rates experienced during the cycle.

(c) The shut-in reservoir or wellhead pressure of each well in each of the storage fields and the average of such pressures for each field.

(d) A map of the most recent interpretation of underground structure which map need not be filed if there is no material change from the map previously filed.

(e) A tabulation of wells drilled, cleaned, or recompleted with subsea depth of forma-

tion and casing settings and copies of any new core analysis back pressure tests or electic logs.

Reports shall continue to be filed semi-annually until the shut-in wellhead pressure has reached or closely approximated the maximum shut-in wellhead pressure permitted in this order and thereafter until two additional injection and withdrawal cycles have been completed. Upon completion of these two cycles, the filing of reports shall be discontinued unless otherwise ordered by the Commission.

(M) Mich Wisc shall use metal tanks for containing drilling mud during drilling and workover operations at all sites at the Muttonville Field.

(N) A temporary certificate is issued to Great Lakes to transport up to 90,000 Mcf for Mich Wisc during the 1975 storage injection cycle and to construct and operate only those facilities (estimated cost—$2,997,000) related to the first year transportation service described in the application in Docket No. CP74-317. Facilities shall be constructed and placed in actual operation one year from the order.

(O) The temporary certificate issued to Great Lakes is conditioned upon compliance with all applicable Commission regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (c)(1), (c)(3), and (c)(4) of § 157.20 of the regulations.

(P) A temporary certificate is issued to Mich Wisc to construct and operate the facilities proposed for the long-term transportation and storage arrangements described in the application in Docket No. CP75-182 (estimated cost—$26,641,760) and to transport and store gas for Northern, Natural and Peoples during the 1975 injection season as proposed in Docket No. CP75-182. Facilities shall be constructed and placed in actual operation within one year from the date of this order.

(Q) The authorization granted in paragraph (P) above in relation to the storage service for Peoples is conditioned upon Peoples' applying for applicable authorization from this Commission.

(R) A temporary certificate is issued to Mich Con authorizing it to store up to 9 million Mcf of gas for Mich Wisc in 1975, as more fully described in the application in Docket No. CP75-200.

(S) Temporary certificates are issued to Northern and Natural authorizing only the delivery of gas to Mich Wisc for storage during the 1975 storage injection cycle, as more fully described in Northern's application in Docket No. CP75-237 and Natural's application in Docket No. CP75-274.

(T) The temporary certificates issued to Mich Wisc in paragraphs (I) and (P) above, to Great Lakes in paragraph (N) above and to Mich Con in paragraph (R) above are granted upon the condition that the cost of the facilities or service authorized shall not be included in the grantee's rate base until permanent authorization for the construction and operation of said facilities and for the service proposed has been issued by the Commission. Issuance of said temporary authorization is without prejudice to such final disposition of the applications for certificates of public convenience and necessity as the record may require.

(U) All petitioners to intervene are permitted to intervene in all the proceedings in which they have filed petitions to intervene subject to the rules and regulations of the Commission: *Provided, however,* That participation by such interveners shall be limited to matters affecting asserted rights and interests as specifically set forth in the petitions to intervene: *And provided, further,* That the admission of such interveners shall not be construed as recognition by the Commission that they might be aggrieved because of any order of the Commission entered in this proceeding.

(V) For the purpose of determining whether certificates of public convenience and necessity should be granted for the long-term proposals and for the purpose of determining the regulatory status of Mich Con, as hereinbefore described, the proceedings in the following Docket Nos. are consolidated for formal hearing: CP74-316, CP74-317, CP75-21, CP75-182, CP75-195, CP75-200, CP75-237 and CP75-274. The proceeding is to be designated Michigan Wisconsin Pipe Line Company, et al., Docket Nos. CP74-316, et al.

(W) All applicants and all supporting interveners shall file testimony and exhibits comprising their cases-in-chief on or before July 15, 1975.

(X) A pre-hearing conference is to be convened on September 3, 1975, 10:00 a.m., e.d.t. at the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, to discuss procedural issues and for clarification as noted in this order.

(Y) A formal hearing shall be convened in the proceeding in Docket No. CP74-316, et al., in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on September 23, 1975, at 10:00 a.m., (e.d.t.). The Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for the purpose—see Delegation of Authority 18 CFR 3.5(d)—shall preside at the hearing in this proceeding and shall prescribe relevant procedures not herein provided.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-14916 Filed 6-6-75;8:45 am]

[Docket No. E-9379]

NIAGARA MOHAWK POWER CORP.

Order Accepting for Filing and Approving Proposed Rate Schedule, Granting Petition To Intervene, and Denying Motion of Town of Massena

JUNE 2, 1975.

On April 14, 1975, Niagara Mohawk Power Corporation (Niagara) submitted for filing as a rate schedule a transmission agreement dated March 7, 1975, between Niagara Mohawk Power Corporation and Consolidated Edison Company of New York, Inc. The service to be rendered by Niagara provides for the transmission of power and energy between Niagara's transmission connection with Rochester Gas and Electric Corporation (Rochester) and Niagara's transmission connection with Consolidated Edison Company of New York, Inc. (Edison), Pleasant Valley 345 Kv Substation.

Edison agrees to pay Niagara at the rate of $38.00 per megawatt per day of contract demand then in effect, not to exceed 150 megawatts per day. The estimated additional revenues total $1,668,219 from October 27, 1974, the proposed effective date through October 31, 1975, the period covered by the Agreement. Niagara requests the Commission waive its regulation with respect to prior notice and that October 27, 1974, be designated the effective date of the Agreement.

Niagara's April 14, 1975, filing was noticed on April 18, 1975, with any protests, comments, or petitions to intervene due on or before May 5, 1975. The Town of Massena, New York, filed May 5, 1975 a Protest and Petition to intervene, a Motion to reject the rate schedule filing, or, in the alternative, to suspend the operation of the rate schedule for five months and to order a hearing.

Massena, New York, a municipality whose residents are currently served electric power by Niagara Mohawk at retail, desires to acquire the electrical distribution facilities of Niagara to establish a municipally owned and operated electric system. Massena alleges that Niagara Mohawk, in the face of Massena's expressed desire to negotiate a transmission agreement, refuses to enter into meaningful discussion leading to contractual arrangements. As a result, Massena contends Niagara has refused to wheel energy to it; while the Agreement, the subject of this docket, "is an integral part of an interstate program and combination to monopolize the electric utility industry", (p. 8) Specifically, Massena states that the revenues generated, if this filing is accepted and approved, "will be unlawfully used by the Company to strengthen its monopolistic position over transmission in the Massena service area" and in the furtherance thereof, "* * * to resist the establishment of a municipal electric system in Massena * * *" (p. 10) Massena concedes the Commission does not have the authority to compel Niagara to enter into a contractual transmission system with Massena,[1] but does request the Commission permit Massena to intervene in the proceeding, reject the April 14, 1975, filing of Niagara, or, in the alternative, withhold its acceptance pending hearing, or suspend operation of the filing for five months and order a hearing, and order a conference of the parties to negotiate an agreement for the protection of Consolidated Edison.

Consolidated Edison, on May 19, 1975, filed in this docket, an amended answer to the protest petition to intervene and motion of the Town of Massena. Con Ed contends therein that Massena has not addressed itself to the merits of the transmission contract between Niagara and Con Ed, but rather, is concerned with anticompetitive allegations against Niagara which are irrelevant to the issue presented to the Commission in the filing of the rate schedule. Specifically, the proper issue for the Commission's consideration is whether the rate proposed herein is just and reasonable, as well as free from undue preference and discrimination.

Similarly, Niagara Mohawk filed an answer in opposition to the requested intervention by the Town of Massena on May 19, 1975. According to Niagara, Massena does not seriously object to the electric transmission service by Niagara to Con Ed and, in fact, cannot possibly suffer adverse consequences from the proposed service. Moreover, Niagara maintains Massena's petition should be denied for failing to provide substantive grounds to support its anticompetitive allegations. Ultimately, the filing under consideration is unrelated to those allegations, it adds.

The Commission's review of Niagara Mohawk's filing indicates that the proposed rate schedule is just and reasonable and is indeed free of undue preference and discrimination and shall therefore be accepted for filing and approved. The requested waiver of the Commission regulation requiring prior notice will be granted, thus permitting an effective date of October 27, 1974.

Although we find that granting Massena's petition to intervene by Massena may be in the public interest, we find that the Motion for rejection or suspension should be denied. After careful review, we believe the latter does not address the issue presented for consideration under this filing, that is, whether the proposed rate schedule for the Niagara transmission service between Rochester and Con Ed provides for just and reasonable rates consistent with the public interest. Massena's argument is basically that Niagara is acting in an anticompetitive manner because it refuses to agree to wheel PASNY power to Massena in the event that Massena establishes a municipal electric distribution system. Massena argues that it is therefore appropriate to reject or suspend and set for hearing Niagara's rate schedule for service to Consolidated Edison since approval of the instant rate schedule "will financially strengthen Niagara" in its alleged efforts to "resist the establishment of a municipal electric system in Massena through advertising, legislative efforts in New York, and in its dealings with PASNY."

Our review of Massena's pleadings, and the responses thereto, indicates that a reasonable and sufficient nexus has not been established by Massena between the alleged monopolistic, anticompetitive practices and designs of Niagara and the proposed electric transmission service agreement herein filed with the Commission. Moreover, without demonstrating substantial anticompetitive practices, Massena has failed to indicate what possible harm it will experience as the result of the instant rate schedule filing. As conceded by Massena, the Commission is not authorized to compel Niagara to enter into an agreement to provide electric transmission service to Massena.[2] Massena's desire to establish a municipally owned and operated electric distribution system is unrelated to the immediate issue raised in this filing.

The Commission finds. (1) Good cause exists for the Commission to accept for filing Niagara's April 14, 1975, proposed rate schedule and to permit it to become effective October 27, 1974, waiving the prior notice requirement of the Commission's regulations.

(2) Good cause exists to grant Town of Massena, New York's May 5, 1975, petition to intervene and to deny its motion to reject or suspend the operation of the rate schedule.

The Commission orders. (A) Pursuant to the authority of the Federal Power Act, particularly section 205 thereof, the Commission's rules of practice and procedure, and the regulations under the Federal Power Act, the Commission hereby accepts for filing Niagara Mohawk's April 14, 1975, proposed rate schedule and permits it to become effective October 27, 1974, waiving the prior notice requirements of the Commission's Regulations.

(B) The Commission hereby grants the Town of Massena's May 5, 1975, petition to intervene in these proceedings 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 they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(C) Massena's motion to reject or suspend Niagara's filing is denied.

(D) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-14900 Filed 6-6-75;8:45 am]

[Docket No. CS71-6]

NORTHERN NATURAL GAS CO. AND JOHN L. CRAWFORD

Complaint and Request for an Order To Show Cause

MAY 30, 1975.

Take notice that on May 19, 1975, Northern Natural Gas Company (Complainant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CS71-6 pursuant to § 1.6 of the Commission's rules of practice and procedure (18 CFR 1.6) a complaint alleging that John L. Crawford (Defendant) has violated section 7(b) of the Natural Gas Act and § 157.18 of the Commission's regulations thereunder (18 CFR 157.18) by attempting to abandon the sale of natural gas underlying certain acreage dedicated to Complainant and requesting that the Commission issue an order requiring Defendant to show cause why he should not be held to be in violation of the Natural Gas Act, all as more fully set forth in the complaint which is on file with the Commission and open to public inspection.

It is stated that Defendant sold gas to Complainant from the Davidson Lease in Crockett County, Texas, pursuant to a contract dated June 19, 1964, and Defendant's small producer certificate of public convenience and necessity issued December 11, 1970, in the subject docket. Complainant claims that on August 12, 1974, at which time gas was being sold to Complainant in interstate commerce from the American Petrofina Davidson No. 1 Well in the Davidson Lease, Defendant executed a release of the Davidson Lease which was immediately thereafter leased to Dow Chemical Company (Dow). Complainant further claims that two wells are now being operated upon the Davidson Lease (Joe T. Davidson, Jr., Well Nos. 1 and 3), representing an aggregate gas flow approximating 8,700 Mcf per day, which wells were completed subsequent to Defendant's release of the Davidson Lease. Complainant maintains that since the Davidson Lease was exclusively committed to the fulfillment of the June 19, 1964, contract and since production continues from the American Petrofina Davidson Well No. 1 and therefore said contract has not expired, the present leaseholder, Dow, and the wells' operator, Dan J. Harrison, Jr., have prevented the reserves underlying said wells from being included in said contract. Complainant alleges that Defendant is obligated under the June 19, 1964, contract to sell all gas from the Davidson Lease to Complainant and to notify Complainant prior to releasing any producing acreage so that Complainant might exercise its option to take such acreage by assignment from Defendant.

Complainant states that Defendant has not (1) sold to Complainant gas producer from the Joe T. Davidson, Jr. Well Nos. 1 and 3, (2) notified Complainant in advance of the release of the Davidson Lease so that Complainant could exercise its option, or (3) sought Commission permission and approval to release the acreage. Complainant concludes, therefore, that any gas which presently is or which in the future may be produced from the Davidson Well Nos. 1 and 3 must be delivered to Complainant.

Complainant cites Commission Opinion No. 724 issued March 18, 1975, in Docket No. CI74-331 (Blair-Vreeland) in support of the position that a producer must obtain Commission permission and approval to abandon dedicated acreage

[1] Otter Tail Power Company v. United States, 410 U.S. 366 (1973).

[2] Otter Tail, supra.

even though the acreage to be abandoned has no proven natural gas attributable thereto. Complainant interprets Blair-Vreeland as standing for the proposition that the controlling fact is whether natural gas has commenced flowing from any part of the dedicated acreage.

Any person desiring to be heard or to make any protest with reference to said complaint should on or before June 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). 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.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-14901 Filed 6-6-75;8:45 am]

[Docket No. RP74-88]

NORTH PENN GAS CO.

Further Extension of Procedural Dates

JUNE 2, 1975.

On May 21, 1975, North Penn Gas Company filed a motion to extend the procedural dates fixed by order issued June 28, 1974, as most recently modified by notice issued April 9, 1975, in the above-designated matter pending Commission action in the settlement agreement filed April 17, 1975.

Notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Intervenor's Testimony, June 16, 1975.
Service of Company Rebuttal, June 30, 1975.
Hearing, July 14, 1975 (10 a.m., edt).

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-14902 Filed 6-6-75;8:45 am]

[Project No. 2243, Project No. 2273]

PACIFIC NORTHWEST POWER CO. AND WASHINGTON PUBLIC POWER SUPPLY SYSTEM

Extension of Time

MAY 29, 1975.

On May 19, 1975, the Makah Indian Tribe and on May 20, 1975, the U.S. Department of Agriculture filed motions to extend the date for filing comments to the draft environmental impact statement issued February 14, 1975, in the above-designated matter.

Upon consideration, notice is hereby given that the date for filing comments in the above matter is extended to and including June 15, 1975.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-14903 Filed 6-6-75;8:45 am]

[Docket Nos. RP71-119, RP74-31-27]

PANHANDLE EASTERN PIPE LINE CO. AND COLUMBIA BRICK AND TILE CO.

Order Denying Temporary Extraordinary Relief, Setting Matters for Hearing, Granting Interventions, Making Provisions for a Conference and Prescribing Procedures

JUNE 2, 1975.

On April 18, 1975, Columbia Brick and Tile Co. (Columbia Brick) filed a petition for temporary and permanent extraordinary relief from the natural gas curtailments imposed by Panhandle Eastern Pipe Line Company (Panhandle) on Columbia Brick's plant at Columbia, Missouri. Columbia Brick is a direct interruptible customer of Panhandle and claims that its aforementioned plant has a proven production capacity in excess of 6,000,000 bricks per year. Columbia Brick in its petition requests that it be afforded relief that would permit it to take up to 1,000 Mcf on a daily basis and up to 12,358 Mcf on a monthly basis. It further requests that the first 500 Mcf of this volume be considered as being firm and placed in 467-B Category No. 2 and that the second 500 Mcf per day remain in Category No. 3. The preponderance of the relief gas requested by Columbia Brick will be consumed to process clay, dry green brick and to fire the brick to completion in the kilns.

The curtailment projections reflected by Columbia Brick in its petition for extraordinary relief, predicated upon Panhandle's estimates, indicate that it will be completely curtailed during November and December 1975 and for the first four months of 1976.

Columbia Brick also notes that in 1974 its natural gas cost for the year was $44,000 and that this was 16.93 percent of its cost of goods produced. It alleges that its projected propane cost, assuming the necessity for it to consume propane due to the unavailability of natural gas, would be $255,000 per year or 49.76 percent of its cost of goods produced. A comparable cost for fuel oil would be $165,000 per year or 43.53 percent of its cost of goods produced. Columbia Brick asserts that this significant increase in cost would likely bring about the complete shutdown of its operation.

Since the effectuation of curtailments on the Panhandle system, the critical national shortage of natural gas has necessitated curtailments of increasing magnitudes in the service rendered by Panhandle and other interstate pipeline to both their direct industrial and resale customers. The likelihood of supply shortages of increasing severity continuing into the future is apparent.

Panhandle's latest curtailment projections indicate that it anticipates curtailment of sixty five percent of its 467-B Category No. 2 usage during December 1975, almost ninety percent of this usage during January 1976 and 72 percent of the gas in this Category in February 1976.

It has often been our practice in the past to provide extraordinary relief petitioners with temporary relief pending hearing and a final determination of their individual cases on the merits. Provision for such temporary relief was provided for on the Panhandle system by the Commission when the levels of curtailment were not nearly as steep as those projected in recent forecasts. At that time the system still had the flexibility to absorb the volumes of gas that were diverted for temporary relief to remedy particular hardship situations. However, Panhandle's recent curtailment projections indicate that only 467-B Category No. 1 usage (residential and small commercial) will escape severe curtailments during the course of the 1975-1976 winter-heating season. It would thus be contrary to good policy to continue to provide for temporary extraordinary relief pending hearing without the strongest justification for such a course of action.

In the circumstances it is difficult to establish an adequate basis from the petition filed by Columbia Brick to provide it with the temporary relief it seeks pending hearing. The fact that Panhandle's most recent projections indicate that virtually its entire industrial load including essential process and feedstock usage will be subject to critical levels of curtailment under its effective plan next winter necessarily has to be important factor in our decision.[1] Hence, after considering Columbia Brick's petition in the context of the over-all situation, the Commission is compelled to deny its petition for temporary extraordinary relief pending hearing.

The Commission will set Columbia Brick's petition down for formal hearing in order to permit a decision to be made on the merits after according all interested parties with the opportunity to develop a full record through the submission of evidence on this matter. However, if any credence is to be afforded to the latest curtailment projections circulated by Panhandle it seems evident that system supplies will fall far short of meeting its system industrial requirements next winter including the highest priority industrial usages served with natural gas provided by Panhandle. A scarcity of supply of major magnitude will be a dilemma that Columbia Brick will share with all other industrials dependent upon Panhandle for natural gas service next winter.

It is difficult to determine whether or not anything can be worked out to help ameliorate the full impact on the severe industrial curtailment forecast by Panhandle for next winter. The Commission will, however, make provision for an informal conference to be held preceding the formal hearing it will schedule with respect to Columbia Brick's petition in order to explore the possibility as to whether or not any course of action or options exist that may tend to lessen the difficulties that Columbia Brick and other industrial customers on the system can anticipate next winter.

[1] The large commercial and storage injection gas in Order No. 467-B Category No. 2 will be similarly critically affected.

The petitioners seeking intervention have already been permitted to intervene in the proceeding relating to a permanent curtailment plan for Panhandle in Docket No. RP71–119.[3] Since many of the parties in the latter docket may also wish to participate herein, they shall also be deemed parties in Docket No. RP74–31–27 with all of the attendant rights attached thereto. However, in order to maintain orderly procedures any intervener desiring to record objections and protests to the requested relief must file a formal protest to the notice of petition stating with particularity the nature of its objection.

The Commission finds. (1) The public convenience and necessity requires that Columbia Brick's request for temporary extraordinary relief pending hearing be denied.

(2) It is in the public interest to hold an informal conference prior to the commencement of the hearing to be held in connection with Columbia Brick's petition to determine whether or not any options exist that might be exercised to alleviate the critical shortage facing all industries on Panhandle's system this winter.

The Commission orders. (A) The petition for extraordinary relief filed by Columbia Brick and Tile Company is denied to the extent that the latter company requested temporary relief pending hearing.

(B) Pursuant to the authority contained in and subject to the authority conferred upon the Federal Power Commission by the Natural Gas Act, particularly sections 4, 5, 15 and 16 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act, a public hearing will be held on June 18, 1975, at 10 a.m. (est) in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, concerning the application for extraordinary relief filed in this proceeding by Columbia Brick and Tile Company.

(C) An informal pre-hearing conference is to be held subsequent to the copying of the prepared testimony into the record but prior to the cross-examination of witnesses between the Commission Staff, the pipeline, and any parties desiring to participate in such a conference in order to determine whether or not there may be any options that can be exercised to alleviate the critical gas shortage facing all industrials on Panhandle's system this winter.

(D) An Administrative Law Judge to be designated by the Chief, Administrative Law Judge for that purpose (see Delegation of Authority, 18 CFR 3.4(d)) shall preside at the hearings in this consolidated proceeding and shall prescribe relevant procedural matters not herein provided both prior to and subsequent to the informal conference called for in ordering paragraph (C) of this order.

(E) All parties including interveners and Staff will file and serve on all other parties their direct evidence and testimony on or before June 10, 1975.

(F) Cross-examination shall commence immediately after the informal conference which is scheduled to commence on June 18, 1975.

(G) Petitioners seeking permission to intervene in the proceeding entitled Panhandle Eastern Pipeline Company Columbia Brick and Tile Company in Docket No. RP74–31–27 along with all other parties previously granted intervention in the proceeding entitled Panhandle Eastern Pipeline Company in Docket No. RP71–119 are permitted to intervene in and participate in the above-styled proceeding relating to the petition for extraordinary relief filed by Columbia Brick and tile Company in Docket No. RP 74–31–27 subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such interveners shall be limited to matters affecting rights and interests specifically set forth in their petitions to intervene: *Provided, further,* That the admission of such interveners shall not be construed as recognition by the Commission that subject intervener might be aggrieved because of any order or orders issued by the Commission in this proceeding.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.75–14904 Filed 6–6–75;8:45 am]

[3] Petitions to intervene were filed by the City of Indianapolis, Indiana Gas Company, Inc. and Central Indiana Gas Company, Inc., Michigan Gas Utilities Company, General Motors Corporation, Michigan Consolidated Gas Company and Columbia Gas Transmission Corporation. Michigan Gas Storage Company filed a general protest to Columbia Brick's petition and General Motor's filed a protest to the grant of any temporary relief prior to hearing.

[Docket No. RP75–102]

PANHANDLE EASTERN PIPE LINE CO.

Proposed Changes

MAY 30, 1975.

Take notice that Panhandle Eastern Pipe Line Company (Panhandle) on May 15, 1975, tendered for filing proposed changes in the following revised tariff sheets:

FPC GAS TARIFF, ORIGINAL VOLUME NO. 1

Fourteenth Revised Sheet No. 3A
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

FPC GAS TARIFF, ORIGINAL VOLUME NO. 2

First Revised Sheet No. 93
First Revised Sheet No. 135
First Revised Sheet No. 211

The proposed change would increase revenues from jurisdictional sales by $31,246,623 annually based on a test year ending February 28, 1975, adjusted for changes known and measurable to November 30, 1975.

Panhandle states that the increased rates are necessitated by increased costs at all levels including operating costs, increased capital costs, a 9.45% rate of return, increased gas supply facilities and decreased sales volumes based upon availability of gas supplies. The proposed effective date of the tendered sheets is July 1, 1975.

Copies of this filing were served on Panhandle's customers and interested state commissions.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C., 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 June 16, 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. This application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.75–14905 Filed 6–6–75;8:45 am]

[Docket No. E–9452]

PUGET SOUND POWER AND LIGHT CO.

Filing of Supporting Data Pursuant to Supplements to Rate Schedule

MAY 30, 1975.

Take notice that Puget Sound Power and Light Company (Puget Sound) on May 16, 1975, tendered for filing supporting data of service under its Supplement Nos. 1 and 2 to Rate Schedule FPC No. 55.

Puget Sound states that during April, 1975, 525 megawatt-hours of energy was sold to Portland General Electric Company, and a total of 990 megawatt-hours of energy were sold to the Washington Water Power Company. These sales were made under "RATES", paragraph 5 of Supplement No. 2 to Rate Schedule FPC No. 55 at a rate of 4.81 mills per kilowatt-hour.

Puget Sound states further that this energy was sold under paragraph 5 as that "otherwise marketable to other purchasers". Other purchasers were California Utilities and the energy would have sold, pursuant to existing rate schedules, for 6 mills per kilowatt-hour. According to Puget Sound, such sales would yield a net of 4.81 mills per kilowatt-hour after deducting line losses and wheeling charges to the California's-Oregon border, and therefore, the rate applicable under paragraph 5 on the above sales in April was 4.81 mills per kilowatt-hour. Puget Sound states that this energy was delivered to these purchasers to meet firm deficiencies on their systems.

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 June 20, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-14906 Filed 6-6-75;8:45 am]

[Docket No. CI75-688]

RHONDA OPERATING CO.

Application

MAY 30, 1975.

Take notice that on May 14, 1975, Rhonda Operating Company, (Applicant), Suite 140, Central Building, Midland, Texas 79701, filed in Docket No. CI75-688 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon a sale of natural gas in interstate commerce to Cities Service Oil Company (Cities Service), from Signal State Leases 29 and 30, Tobac Field, Chaves County, New Mexico, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to continue a percentage-of-proceeds sale to Cities Service in lieu of Signal Oil and Gas Company at an average rate of 32.0 cents per Mcf at 14.65 psia. Applicant states that it has filed, concurrently with the instant application, an application in Docket No. CI-75-688 pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon the subject sale to Cities Service.

Applicant states that it proposes to abandon a percentage-of-proceeds sale of natural gas to Cities Service under the terms of the June 9, 1964, casinghead gas contract which has expired. Applicant further states that it is negotiating for the processing and sale of 2,000 Mcf per day of natural gas with Cities Service and Natural Gas Pipeline of America (Natural), respectively, in order to obtain additional revenue, and that the residue gas would be delivered at the tailgate of the Cities Service Bluitt Gas Processing Plant. Applicant further states that under the new contract there would be no change in the service provided, but that it would allow Applicant a higher price for its residue gas. Natural is said to be one of the present residue gas purchasers.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 23, 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.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petiiton for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-14907 Filed 6-6-75;8:45 am]

[Docket No. RP73-47]

SEA ROBIN PIPELINE CO.

Conference

MAY 30, 1975.

Take notice that on Tuesday, July 1, 1975, Staff is convening an informal conference of all interested persons for the purpose of discussing the capitalization rate of allowance for funds used during construction contained in the settlement agreement in the above-referenced docket at 10 a.m. in Room No. 5200 at the offices of the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426.

The conference will be held pursuant to § 1.18 (Conferences, Offers of Settlement) of the Commission's rules of practice and procedure (18 CFR 1.18). Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene by order of the Commission, such attendance at the conference will not be deemed to authorize such intervention as a party in the proceedings.

In accordance with the provisions of § 1.18 of the rules, all parties will be expected to come fully prepared to discuss the merits of all issues concerning the lawfulness of said capitalization rate and to make commitments with respect to such issue and any offers of settlement or stipulations discussed at the conference.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-14908 Filed 6-6-75;8:45 am]

[Project No. 199]

SOUTH CAROLINA PUBLIC SERVICE AUTHORITY

Application for Use of Project Lands and Waters

JUNE 2, 1975.

Public notice is hereby given that on May 5, 1975, an application was filed for use of project lands and waters under the Federal Power Act (16 U.S.C. 791a-825r) by South Carolina Public Service Authority (SCPSA) (Correspondence to Mr. J. B. Thomason, General Manager, South Carolina Public Service Authority, P.O. Box 398, Moncks Corner, South Carolina 29461) for the Santee-Cooper Project No. 199 located on the Santee and Cooper Rivers in Berkeley, Calhoun, Clarendon, Orangeburg, and Sumter Counties, South Carolina.

SCPSA requests Commission approval to develop and lease, for a period of 40 years, the proposed 169-acre Clarendon Shores Development. The proposed development would be located on the Taw Caw Creek portion of Lake Marion, one of the project reservoirs, in Clarendon County, 6 miles southeast of Summerton and 12 miles southwest of Manning, South Carolina. The waters adjacent to the proposed development are included in the Santee National Wildlife Refuge. Construction of the proposed development would require dredging or other excavation within Lake Marion.

The proposed development would consist of 249 single family home sites, 3 community docks, 3 public areas (including public boat ramps, facilities and natural areas), and a nature trail. Utilities would be placed underground. A 100,000 g.p.d. tertiary waste treatment plant for processing waste from the development would discharge into Lake Marion at a point 800 feet from the high water elevation by a diffuser located at the end of a weighted 4-inch diameter polyethylene outfall line.

Any person desiring to be heard or to make protest with reference to said application 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 a 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. The application is on file with the Commission and available for public inspection.

Take further notice that, pursuant to the authority contained in and conferred upon the Federal Power Commission by sections 308, 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 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.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-14909 Filed 6-6-75;8:45 am]

[Docket No. E-8823]

SOUTH CAROLINA ELECTRIC AND GAS CO.

Further Postponement of Hearing

JUNE 2, 1975.

On May 28, 1975, Staff Counsel filed a motion to postpone the hearing date fixed by order issued August 2, 1974, as most recently modified by notice issued May 23, 1975, in the above-designated matter, pending Commission action on the settlement agreement filed March 21, 1975.

Notice is hereby given that the hearing date in the above matter is postponed until September 2, 1975, at 10 a.m. (e.d.t.).

By direction of the Commission.

MARY B. KIDD,
Acting Secretary.

[FR Doc.75-14910 Filed 6-6-75;8:45 am]

[Docket No. CP75-95]

TENNESSEE GAS PIPELINE CO. AND TENNECO INC.

Petition To Amend

MAY 30, 1975.

Take notice that on May 19, 1975 that the Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Petitioner), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP75-95 a petition to amend the order of the Commission issued on February 7, 1975, pursuant to section 7(c) of the Natural Gas Act granting a certificate of public convenience and necessity in said docket to Petitioner, by authorizing the transportation of natural gas in interstate commerce on an off-peak rather than a firm basis for Consolidated Edison Company of New York, Inc., The Brooklyn Union Gas Company, and Long Island Lighting Company (Customers), and by deleting authorization for the construction and operation of a 3,500 horsepower compressor station, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that pursuant to the terms of the order of the Commission of February 7, 1975, in subject docket Petitioner is authorized to transport natural gas on a firm basis for Customers between Applicant's existing facilities in White Plains, New York, and the proposed facilities of Honeoye Storage Corporation in Ontario County, New York. Petitioner further states that subsequent to that time Customers have agreed to receive from Petitioner and Petitioner has agreed to render to Customers such transportation service on an off-peak basis rather than a firm basis. Petitioner further states that such agreements eliminate the need to construct the 3,500 horsepower compressor authorized in the order of the Commission of February 7, 1975. Petitioner further states that the ability to service other customers will not be affected by the proposed amendments.

Petitioner proposes to render the off-peak service at a rate of 17.0 cents per Mcf which is alleged to approximate closely and to be based upon Petitioner's system-wide transportation cost per 100 miles.[1]

Petitioner requests that the order of February 7, 1975, in subject docket be amended to conform with the proposed change in service from firm basis to off-peak basis and further requests that the authorization for the 3,500 horsepower compressor be deleted from the order of the Commission.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 25, 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.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-14911 Filed 6-6-75;8:45 am]

[Docket No. CP75-338]

TENNESSEE GAS PIPELINE CO. AND TENNECO INC.

Application

MAY 30, 1975.

Take notice that on May 11, 1975, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77002, filed in Docket No. CP75-338 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the continued sale of natural gas in interstate commerce to the City of Ripley, Mississippi (Ripley), under a different rate schedule, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests authorization to sell to Ripley natural gas under Applicant's Rate Schedule GS-1 in lieu of Applicant's Rate Schedule G-1 pursuant to a request of Ripley. Applicant states that Ripley elected to purchase natural gas under Applicant's Rate Schedule G-1, which has both a commodity and a demand charge, because Ripley anticipated that under said rate schedule it could lower its average cost of gas by achieving a higher load factor through off-peak sales to industrial customers. Applicant states that since present and expected curtailments will substantially lower Ripley's load factor, Ripley has requested to purchase gas at a flat rate under Applicant's GS-1 Rate Schedule for economic reasons.

Applicant states that the proposed changes in service will not result in any change in Ripley's maximum daily quantity of 4,249 Mcf, as authorized by the order of the Commission of August 29, 1969 (42 FPC 595). Applicant states further that to allow such change will not affect Applicant's other customers, the storage facilities of the Applicant, nor the curtailment plan of Applicant.

Applicant requests that the proposed change become effective on May 1, 1975, pursuant to Article XIX of General Terms and Conditions of Applicant's FPC Gas Tariff, Ninth Revised Volume No. 1.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 18, 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

[1] 2.72¢ system average transmission cost per Mcf per 100 miles × 2.5337 (100 miles) = 16.77¢ per Mcf 41.09 percent annual load factor.

the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-14912 Filed 6-6-75;8:45 am]

[Docket No. RP74-20 and RP74-83]

UNITED GAS PIPELINE CO.

Further Extension of Procedural Dates

JUNE 2, 1975.

On April 28, 1975, United Gas Pipeline Company filed a motion to extend the procedural dates fixed by order issued May 16, 1974, as most recently modified by notice issued April 17, 1975 in the above-designated matter. The motion states that the parties have been notified and have not objected.

Notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Staff's Testimony on unsettled issues in RP74-20, July 22, 1975.
Service of Intervenor's Testimony on unsettled issues in both dockets, August 5, 1975.
Service of Company Rebuttal, August 19, 1975.
Hearing, September 3, 1975 (10 a.m., e.d.t.).

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-14913 Filed 6-6-75; 8:45 am]

FOREIGN-TRADE ZONES BOARD

[Docket No. 2-75]

FOREIGN-TRADE ZONE APPLICATION

Extension of Time for Written Statements

Correction

In FR Doc. 75-14434, in the issue of Tuesday, June 3, 1975, on page 23936, the headings should appear as set forth above.

INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

APPLICATIONS FOR RENEWAL PERMITS ELECTRIC FACE EQUIPMENT STANDARD

Opportunity for Public Hearing

Applications for Renewal Permits for Noncompliance with the Electric Face Equipment Standard prescribed by the Federal Coal Mine Health and Safety Act of 1969 have been received for items of equipment in underground coal mines as follows:

ICP Docket No. 4449-000, DEVONIA COAL CORPORATION, Mine No. 2, Mine ID No. 40 00765 0, Oliver Springs, Tennessee,
ICP Permit No. 4449-001—R-1 (S&S 90 Battery Tractor, Ser. No. 11563),
ICP Permit No. 4449-002—R-1 (S&S 90 Battery Tractor, Ser. No. 103162),
ICP Permit No. 4449-003—R-1 (S&S 80 Battery Tractor, Ser. No. 80-426),
ICP Permit No. 4449-004—R-1 (V&V 300 Battery Tractor, Ser. No. F.E.K.S).

In accordance with the provisions of § 504.7(b) of Title 30, Code of Federal Regulations, notice is hereby given that requests for public hearing as to an application for a renewal permit may be filed within 15 days after publication of this notice. Requests for public hearing must be filed in accordance with 30 CFR Part 505 (35 FR 11296, July 15, 1970), as amended, copies of which may be obtained from the Panel upon request.

A copy of each application is available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, Room 800, 1730 K Street, NW., Washington, D.C. 20006.

C. DONALD NAGLE,
Acting Chairman,
Interim Compliance Panel.

JUNE 4, 1975.

[FR Doc.75-14929 Filed 6-6-75;8:45 am]

APPLICATIONS FOR RENEWAL PERMITS ELECTRIC FACE EQUIPMENT STANDARD

Opportunity for Public Hearing

Applications for Renewal Permits for Noncompliance with the Electric Face Equipment Standard prescribed by the Federal Coal Mine Health and Safety Act of 1969 have been received for items of equipment in underground coal mines as follows:

ICP Docket No. 4201-000, LANE HOLLOW COAL COMPANY, Mine No. 21, Mine ID No. 44 02258 0, Maxie, Virginia,
ICP Permit No. 4201-001—R-1 (Mescher HD12 Rubber Tired Tractor, Ser. No. 229),
ICP Permit No. 4201-005—R-1 (Mescher HD 12 Rubber Tired Tractor, Ser. No. 390).

In accordance with the provisions of § 504.7(b) of Title 30, Code of Federal Regulations, notice is hereby given that requests for public hearing as to an application for a renewal permit may be filed within 15 days after publication of this notice. Requests for public hearing must be filed in accordance with 30 CFR Part 505 (35 FR 11296, July 15, 1970), as amended, copies of which may be obtained from the Panel upon request.

A copy of each application is available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, Room 800, 1730 K Street, NW., Washington, D.C. 20006.

C. DONALD NAGLE,
Acting Chairman,
Interim Compliance Panel.

JUNE 3, 1975.

[FR Doc.75-14930 Filed 6-6-75;8:45 am]

BUCHANAN COUNTY COAL CORP.

Opportunity for Public Hearing; Correction

In FEDERAL REGISTER Document 75-14237 appearing at page 23796, in the issue for Monday, June 2, 1975, in the third line of the first docket listing, "Mine No. 7," should read "Mine No. 8."

C. DONALD NAGLE,
Acting Chairman,
Interim Compliance Panel.

JUNE 3, 1975.

[FR Doc.75-14931 Filed 6-6-75;8:45 am]

INTERNATIONAL TRADE COMMISSION

[337-TA-6]

EYE TESTING INSTRUMENTS INC. REFRACTIVE PRINCIPLES

Investigation Include an Additional Named Party; Amendment

Based upon the motion, filed with the United States International Trade Commission on April 25, 1975, by American Optical Corporation, to amend the Commission's Notice of Investigation in the above captioned investigation, and upon the submission of the Commission's staff with respect thereto, the United States International Trade Commission (formerly the U.S. Tariff Commission) hereby orders and gives notice of the amendment of its Notice of Investigation in the above captioned investigation issued on February 10, 1975, and published in the FEDERAL REGISTER on February 13, 1975 (40 FR 6723), so as to include Tokyo Optical Company, Ltd., 75 Hasunuma-Cho, Itabushi-Ku, Tokyo, Japan, the alleged foreign manufacturer of the product the subject of the Commission's investigation, as an additional named party in the investigation. The Commission directs service upon Tokyo Optical Company, Ltd., of the complaint filed by American Optical Corporation with the Commission on February 20, 1974, and the supplement thereto filed with the Commission on June 26, 1974.

This notice and order, except for the provision directing service, shall become effective June 19, 1975, unless objection and request for reconsideration of this action is filed by any interested party within the aforesaid 10-day period. Any objection and request for reconsideration shall be accompanied by a statement setting forth the facts relied upon in support of such objection and request and shall be served on the other parties to this investigation.

Information submitted in response by Tokyo Optical Company, Ltd., to the above mentioned complaint and supplement thereto which is pertinent to the investigation will be considered by the Commission if it is received on or before July 21, 1975. Extensions of time for submitting information will not be granted unless good and sufficient cause is shown therefor. A signed original and nineteen (19) true copies of each submission

should be filed with the Secretary, United States International Trade Commission, 8th and E Streets, NW., Washington, D.C. 20436, with service by Tokyo Optical Company, Ltd., of such submission upon each party to the investigation.

Notice of the institution of the investigation was published in the FEDERAL REGISTER on February 13, 1975 (40 FR 6723) with the investigation assigned docket number 337-41, which was changed to docket number 337-TA-6 by notice of May 29, 1975.

Issued: June 4, 1975.

By order of the Commission.

[SEAL] KENNETH R. MASON, *Secretary.*

[FR Doc.75-14962 Filed 6-6-75;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 75-36]

ADVISORY SUBCOMMITTEE

Establishment and Determination

Pursuant to section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Administrator of NASA has determined that the establishment of an ad hoc advisory Subcommittee to review proposals for a payload for the Lunar Polar Orbiter is in the public interest in connection with the performance of duties imposed upon NASA by law. The Space Science Steering Committee, under which the Subcommittee will operate, is a NASA internal committee, composed wholly of Government employees.

The function of this Subcommittee will be to obtain the advice of the scientific community on proposals in the specialized areas identified by the name of the Subcommittee.

DUWARD L. CROW, *Assistant Administrator for DOD and Interagency Affairs.*

JUNE 3, 1975.

[FR Doc.75-14938 Filed 6-6-75;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

ARCHITECTURE + ENVIRONMENTAL ARTS ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a closed meeting of the Architecture + Environmental Arts Advisory Panel to the National Council on the Arts will be held on July 1-2, 1975 from 10:00 a.m.-6:00 p.m. at 2401 E Street, NW., 11th floor conference room, Washington, D.C.

This meeting is for the purpose of a long-range policy discussion and planning review of the Architecture + Environmental Arts Program by the Panel. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of January 10, 1973, this meeting which involves matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552(b)(5)), will not be open to the public.

Further information with reference to this meeting can be obtained from Mrs. Luna Diamond, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-7144.

EDWARD M. WOLFE, *Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.*

[FR Doc.75-14947 Filed 6-6-75;8:45 am]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS' SUBCOMMITTEE ON WESTINGHOUSE WATER REACTORS

Meeting

In accordance with the purposes of sections 29 and 182 b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the ACRS Subcommittee on Westinghouse Water Reactors will hold a meeting on June 24, 1975 at the Howard Johnson Motor Lodge, Highway 48, Monroeville, Pa. The purpose of this meeting will be to develop information for consideration by the ACRS in its review of the application of the Westinghouse Electric Corporation for a Reference Systems Standard Project Review.

The agenda for the subject meeting shall be as follows:

Tuesday, June 24, 1975, 11:00 a.m. until the conclusion of business. The Subcommittee will hear presentations by representatives of Westinghouse Electric Corporation and the NRC Staff and will hold discussions with these groups pertinent to its review of the application of Westinghouse Electric Corporation for a Reference Systems Standard Project Review.

In connection with the above agenda item, the Subcommittee will hold Executive Sessions, not open to the public, at 10:30 a.m. and at the end of the day to consider matters relating to the above application. These sessions will involve an exchange of opinions and discussion of preliminary views and recommendations of Subcommittee Members and internal deliberations for the purpose of formulating recommendations to the ACRS.

In addition to the Executive Sessions, the Subcommittee may hold closed sessions with representatives of the NRC Staff and Applicant for the purpose of discussing privileged information concerning plant physical security and other matters related to plant design, construction, and operation, if necessary.

I have determined, in accordance with subsection 10(d) of Pub. L. 92-463, that the above-noted Executive Sessions will consist of an exchange of opinions and formulation of recommendations, the discussion of which, if written, would fall within exemption (5) of 5 U.S.C. 552(b) and that a closed session may be held, if necessary, to discuss certain documents and information which are privileged and fall within exemption (4) of 5 U.S.C. 552(b). Further, any non-exempt material that will be discussed during the above closed sessions will be inextricably intertwined with exempt material, and no further separation of this material is considered practical. It is essential to close such portions of the meeting to protect the free interchange of internal views, to avoid undue interference with agency or Subcommittee operation, and to avoid public disclosure of proprietary information.

Practical considerations may dictate alterations in the above agenda or schedule.

The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda items may do so by mailing 25 copies thereof, postmarked no later than June 14, 1975 to: Executive Secretary, Advisory Committee on Reactor Safeguards, Nuclear Regulatory Commission, Washington, D.C., 20555. Such comments shall be based upon the Preliminary Safety Analysis Report for this project and related documents on file and available for public inspection at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555.

(b) Those persons submitting a written statement in accordance with paragraph (a) above may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement and shall set forth reasons justifying the need for such oral statement and its usefulness to the Subcommittee. To the extent that the time available for the meeting permits, the Subcommittee will receive oral statements during a period of no more than 30 minutes at an appropriate time, chosen by the Chairman of the Subcommittee between the hours of 3:30 p.m. and 4:30 p.m.

(c) Requests for the opportunity to make oral statements shall be ruled on by the Chairman of the Subcommittee who is empowered to apportion the time available among those selected by him to make oral statements.

(d) Information as to whether the meeting has been cancelled or rescheduled and in regard to the Chairman's ruling on requests for opportunity to present oral statements, and the time allotted, can be obtained by a prepaid telephone call on June 23, 1975 to the Office of the Executive Secretary of the Committee, (telephone 202/634-1394, Attn: Paul T. Burnett), between 8:15 a.m. and 5:00 p.m., E.D.T.

(e) Questions may be propounded only by members of the Subcommittee and its consultants.

(f) Seating for the public will be available on a first come, first-served basis.

(g) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(h) Persons desiring to attend portions of the meeting where proprietary information, other than plant security information, is to be discussed may do so by providing to the Executive Secretary, Advisory Committee on Reactor Safeguards, 1717 H Street, NW., Washington, D.C. 20555, seven days prior to the meeting, a copy of an executed agreement with the owner of the proprietary information to safeguard this material.

(i) A copy of the transcript of the open portion of the meeting will be available for inspection on or after June 26, 1975 at the Nuclear Regulatory Commission's Public Document Room, 1717 H St., NW., Washington, D.C. 20555. Copies of the transcript may be reproduced in the Public Document Room or may be obtained from Ace Federal Reporters, Inc., 415 Second Street, NE., Washington, D.C. 20002 (telephone 202/547-6222) upon payment of appropriate charges.

(j) On request, copies of the minutes of the meeting will be made available for inspection at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 after September 24, 1975. Copies may be obtained upon payment of appropriate charges.

Dated: June 4, 1975.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.75-14949 Filed 6-6-75;8:45 am]

[Dockets Nos. 50-250, 50-251]

FLORIDA POWER AND LIGHT CO.

Issuance of Amendments to Facility Operating Licenses

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 7 and 6 respectively to Facility Operating Licenses Nos. DPR-31 and DPR-41 to Florida Power and Light Company which revised Technical Specifications for operation of the Turkey Point Nuclear Generating Units 3 & 4, located in Dade County, Florida. The amendments are effective as of the date of issuance.

These amendments provide an alternate method for testing the operation of the circuit breakers associated with the residual heat removal pump motors during the periodic testing of the Safety Injection System.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Ch. I, which are set forth in the license amendments. Prior public notice of these amendments is not required since the amendments do not involve a significant hazards consideration.

For further details with respect to these actions, see (1) the application for amendments dated September 20, 1974, (2) Amendment No. 7 to License No. DPR-31 and Amendment No. 6 to License No. DPR-41 with Change No. 19 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and after May 23, 1975 at the Environmental & Urban Affairs Library, Florida International University, Miami, Florida.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this May 30, 1975.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch #3, Division of Reactor Licensing.

[FR Doc.75-14934 Filed 6-6-75;8:45 am]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 3.29, "Preheat and Interpass Temperature Control for the Welding of Low-Alloy Steel for Use in Fuel Reprocessing Plants and in Plutonium Processing and Fuel Fabrication Plants," describes a method acceptable to the NRC staff for complying with the Commission's regulations regarding the preheat and interpass temperature control for welding of low-alloy steel components for fuel reprocessing plants and for plutonium processing and fuel fabrication plants.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed (listed below) or (2) improvements in all published guides are encouraged at any time. Public comments on Regulatory Guide 3.29 will, however, be particularly useful in evaluating the need for an early revision if received by August 8, 1975.

Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section.

Regulatory Guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides should be made in writing to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone requests cannot be accommodated. Regulatory Guides are not copyrighted and Commission approval is not required to reproduce them.

Other Division 3 Regulatory Guides currently being developed include the following:

Control of Stainless Steel Welding for Safety-Related Components of Fuel Reprocessing Plants
Corrosion Testing and Evaluation of Metals for Application in Fuel Reprocessing Plants
Nondestructive Examination of Tubular Products for Use in Fuel Reprocessing and Fuel Fabrication Plants
Control of the Use of Sensitized Stainless Steel for Components of Fuel Reprocessing Plants
General Design Guide for Process Building Ventilation Systems for Fuel Reprocessing Plants
General Fire Protection Guide for Fuel Reprocessing Plants
Standard Format and Content of License Applications for Plutonium Processing and Fuel Fabrication Plants
Standard Format and Content of License Applications for Commercial Waste Burial Facilities
Quality Assurance for the Design, Construction, and Operation of Fuel Reprocessing Plants
Guide for Design, Construction, and Operation of Ventilation Systems for Plutonium Fuel Manufacturing Plants
Criteria for Siting, Design, and Operation of Plants for the Manufacture of Mixed Oxide Fuels
Selection and Application of Protective Coatings (Paints) for Fuel Reprocessing Plants
Guide to the Preparation of Emergency Plans for Uranium and Plutonium Processing and Fuel Fabrication Plants
Design Criteria for Spent Fuel Storage Facilities at HTGR Sites
Guide for Design of Irradiated Fuel Receiving and Storage Facilities
Assumptions Used for Evaluating the Consequences of a Criticality Accident in LWR Fuel Fabrication Plants
Selection, Training, and Qualification of Personnel for Fuel Reprocessing Plants
Temporary Storage of High-Level Liquid Waste at Fuel Reprocessing Plants
Assumptions Used for Evaluating the Consequences of a Criticality Accident in Fuel Reprocessing Plants
Assumptions Used for Evaluating the Consequences of a Criticality Accident in Plutonium Processing and Fuel Fabrication Plants
Confinement Structures and Systems for Plutonium Processing and Fuel Fabrication Plants

Emergency Water Systems for Fuel Reprocessing Plants and Plutonium Processing and Fuel Fabrication Plants
Protection Systems for Fuel Reprocessing Plants and for Plutonium Processing and Fuel Fabrication Plants
Design Basis Floods for Fuel Reprocessing Plants
Criteria for Gaseous Radioactive Effluent Systems at Fuel Reprocessing Plants
Design Criteria for Decommissioning of Nuclear Fuel Reprocessing Plants.
Definition of Radioactive Waste Categories
Codes Applicable to Quality Control and Fabrication of Metallic Structures, Systems, and Components for Fuel Reprocessing Plants
Administrative Controls for Nuclear Fuel Reprocessing Plants

(5 U.S.C. 552(a))

Dated at Rockville, Md., this 2d day of June 1975.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Acting Director, Office of Standards Development.

[FR Doc.75-14950 Filed 6-6-75;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on June 4, 1975 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

NEW FORMS

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Earth Resources Survey Data User Questionnaire, single-time, symposium attendees, Energy and Science Division, Caywood, D. P., 395-3810.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control, VD Laboratory Surveillance Report, CDC 9.66, annually, State, territorial and local health departments, Dick Eisinger, 395-4716.

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration, Data Collection Plan for Research Study "The Safety Aspects of Reduced Speed Limits and the Reduction in Travel Caused by the Energy Crisis," single-time, State highway and/or transportation departments, Strasser, A., 395-3880.

EXTENSIONS

VETERANS ADMINISTRATION

Statement of Purchaser of Owner Assuming Veterans GI Loan, 26-6382, on occasion, purchaser, Marsha Traynham, 395-4529.

Supplement to Application for Release (From Liability on His GI Home Loan), 26-6381, on occasion, seller, Marsha Traynham, 395-4529.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.75-15059 Filed 6-6-75;8:45 am]

POSTAL SERVICE

INCREASE IN CERTAIN TEMPORARY POSTAGE RATES

Effective Date

On September 25, 1973, the United States Postal Service requested the Postal Rate Commission to submit to the Governors of the Postal Service a recommended decision on changes in rates of postage and fees for postal services pursuant to chapter 36 of title 39, United States Code.

By notice published in the daily issue of the FEDERAL REGISTER on October 19, 1973 (38 FR 29198), the Postal Service announced that, should the Postal Rate Commission not transmit its recommended decision to the Governors of the Postal Service within 90 days after submission of the Postal Service's request (September 25, 1973), the Postal Service intended to place in effect specified temporary changes in rates of postage and fees for postal services under the authority of 39 U.S.C. 3641. The Postal Service further announced that, if permanent rates were not recommended by the Commission prior to July 6, 1974, further temporary changes would be implemented in rates for classes of mail or kinds of mailers referred to in 39 U.S.C. 3626.

Notice is hereby given that, effective 12:01 a.m. on July 6, 1975, the fourth step of phased postage rate increases will be placed in effect at temporary rate levels for the following classes of mail: second-class; controlled circulation; third-class bulk mail for qualified nonprofit organization; special fourth-class and library fourth-class. This action represents the next step of scheduled rate increases for the designated classifications of mail to be phased in over a period of 8 or 16 years, depending on the particular mail classification involved. The phasing period was extended to 8 and 16 years by Act of Congress effective June 30, 1974 (Pub. L. 93-328).

The rates of postage to be established, effective 12:01 a.m. on July 6, 1975, are set forth in column (3) of the schedule published below.

(39 U.S.C. 101(d), 401, 403, 404, 3621-3641; 84 Stat. 719)

ROGER P. CRAIG,
Deputy General Counsel.

Schedule of phased postage rates, July 6, 1975

Mail class	Postage rate unit	Temporary rates (cents)
(1)	(2)	(3)
Second class:		
In county:		
Pound rate matter	Pound	1.6
Per-piece charge	Piece	.4
Per-copy charge	Copy	1.4 or 2.4
Outside county:		
Nonprofit:		
Nonadvertising	Pound	3.1
Advertising: [1]		
Zones:		
1 and 2	do	5.3
3	do	6.0
4	do	7.5
5	do	9.1
6	do	10.2
7	do	10.8
8	do	11.5
Per piece charge	Piece	.5
Classroom:		
Nonadvertising	Pound	2.6
Advertising:		
Zones:		
1 and 2	do	3.2
3	do	3.9
4	do	5.1
5	do	6.9
6	do	8.8
7	do	10.2
8	do	11.8
Per piece charge	Piece	.4
Regular rate:		
Nonadvertising:		
Advertising	Pound	5.8
Advertising:		
Zones:		
1 and 2 (Science of Agriculture)	do	5.4
1 and 2	do	7.7
3	do	8.6
4	do	10.2
5	do	12.2
6	do	14.3
7	do	16.0
8	do	18.3
Per-piece charge [2]	Piece	1.3
Per piece [3]	do	.5
Controlled circulation:		
Per pound	Pound	16.0
Minimum per piece	Minimum per piece.	4.8
Third class:		
Nonprofit bulk rate:		
Circulars:		
Per pound	Pound	11.0
Minimum per piece	Piece	1.8
Book, catalogs, etc.:		
Per pound	Pound	9.0
Minimum per piece	Minimum per piece.	1.8
Fourth class:		
Special rate:		
Per pound	Pound	19.0
Each additional	Each additional pound.	9.0
Library rate:		
Per pound	Pound	7.0
Each additional	Each additional pound.	3.0

[1] Not applicable to publications containing 10 percent or less advertising content.
[2] Publications mailing 5,000 or more copies per issue outside county of publication.
[3] Publications mailing fewer than 5,000 copies per issue outside county of publication.

[FR Doc.75-14848 Filed 6-6-75;8:45 am]

DEPARTMENT OF LABOR

Labor-Management Services Administration

EMPLOYEE BENEFIT PLANS

Extension of Interim Exemption From Prohibitions on Securities Transactions With Certain Broker-Dealers, Reporting Dealers and Banks Until October 1, 1975

On April 23, 1975, notice was published in the FEDERAL REGISTER (40 FR 17861) of an extension of and a proposal to extend the interim exemption granted under the authority of section 408(a) of the Employee Retirement Income Security Act of 1974 and section 4975(c)(2) of the Internal Revenue Code of 1954, relating to certain securities transactions between employee benefit plans subject to Title I and Title II of the Act and certain broker-dealers, reporting dealers and banks.

By notice published in the FEDERAL REGISTER on February 4, 1975 (40 FR 5201), an interim exemption was granted for the period from January 1, 1975, to April 30, 1975, with respect to certain transactions between employee benefit plans and broker-dealers, reporting dealers and banks which provide services to such plans. That exemption was based upon a record which includes the written comments submitted in response to a notice of an exemption proceeding published in the FEDERAL REGISTER on January 13, 1975 (40 FR 2483 and 2455, respectively), and the testimony received at the public hearing held on January 21, 1975.

The notice of April 23, 1975, announced the extension of the interim exemption for the period April 30, 1975, through June 16, 1975, pending final action on a proposal to extend the interim exemption was proposed in order to afford all interested persons an opportunity to submit proposals for permanent exemptions relating to transactions between plans and certain broker-dealers, reporting dealers and banks, and in order to provide an opportunity for the Department of Labor and the Internal Revenue Service to consider such proposals. The notice also requested that all proposals for such permanent exemptions be submitted on or before May 31, 1975.

The interim exemption as extended through June 16, 1975, and as proposed for extension through September 30, 1975, also contains a modification which takes into account the elimination of fixed minimum commission rates on securities transactions effected on a national securities exchange pursuant to Rule 19b-3 under the Securities Exchange Act of 1934 (17 CFR 240 19b-3, 40 FR 7394, February 20, 1975). The Department of Labor and the Internal Revenue Service did not intend by this modification to narrow or enlarge the extent to which the interim exemption in effect from February 15, 1975, through April 30, 1975, permitted broker-dealers, reporting dealers and banks to engage in transactions for the purchase or sale of securities with plans to which they render investment advice.

All interested persons were invited to submit written comments by May 12, 1975, concerning the proposed extension of the interim exemption through September 30, 1975. No comments adverse to any aspects of the proposal were received. Interested persons were also afforded an opportunity to submit, on or before May 12, 1975, written requests for a hearing relating to the proposed extension. No such written requests were submitted by May 12, 1975, and no such hearing was ordered.

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code, in view of the foregoing, and based upon the entire record, including the written comments submitted in response to the notices dated January 13, 1975, and April 23, 1975, and the testimony at the public hearing held on January 21, 1975, the Department of Labor and the Internal Revenue Service make the following findings and determinations.

(1) The extension of the interim exemption through September 30, 1975, is administratively feasible;

(2) It is in the interest of the plans and of their participants and beneficiaries; and

(3) It is protective of the rights of participants and beneficiaries of plans.

Accordingly, the interim exemption published on February 4, 1975, in the FEDERAL REGISTER (40 FR 5201, FR Doc. 75-3340), as extended through June 16, 1975 by notice published on April 23, 1975, in the FEDERAL REGISTER (40 FR 17861, FR Doc. 75-10666), is hereby further extended as proposed in the April 23, 1975, notice. The amended interim exemption reads as set forth below.

The restrictions of section 406 of the Act and section 4975 of the Code shall not apply to the following transactions:

(a) *Period from January 1, 1975, to February 15, 1975.* With respect to a broker-dealer registered under the Securities Exchange Act of 1934, a reporting dealer who makes primary markets in Government securities and reports daily to the Federal Reserve Bank of New York its positions with respect to Government securities and borrowings thereon, or a bank supervised by the United States or a State, any purchase or sale of a security between an employee benefit plan and such a broker-dealer, reporting dealer, or bank, which purchase or sale has a final settlement date before February 15, 1975, if:

(1) Such broker-dealer, reporting dealer, or bank ordinarily and customarily engaged in similar transactions on December 31, 1974;

(2) Such transaction is at least as favorable to the plan as an arm's-length transaction with an unrelated party would be;

(3) The transaction was not, at the time of such transaction, a prohibited transaction (within the meaning of section 503(b) of the Internal Revenue Code of 1954 or the corresponding provisions of prior law); and

(4) In the case of such a bank or reporting dealer, such purchases or sales are purchases or sales of securities of the United States Government or of an agency of the United States Government (hereinafter referred to as "Government securities").

(b) *Period ending April 30, 1975.* With respect to a broker-dealer, reporting dealer, or bank, within the meaning of paragraph (a) of this document, any purchase or sale of a security between an employee benefit plan and such a broker-dealer, reporting dealer, or bank which has a final settlement date after February 14, 1975, but before May 1, 1975, if the requirements of paragraphs (a) (1), (2), (3), and (4) of this document are met and if such broker-dealer, reporting dealer, or bank does not render investment advice to the plan and does not have any discretionary authority or discretionary control respecting management of the plan or disposition of the assets of the plan.

For purposes of this paragraph, such a broker-dealer, reporting dealer, or bank shall not be deemed to be rendering investment advice or having any such discretionary authority or discretionary control solely because it does one or more of the following:

(1) It renders advice to a plan (i) which is solely incidental to the conduct of its business as a broker or dealer, limited, however, in the case of a bank, to the conduct of that part of its business consisting of dealing in Government securities, and (ii) it receives no special compensation therefor (within the meaning of section 202(a)(11)(C) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(11)(C)));

(2) It provides services which enable a plan to evaluate its portfolio performance;

(3) It provides securities custodial services for a plan;

(4) It executes purchases or sales of securities on behalf of a plan in the ordinary course of its business as a broker, dealer, or bank, pursuant to instructions of an unrelated fiduciary if such instructions specify the security to be purchased or sold, a price range within which such security is to be purchased or sold, a time span during which such security may be purchased or sold (not to exceed five business days), and the minimum or maximum quantity of such security which may be purchased or sold within such price range.

(c) *Period ending September 30, 1975.* With respect to a broker-dealer, reporting dealer, or bank, within the meaning of paragraph (a) of this document, any purchase or sale of a security between an employee benefit plan and such a broker-dealer, reporting dealer, or bank, which has a final settlement date after April 30, 1975, but before October 1, 1975, if the requirements of paragraphs (a) (1), (2), (3), and (4) of this document are met and if such broker-dealer, reporting dealer, or bank does not render investment advice to the plan and does not have any discretionary authority or

discretionary control respecting management of the plan or disposition of the assets of the plan. For purposes of this paragraph, such a broker-dealer, reporting dealer, or bank shall not be deemed to be rendering investment advice or having any such discretionary authority or discretionary control solely because it does one or more of the following:

(1) It renders advice to a plan, whether or not for special compensation, which (i) is solely incidental to the conduct of its business as a broker or dealer, limited, however, in the case of a bank, to the conduct of that part of its business consisting of dealing in Government securities, and (ii) if the advice had been rendered prior to May 1, 1975, the broker or dealer customarily would have received no special compensation therefor (within the meaning of section 202(a)(11)(C) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(11)(C)));

(2) It provides services which enable a plan to evaluate its portfolio performance;

(3) It provides securities custodial services for a plan;

(4) It executes purchases or sales of securities on behalf of a plan in the ordinary course of its business as a broker, dealer, or bank, pursuant to instructions of an unrelated fiduciary if such instructions specify the security to be purchased or sold, a price range within which such security is to be purchased or sold, a time span during which such security may be purchased or sold (not to exceed five business days), and the minimum or maximum quantity of such security which may be purchased or sold within such price range.

(d) *Affiliates.* For purposes of paragraphs (a), (b), and (c) of this document, an affiliate of any broker-dealer, reporting dealer, or bank shall be treated as the same entity as such broker-dealer, reporting dealer, or bank. For this purpose a corporation or partnership is an affiliate of an incorporated or unincorporated broker-dealer, reporting dealer, or bank if it is a member of a controlled group which includes such broker-dealer, reporting dealer, or bank; and a controlled group shall be defined in the same manner as the term "controlled group of corporations" is defined in section 1563(a) of the Internal Revenue Code of 1954, except that "50 percent" shall be substituted for "80 percent" wherever the latter percentage appears in such section, and except that in the case of partnership, the term "corporation" shall be read as including a partnership, and the term "stock" shall be read as including the profits interest of a partnership.

Signed at Washington, D.C., this 5th day of June 1975.

JAMES D. HUTCHINSON,
Acting Administrator of Pension and Welfare Benefit Programs, U.S. Department of Labor.

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

[FR Doc.75-15120 Filed 6-6-75;9:49 am]

Occupational Safety and Health Administration

[Docket No. S-101]

EXPOSURE TO ELECTROMAGNETIC PULSES

Determination Not To Propose Standard

On April 21, 1972, the Boeing Company filed a petition with the Assistant Secretary for Occupational Safety and Health requesting the promulgation of a standard which would, among other things, regulate the exposure of employees to electromagnetic pulses (EMP's). The petitioner suggested using as a standard the requirements contained in the U.S. Air Force document entitled "Provisional Safety Criteria for Use in Electromagnetic Pulsers," dated December 15, 1971 (revised August 24, 1972). The Air Force document included provisions establishing a maximum permissible exposure limit, requiring control of overexposure, excluding employees with pacemakers from working where EMP's are generated, and establishing a medical surveillance program.

In response to the petition, a notice was published in the FEDERAL REGISTER on February 26, 1974 (39 FR 7499), detailing the provisions in the Air Force document and requesting information concerning EMP's with respect to the following:

(1) The need for a standard regulating employee exposure to EMP's;

(2) The merits of the requirements set forth in the Air Force document;

(3) Alternative suggestions to the Air Force provisions;

(4) Injury and illness experience, relevant cost data, and environmental impact considerations; and

(5) Any other related issues.

Thirty-one submissions were received in response to the request for information. The prevailing view expressed in these comments indicated that the need for such a standard at this time is doubtful, and, in addition, that scientific information is insufficient to determine an appropriate maximum permissible exposure limit.

With regard to physiological hazards associated with EMP's, all commenters who addressed the issue indicated that they had no evidence of any injuries or illnesses which were attributable to EMP's. The most comprehensive study reported was conducted by Baum, Skidmore and Ekstrom of the Armed Forces Radiobiology Research Institute, and is entitled "Continuous Exposure of Rodents to 10^5 Pulses of Electromagnetic Radiation." The authors reported the results of an experiment in which rodents were exposed to EMP's at five pulses per second for 10^5 pulses, where the peak electric field strength was 447 kV/m with a 5 nsec rise time and a 550 nsec 1/e fall time (a condition, the authors indicated, in excess of that encountered by humans who operate EMP facilities). They concluded that no apparent injuries could be demonstrated. This finding was based upon blood cell production and concentration, blood chemistry, chromosomal aberration, histology, and leukemia and mammary tumor determinations. The authors indicated that it could be safely predicted that human exposure under similar conditions would show no acute injurious biological effects.

With regard to the question of increased malignancy in humans exposed to EMP's, the authors indicated in their report that, while a more positive determination could not be made until the experiment was completed, the negative results obtained from leukemia prone mice, the absence of damage to bone marrow cell chromosomes and the absence of abnormalities in the progeny of EMP exposed pregnant rats, appeared to make such a result unlikely. (Consultation with the authors subsequent to completion of the experiment revealed that, in fact, there was no indication of increased malignancy in the experimental animals.) Therefore, at this time, and based upon the information currently available, there appears to be no reasonable grounds for concluding that exposure to EMP's normally encountered by humans who operate EMP facilities will result in malignancy.

The second major issue raised by commenters addressed the question of maximum E field exposure to simulated electromagnetic pulses as determined by the following formula:

$$E = (1.94 \times 10^5) \cdot \sqrt{\frac{1}{t}}$$

where E is expressed in volts/meter and t is the simulated pulse width in seconds. One commenter indicated that the formula was erroneous because its derivation was based upon time durations in excess of .1 hour while it was being applied to pulses with durations of less than one second. By virtue of this, another argued, the maximum permissible E field exposure would be so great, that effectively no protection at all would be provided since it would be extremely unlikely that the exposure limit would ever be exceeded. It was further indicated that assuming the use of a pulser with sufficient energy to create an E field equal to the maximum permissible exposure, the formula would permit exposure of employees in air which had become ionized, and this clearly would not be responsive to employee safety. Several others attacked the adequacy of the formula on similar grounds.

While it appears that the suggested formula is inadequate, the comments indicate that due to the paucity of existing information on the physiological consequences associated with EMP exposure, the maximum E field exposure cannot be determined with any degree of confidence at this time. The American National Standards Institute's C-95 Committee on Radio Frequency Radiation Hazards established a working group to review provisional safety criteria for exposure to EMP's, and it was unable to reach a consensus opinion due to insufficient evidence upon which to base such guidelines. Several federal agencies as well as private institutions concurred with the conclusion that sufficient data is

not currently available to permit the determination of an appropriate E field exposure limit.

In view of the above considerations, it appears that the need for a standard regulating employee exposure to EMP's has not been shown and that the scientific information necessary for the development of a standard currently does not exist. Therefore, pursuant to section 6 of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1593, 29 U.S.C. 655) and Secretary of Labor's Order No. 12–71 (36 FR 8754), it has been determined that a proposed standard on exposure to electromagnetic pulses should not be issued at this time.

Signed at Washington, D.C. this 3d day of June 1975.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.75–14995 Filed 6–6–75;8:45 am]

Office of Employee Benefits Security

ADVISORY COUNCIL ON EMPLOYEE WELFARE AND PENSION BENEFIT PLANS

Meeting

Pursuant to section 512 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001) meetings of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held Monday and Tuesday, June 23 and 24, 1975, at 10 a.m., in the Tudor Room, Shoreham Americana Hotel, 2500 Calvert Street, NW., Washington, D.C.

The meeting will be open to the public. The purpose of the meeting is to discuss the items listed in the following agenda:

1. Indemnification Work Group Report.
2. Recordkeeping Work Group Report.
3. Investment in Employer Securities Work Group Report.
4. Seasonal Industries Work Group Report.
5. Monitoring Fiduciary Liability Insurance.
6. Reporting and Disclosure Developments.
7. Reporting and Disclosure Impact on Small Employers.
8. Prohibited Transactions.
9. Joint Administration of ERISA.
10. Future Meetings—Agenda, Schedule.

Any member of the public may file a written statement concerning the topics under this agenda or any other matters relating to the Advisory Council with Paul J. Fasser, Jr., Assistant Secretary for Labor-Management Relations, New Department of Labor Building, 200 Constitution Avenue, NW., Room S2307, Washington, D.C. 20210.

Person desiring to attend should notify Mr. Edward F. Lysczek, Executive Secretary of the Advisory Council, New Department of Labor Building, 200 Constitution Avenue, NW., Room N4700, Washington, D.C. 20210, or may call Area Code 202/523–8753.

Signed at Washington, D.C., this 5th day of June 1975.

PAUL J. FASSER, Jr.,
Assistant Secretary for Labor-Management Relations.

[FR Doc.75–15060 Filed 6–6–75;8:45 am]

Office of the Secretary

[TA–W–33]

FREEMAN SHOE CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On May 29, 1975, the Department of Labor received a petition filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the General Teamsters and Allied Workers Union, on behalf of the workers and former workers of Freeman Shoe Company, Waynesboro, Pennsylvania (TA–W–33).

Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with men's footwear produced by Freeman Shoe Company or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 16, 1975.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 30th day of May, 1975.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.75–14880 Filed 6–6–75;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice 784]

ASSIGNMENT OF HEARINGS

JUNE 4, 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 18088 Sub 55, Floyd & Beasley Transfer Company, Inc., now assigned July 7, 1975 at Montgomery, Alabama; will be held in Room 816, Aronov Building, 474 South Court Street.

MC 97310 Sub 14, Sharron Motor Lines, Inc., now assigned July 29, 1975 at Montgomery, Alabama; will be held in Room 816, Aronov Building, 474 South Court Street.

MC 14702 Sub 66, Ohio Fast Freight, Inc., now assigned July 8, 1975 at Columbus, Ohio is canceled and the application is dismissed.

MC 123640 Sub 18, Summit City Enterprises, Inc., now assigned July 8, 1975 at Chicago, Illinois; will be held in Room 204A Everett McKinley Dirksen Building, 219 S. Dearborn Street.

MC 107496 Sub 967, Ruan Transport Corporation, now assigned July 10, 1975 at Chicago, Illinois; will be held in Room 204A, Everett McKinley Dirksen Building, 219 S. Dearborn St.

MC 110988 Sub 316, Schneider Tank Lines, Inc., now assigned July 14, 1975 at Chicago, Illinois; will be held in Room 204A, Everett McKinley Dirksen Building, 219 S. Dearborn St.

MC 107295 Sub 713, Pre-Fab Transit Co., now assigned July 16, 1975 at Chicago, Illinois; will be held in Room 204A, Everett McKinley Dirksen Building, 219 S. Dearborn Street.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.75-14982 Filed 6-6-75;8:45 am]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Letter Notices

JUNE 4, 1975.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination* Rules (49 CFR Part 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before June 19, 1975. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will *not* operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 9325 (Sub-No. E6) (Correction), filed May 13, 1974, published in the FEDERAL REGISTER May 23, 1975. Applicant: K LINES, INC., P.O. Box 1348, Lake Oswego, Oreg. 97034. Applicant's representative: Michael P. Crew, 620 Blue Cross Bldg., Portland, Oreg. 97201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk, between points in Washington west of the Cascade Mountains, on the one hand, and, on the other, points in Oregon, restricted aaginst traffic moving between points in Whatcom, Skagit, Snohomish, Island, Kitsap, Clallum, Jefferson, Mason, and King Counties, Wash., on the one hand, and, on the other, points in Wallowa, Union, and Umatilla Counties, Oreg. The purpose of this filing is to eliminate the gateway of points in Oregon west of the Cascade Mountains. The purpose of this correction is to change the Sub-No. E5 to Sub-No. E6.

No. MC 50069 (Sub-No. E25), filed May 15, 1974. Applicant: REFINERS TRANSPORT & TERMINAL CORPORATION, 445 Earlwood Avenue, Oregon, Ohio 43616. Applicant's representative: Jack A. Gollan (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Liquid plastics and chemicals* except petrochemicals, in bulk, in tank vehicles, from the facilities of the UBS Chemical Company plant at Lemont, Ill., to points in Kentucky, restricted against the transportation of acetone, ethyl acetate, alcohol, vodka, gin, proprietary anti-freeze preparations and choline chloride; (2) *resins, varnishes, lacquers, glues and liquid plastics*, in bulk, in tank vehicles, from the facilities of the UBS Chemical Company plant at Lemont, Ill., to points in Pennsylvania, restricted against the transportation of acetone, ethyl acetate, alcohol, vodka, gin, proprietary anti-freeze preparations and choline chloride; and (3) *resins, varnishes, lacquers and glues*, in bulk, in tank vehicles, from the facilities of the UBS Chemical Company plant at Lemont, Ill., to points in Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island and Vermont, restricted against the transportation of acetone, ethyl acetate, alcohol, vodka, gin, proprietary anti-freeze preparations and choline chloride. The purpose of this filing is to eliminate the gateways of (1) Terre Haute, Ind., (2) Toledo or Kenton, Ohio, and (3) Toledo, Ohio.

No. MC 50069 (Sub-No. E30), filed May 15, 1974. Applicant: REFINERS TRANSPORT & TERMINAL CORPORATION, 445 Earlwood Avenue, Oregon, Ohio 43616. Applicant's representative: Jack A. Gollan (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Naphtha*, in bulk, in tank vehicles, from Bay City, Mich., to points in that part of Pennsylvania north and west of a line beginning at the Ohio-Pennsylvania State line and extending along U.S. Highway 22 to Blairsville, Pa., thence along to the Pennsylvania-New York State line, to points in New York west of a line beginning at the New York-Pennsylvania State line and extending along to Deposit, N.Y., thence along New York Highway 8 to Utica, N.Y., thence along New York Highway 49 to Rome, N.Y., thence along New York Highway 69 to Camden, N.Y., thence along New York Highway 13 to Port Ontario, N.Y. The purpose of this filing is to eliminate the gateways of Cleveland, Ohio and Titusville, Pa.

No. MC 50069 (Sub-No. E31), filed May 15, 1974. Applicant: REFINERS TRANSPORT & TERMINAL CORPORATION, 445 Earlwood Avenue, Oregon, Ohio 43616. Applicant's representative: Jack A. Gollan (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Petroleum products* as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from Louisville, Ky., and points within 10 miles of Louisville, to points in Illinois north and west of a line extending along U.S. Highway 54 from the Mississippi River to Springfield, Ill., thence along U.S. Highway 66 to junction U.S. Highway 24 near Chenoa, Ill., thence along U.S. Highway 24 to the Illinois-Indiana State line; and (2) *petroleum products*, except petrochemicals, in bulk, in tank vehicles, from Louisville, Ky., and points within 10 miles thereof to points in Michigan north and west of a line beginning at Muskegon, Mich., extending along Michigan Highway M-46 to Michigan Highway M-66 to Charlevoix. The purpose of this filing is to eliminate the gateways of (1) New Goshen, Ind., and (2) Huntington, Ind.

No. MC 61592 (Sub-No. E117), filed June 4, 1974. Applicant: JENKINS TRUCK LINE, INC., P.O. Box 697, Jeffersonville, Ind. 47130. Applicant's representative: Michael J. Jenkins (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lumber* (except plywood, veneer, built-up wood and flooring); (a) from points in Spartanburg and Greenwood Counties, S.C., to points in Maryland; (b) from points in South Carolina to points in New York, Pennsylvania, Delaware, and New Jersey; (c) from points in Orangeburg County, S.C., east of U.S. Highway 176 and points in Richland County, S.C., to points in that part of Kentucky on and west of Interstate Highway 65 and on and north of a line beginning at the Indiana-Kentucky State line and extending along Inter-

state Highway 64 to Frankfort, thence along U.S. Highway 460 to Mt. Sterling, and thence along Interstate Highway 64 to the Kentucky-West Virginia State line; (d) from points in Marlboro, Lee, Charleston, Horry, Kershaw, Dillon, Florence, Georgetown, Orangeburg, Williamsburg, Lancaster, Marion, Clarendon, Berkeley, and Sumter Counties, S.C., to points in Kentucky; and (e) from points in that part of South Carolina on and east of a line beginning at the North Carolina-South Carolina State line and extending along U.S. Highway 21 to Columbia, thence along U.S. Highway 321 to junction U.S. Highway 278, and thence along U.S. Highway 278 to the Atlantic Ocean to points in Ohio (Wadesboro, N.C.) *.

(2) *Stone*, from Richland and Fairfield Counties, S.C., to points in Colorado, Wyoming, Nebraska, Kansas, points in that part of Oklahoma on and west of a line beginning at the Missouri-Oklahoma State line and extending along Interstate Highway 44 to Big Cabin, and thence along U.S. Highway 69 to the Oklahoma-Texas State line and extending along Interstate Highway 35 to Fort Worth, thence along Texas Highway 174 to junction Texas Highway 22, thence along Texas Highway 22 to junction U.S. Highway 281, thence along U.S. Highway 281 to San Antonio, and thence along U.S. Highway 81 to Laredo, Iowa, points in that part of Missouri on, north, and west of a line beginning at the Illinois-Missouri State line and extending along Missouri Highway 51 to junction Missouri Highway 34, thence along Missouri Highway 34 to junction U.S. Highway 60, thence along U.S. Highway 60 to Springfield, and thence along U.S. Highway 60 to the Missouri-Oklahoma State line, points in that part of Illinois on and north of a line beginning at the Kentucky-Illinois State line and extending along Illinois Highway 13 to junction Illinois Highway 149, thence along Illinois Highway 149 to junction Illinois Highway 3, and thence along Illinois Highway 3 to the Illinois-Missouri State line, Wisconsin, Michigan, Indiana, Ohio, and points in that part of Kentucky on and north of a line beginning at the Indiana-Kentucky State line and extending along Interstate Highway 64 to Winchester, thence along Kentucky Highway 15 to Premium, and thence along U.S. Highway 119 to the Kentucky-Virginia State line (restricted against the transportation of traffic from points in Fairfield County, S.C.) (Mt. Airy, N.C.) *. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 64932 (Sub-No. E85) (Correction), filed June 3, 1974, published in the FEDERAL REGISTER May 27, 1975. Applicant: ROGERS CARTAGE CO., 10735 South Cicero Avenue, Oak Lawn, Ill. 60453. Applicant's representative: W. F. Farrell (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 the plant site of Bavid Chemical Industries, Ind., at or near Mapleton, Ill., to those points in Nebraska on and east of a line beginning at the South Dakota-Nebraska State line and extending along U.S. Highway 81 to junction U.S. Highway 34, thence along U.S. Highway 34 to the Nebraska-Iowa State line (plant site of the Hawkeye Chemical Company at or near Clinton, Iowa) *, and Kansas, and those in Nebraska on and west of a line beginning at the South Dakota-Nebraska State line and extending along U.S. Highway 81 to junction U.S. Highway 34, thence along U.S. Highway 34 to the Nebraska-Iowa State line (Pike County, Mo.) *. The purpose of this filing is to eliminate the gateways as indicated by asterisks above. The purpose of this correction is to change the Sub-No. E95 to Sub-No. E85).

No. MC 102569 (Sub-No. E7) (Correction), filed June 3, 1974, published in the FEDERAL REGISTER May 23, 1975. Applicant: MC NAIR TRANSPORT, INC., 2040 North Loop West, Houston, Tex. 77018. Applicant's representative: Tom Wright (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such petroleum products*, as are liquid chemicals (except liquefied petroleum gases), in bulk, in tank vehicles, from Henderson, Tex., and points in Texas within 150 miles of Henderson, to those points in Georgia south of a line beginning at the Georgia-Alabama State line and extending along Georgia Highway 26 to junction Interstate Highway 95, thence along Interstate Highway 95 to the Georgia-South Carolina State line. The purpose of this filing is to eliminate the gateway of the plant site of American Cyanamid Co., at Avondale, La. The purpose of this correction is to correct the MC number. Previously was MC 102657, changed to MC 102569.

No. MC 102567 (Sub-No. E138), filed June 3, 1974. Applicant: MC NAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, La. 71010. Applicant's representative: Joe Day (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles (except liquefied petroleum gas, anhydrous ammonia and asphalt), from those points in Texas, Arkansas, and Louisiana within 150 miles of Henderson, Tex., which are south of U.S. Highway 82, to points in Tennessee (except those in Shelby County). The purpose of this filing is to eliminate the gateways of El Dorado, Ark., Cotton Valley, La., and Waskom and Mt. Pleasant, Tex.

No. MC 102567 (Sub-No. E139), filed June 3, 1974. Applicant: MC NAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, La. 71010. Applicant's representative: Joe Day (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products* (except liquefied petroleum gas), in bulk, in tank vehicles, from those points in Arkansas west of U.S. Highway 59, to those points in Louisiana within 150 miles of Henderson, Tex., which are south of U.S. Highway 84. The purpose of this filing is to eliminate the gateways of Henderson, Tex., and points in Texas within 150 miles of Henderson.

No. MC 102567 (Sub-No. E140), filed June 3, 1974. Applicant: MC NAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, La. 71010. Applicant's representative: Joe Day (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles (except liquefied petroleum gas, anhydrous ammonia and asphalt), from those points in Texas, Louisiana, and Arkansas, within 150 miles of Henderson, Tex., to those points in Florida south of a line beginning at Naples, Fla., and extending along U.S. Highway 41 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateways of El Dorado, Ark., Cotton Valley, La., and Waskom and Mt. Pleasant, Tex.

No. MC 102567 (Sub-No. E141), filed June 3, 1974. Applicant: MC NAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, La. 71010. Applicant's representative: Joe Day (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles (except liquefied petroleum gas, anhydrous ammonia and asphalt), from those points in Texas, Arkansas, and Louisiana within 150 miles of Henderson, Tex., which are west of a line beginning at El Dorado, Ark., and extending along U.S. Highway 167 to junction U.S. Highway 79, thence along U.S. Highway 79 near Rockdale, Tex., to those points in Florida south of Florida Highway 60. The purpose of this filing is to eliminate the gateways of El Dorado, Ark., Cotton Valley, La., and Waskom and Mt. Pleasant, Tex.

No. MC 102567 (Sub-No. E142), filed June 3, 1974. Applicant: MC NAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, La. 71010. Applicant's representative: Joe Day (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles (except liquefied petroleum gas, anhydrous ammonia and asphalt), from those points in Texas, Arkansas, and Louisiana within 150 miles of Henderson, Tex., which are north of a line beginning at a point on Interstate Highway 20 near Weatherford, Tex., and extending along Interstate Highway 20 to junction U.S. Highway 79, thence along U.S. Highway 79 to junction Arkansas Highway 15, thence along Arkansas Highway 15 to El Dorado, Ark., to points in Florida. The purpose of this filing is to eliminate the gateways of El Dorado,

Ark., Cotton Valley, La., and Waskom and Mt. Pleasant, Ark.

No. MC 102567 (Sub-No. E143), filed June 4, 1974. Applicant: MC NAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, La. 71010. Applicant's representative: Joe Day (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles (except liquefied petroleum gas, anhydrous ammonia and asphalt), from those points in Texas, Arkansas, and Louisiana within 150 miles of Henderson, Tex., which are north and west of a line beginning at Mena, Ark., and extending along U.S. Highway 59/71 to junction U.S. Highway 82, thence along U.S. Highway 82 to junction U.S. Highway 79, thence along U.S. Highway 79 to junction Louisiana Highway 147, thence along Louisiana Highway 147 to junction U.S. Highway 167, thence along U.S. Highway 167 to junction Louisiana Highway 28, thence along Louisiana Highway 28 to junction Louisiana Highway 8, thence along Louisiana Highway 8 to junction Texas Highway 63, thence along Texas Highway 63 to junction U.S. Highway 190, thence along U.S. Highway 190 to junction Texas Highway 30, thence along Texas Highway 30 to junction Texas Highway 90, thence along Texas Highway 90 to Berlin, Tex., to those points in Florida south of a line beginning at Naples, Fla., and extending along U.S. Highway 41 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateways of El Dorado, Ark., Cotton Valley, La., and Waskom and Mt. Pleasant, Tex.

No. MC 107515 (Sub-No. E521), filed January 27, 1975. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dairy products*, as classified in Section B of Appendix to the report in *Modification of Permits-Packinghouse Products*, 46 M.C.C. 23, (a) from Chickasha, Okla., to Virginia, North Carolina and South Carolina, (b) from Elk City, Okla., to Virginia, North Carolina and South Carolina, (c) from Woodward, Okla., to Virginia, North Carolina and South Carolina, and that portion of West Virginia on and east of U.S. Highway 219, and (d) from Enid, Okla., to Virginia, North Carolina and South Carolina; (2) *meats, meat products, meat by-products, dairy products and articles distributed by meat packinghouses*, as described in Sections A, B, and C of Appendix to the report in *Modification of Permits-Packinghouse Products*, 46 M.C.C. 23, from Oklahoma City, Okla., to South Carolina, North Carolina, Virginia, and West Virginia; and (3) *frozen foods*, from Oklahoma City and Enid, Okla., to Virginia. The purpose of this filing is to eliminate the gateway of Atlanta, Ga.

No. MC 108207 (Sub-No. E37) (Correction), filed May 31, 1974, published in the FEDERAL REGISTER December 1974. Applicant: FROZEN FOOD EXPRESS, INC., P.O. Box 5888, Dallas, Tex. 75222. Applicant's representative: Mike Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Humboldt, Tenn., to points in Illinois and Michigan. Restriction: The service authorized herein is restricted to the transportation of shipments originating at the warehouse or storage facilities of Ocom & Foods Company at Humboldt, Tenn. The purpose of this filing is to eliminate the gateways of points in Missouri. The purpose of this correction is to correct the gateway.

No. MC 108207 (Sub-No. E56), filed May 31, 1974. Applicant: FROZEN FOOD EXPRESS, INC., P.O. Box 5888, Dallas, Tex. 75222. Applicant's representative: Mike Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cheese and frozen foods*, in vehicles equipped with mechanical refrigeration, from Nashville, Tenn., to points in Texas, New Mexico, Arizona, and California. The purpose of this filing is to eliminate the gateways of points in Texas and Oklahoma.

No. MC 109397 (Sub-No. E44), filed May 31, 1974. Applicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Joplin, Mo. 64801. Applicant's representative: E. S. Gordon (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Electronic equipment, electronic machinery*, and *electronic systems*, requiring specialized handling or rigging, between points in that part of New York on and east of New York Highway 14, and that part of Pennsylvania on and east of a line beginning at the Maryland-Pennsylvania State line, thence along U.S. Highway 15 to junction Pennsylvania Highway 14, thence along Pennsylvania Highway 14 to the Pennsylvania-New York State line, on the one hand, and, on the other, points in California, Nevada, Oregon, and Washington (points in Massachusetts) *; and (2) *Electronic equipment, electronic machinery*, and *electronic systems*, requiring specialized handling or rigging, between points in Vermont, on the one hand, and, on the other, points in Connecticut, Rhode Island, New York on and south of U.S. Highway 20 beginning at Silver Creek, N.Y., to junction Alternate U.S. Highway 20, thence along U.S. Highway 20 to the New York-Massachusetts State line, New Jersey, Delaware, Maryland, Virginia, West Virginia, Pennsylvania, Ohio, Lower Peninsula of Michigan, Indiana, Illinois, Texas, North Carolina, and the District of Columbia (points in Massachusetts, points in Ohio (as to Texas) and Lucas County, Ohio (as to the Lower Peninsula of Michigan) *. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 109478 (Sub-No. E12), filed May 15, 1974. Applicant: WORSTER MOTOR LINES, INC., Gay Rd., P.O. Box 110, North East, Pa. 16428. Applicant's representative: Joseph F. MacKrell, 23 West Tenth St., Erie, Pa. 16501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen prepared food products* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from points in New York, Boston, Dedham, and Waban, Mass., Secaucus, N.J., and Philadelphia, Pa., to Crawford Co., Pa., and points in Ohio and Michigan; (2) *Food products* (except commodities in bulk, in tank vehicles), from Crawford Co., Pa., to points in Maine on and south of a line beginning at the Maine-New Hampshire State line and extending along U.S. Highway 2 to Bangor, Maine, thence along Alternate U.S. Highway 1 to Ellsworth, Maine, and thence along Maine Highway 3 to Bar Harbor, Maine; (3) *Food products* (except in bulk), from the plant sites and storage facilities of Duffy-Mott Co., Inc., at or near Hartford, Bailey, and Grawn, Mich., to points in New York, Jersey City, N.J., and points in New Jersey within 25 miles thereof, Fall River, Boston, New Bedford, and Taunton, Mass., Providence, R.I., and Swedesboro, N.J., to points in Maine on and south of a line beginning at the Maine-New Hampshire State line near Gilead, Maine, and extending along U.S. Highway 2 to Bangor, Maine, thence along Alternate U.S. Highway 1 to Ellsworth, Maine, and thence along Maine Highway 3 to Bar Harbor, Maine; (4) *Frozen prepared foodstuffs* (except in bulk), from the plant sites and storage facilities of Duffy-Mott Co., Inc., at or near Hartford, Bailey, and Grawn, Mich., to Dedham, Mass., Secaucus, N.J., and Philadelphia, Pa.; (5) *Preserved foodstuffs*, frozen or refrigerated, in vehicles equipped with mechanical refrigeration, from Toledo, Ohio, to points in New York; (6) *Preserved food products* (except frozen food), refrigerated, from Geneva, Ohio, to points in Massachusetts, New York, New Jersey, Pennsylvania, Maryland, and the District of Columbia; and (7) *Food products* (except frozen foods and except in bulk, in tank vehicles), refrigerated, from Geneva, Ohio, to points in that part of Maine on and south of a line beginning at the Maine-New Hampshire State line near Gilead, Maine, and extending along U.S. Highway 2 to Bangor, Maine, thence along Alternate U.S. Highway 1 to Ellsworth, Maine, and thence along Maine Highway 3 to Bar Harbor, Maine. The purpose of this filing is to eliminate the gateways of: (1) Brocton, N.Y., and Linesville, Pa.; (2) Chautauqua Co., N.Y.; (3) and (4) Bergen, Hamlin, Holley, and Williamson, N.Y.; (5) Erie Co., Pa.; (6) North East, Pa., and that part of Chautauqua Co., N.Y., within 5 miles of the Shore of Lake Erie; and (7) Erie Co., Pa., and points in New York on, west, and south of a line beginning at Port Ontario, N.Y., and extending along New York Highway 13 to junction U.S.

Highway 11, thence along U.S. Highway 11 to the New York-Pennsylvania State line.

No. MC 109478 (Sub-No. E13), filed May 15, 1974. Applicant: WORSTER MOTOR LINES, INC., Gay Rd., P.O. Box 110, North East, Pa. 15428. Applicant's representative: Joseph F. MacKrell, 23 West Tenth Street, Erie, Pa. 16501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen food products* (except commodities in bulk), from Chautauqua County, N.Y., and LeRoy, N.Y., and points in New York within 50 miles thereof, to points in Illinois, Indiana, and West Virginia; (2) *Food products* (except commodities in bulk), frozen or refrigerated, in vehicles equipped with mechanical refrigeration, from Erie County, Pa., to Fall River, Boston, New Bedford, and Taunton, Mass., Providence, R.I., Swedesboro, N.J., and Jersey City, N.J., and points in New Jersey within 25 miles thereof; and (3) Frozen food products, in vehicles equipped with mechanical refrigeration (except commodities in bulk), from Erie County, Pa., to points in Connecticut, Delaware, Illinois, Rhode Island, and West Virginia. The purpose of this filing is to eliminate the gateways of (1) Linesville, Pa., and Chautauqua County, N.Y., and Linesville, Pa.; (2) Brocton, N.Y., and points in Monroe and Genesee Counties, N.Y.; and (3) Chautauqua County, N.Y., and Linesville, Pa.

No. MC 110401 (Sub-No. E18), filed May 12, 1974. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Victor R. Comstock (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petrochemicals*, in bulk, in tank vehicles, from points in Texas on and south of a line beginning at the United States-Mexico International Boundary line and extending along U.S. Highway 59 to junction Texas Highway 9 to junction Interstate Highway 37, thence along Interstate Highway 37 to the Gulf Coast to points in Alabama on and north of U.S. Highway 80 or on and east of U.S. Highway 231, Arkansas, Connecticut, Delaware, those in Florida on and east of a line beginning at the Florida-Georgia State line and extending along U.S. Highway 27 to junction U.S. Highway 319 to the Gulf Coast, Georgia, Illinois, Indiana, Iowa, Kentucky, those in Louisiana, on and north of U.S. Highway 80, Maine, Maryland, Massachusetts, those in Mississippi on and north of U.S. Highway 80, Missouri, Montana, New Hampshire, New Jersey, New York, North Carolina, South Carolina, North Dakota, Ohio, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Vermont, Virginia, West Virginia, and Washington, W.C., and those points in Wyoming on, north, or west of a line extending from the Colorado-Wyoming State line and extending along Wyoming Highway 430 to junction Wyoming Highway 28, thence along Wyoming Highway 28 to junction U.S. Highway 287, thence along U.S. Highway 287 to junction Wyoming Highway 220, thence along Wyoming Highway 220 to junction U.S. Highway 20, thence along U.S. Highway 20 to the Wyoming-Nebraska State line. The purpose of this filing is to eliminate the gateway of Longview, Tex.

No. MC 111401 (Sub-No. E85), (Correction), filed May 4, 1975, published in the FEDERAL REGISTER May 23, 1975. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Victor R. Comstock (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products* (except lubricating oils), in bulk, in tank vehicles, from points in Oklahoma on and north of Interstate Highway 40 and on and west of U.S. Highway 75 to points in Alabama, Kentucky, Louisiana, Mississippi, and Tennessee. The purpose of this filing is to eliminate the gateways of Ardmore, Cleveland, Cushing, Duncan, Tulsa and Wynnewood, Okla. The purpose of this correction is to change the Sub-No. E55 to Sub-No. E85.

No. MC 111401 (Sub-No. E86) (Correction), filed May 4, 1975 published in the FEDERAL REGISTER May 23, 1975. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Victor R. Comstock (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid petrochemicals*, in bulk, in tank vehicles, from points in Texas located on, south and east of a line beginning at Galveston and extending along Interstate Highway 45 to its junction with U.S. Highway 90, thence along U.S. Highway 90 to its junction with U.S. Highway 77, thence along U.S. Highway 77 to the United States-Mexico International Boundary line. The purpose of this filing is to eliminate the gateway of Texas City, Tex. The purpose of this correction is to change the Sub-No. E56 to Sub-No. E86.

No. MC 113459 (Sub-No. E104), filed May 14, 1974. Applicant: H. J. JEFFRIES TRUCK LINE, INC., P.O. Box 94850, Oklahoma City, Okla. 73109. Applicant's representative: Robert Fisher (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal tubing and pipe*, the transportation of which, by reason of size or weight, require the use of special equipment, from points in Kansas to points in Alabama on and south of a line beginning at the Alabama-Mississippi State line and extending along U.S. Highway 82 to its junction with Interstate Highway 59, thence along Interstate Highway 59 to its junction with U.S. Highway 78, thence along U.S. Highway 78 to the Alabama-Georgia State line. The purpose of this filing is to eliminate the gateway of Tulsa, Okla.

No. MC 113459 (Sub-No. E105), filed May 14, 1974. Applicant: H. J. JEFFRIES TRUCK LINE, INC., P.O. Box 94850, Oklahoma City, Okla. 73109. Applicant's representative: Robert Fisher (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal tubing and pipe*, the transportation of which, by reason of size or weight, require the use of special equipment, from points in Kansas to points in Georgia south of a line beginning at the Georgia-Alabama State line and extending along Georgia Highway 8 to its junction with Interstate Highway 20, thence along Interstate Highway 20 to the Atlantic Coast. The purpose of this filing is to eliminate the gateway of Tulsa, Okla.

No. MC 113459 (Sub-No. E106), filed May 14, 1974. Applicant: H. J. JEFFRIES TRUCK LINE, INC., P.O. Box 94850, Oklahoma City, Okla. 73109. Applicant's representative: Robert Fisher (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal tubing and pipe*, the transportation of which, by reason of size or weight, require the use of special equipment, from points in Kansas on and west of a line beginning at the Kansas-Colorado State line and extending along U.S. Highway 36 to its junction with Kansas Highway 27, thence along Kansas Highway 27 to its junction with Interstate Highway 70, thence along Interstate Highway 70 to its junction with U.S. Highway 281, thence along U.S. Highway 281 to its junction with U.S. Highway 56, thence along U.S. Highway 56 to its junction with U.S. Highway 77, thence along U.S. Highway 77 to its junction with Kansas Highway 96, thence along Kansas Highway 96 to its junction with Kansas Highway 15, thence along Kansas Highway 15 to the Kansas-Oklahoma State line, to points in Kentucky. The purpose of this filing is to eliminate the gateway of Tulsa, Okla.

No. MC 113459 (Sub-No. E107), filed May 14, 1974. Applicant: H. J. JEFFRIES TRUCK LINE, P.O. Box 94850, Oklahoma City, Okla. 73109. Applicant's representative: Robert Fisher (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, restricted against the transportation of agricultural machinery and agricultural tractors, and *self-propelled articles*, each weighing 15,000 pounds or more, and related machinery, tools, parts and supplies when moving in connection therewith, restricted to commodities which are transported on trailers, between points in Minnesota on and east of U.S. Highway 53, on the one hand, and, on the other, points in Oklahoma on and west of a line beginning at the Oklahoma-Kansas State line and extending along U.S. Highway 75 to its junction with U.S. Highway 66, thence along U.S. Highway 66 to its junction with Interstate Highway 35, thence along Interstate Highway 35 to its junction with U.S. Highway 62, thence along U.S. Highway 62 to the Oklahoma-Texas

State line. The purpose of this filing is to eliminate the gateway of Sterling, Ill.

No. MC 113843 (Sub-No. E188), filed May 14, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products*, as defined by the Commission, from those points in the Lower Peninsula of Michigan to Bristol, Va., and from Benton Harbor and St. Joseph, Mich., to those points in Virginia on and south of a line beginning at the Atlantic Ocean and extending along U.S. Highway 60 to junction U.S. Highway 29, thence along U.S. Highway 29 to junction U.S. Highway 460, thence along U.S. Highway 460 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction U.S. Highway 58, thence along U.S. Highway 58 to the Virginia-Kentucky State line. The purpose of this filing is to eliminate the gateway of Harrodsburg, Ky.

No. MC 113843 (Sub-No. E480), filed May 19, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods;* (1) between Millville and Vineland, N.J., on the one hand, and, on the other, Ashtabula, Ohio, and those points in Ohio on, west and north of a line beginning at Lake Erie, and extending along U.S. Highway 6 to junction U.S. Highway 23, thence along U.S. Highway 23 to junction Ohio Highway 12, thence along Ohio Highway 12 to junction U.S. Highway 224, thence along U.S. Highway 224 to the Ohio-Indiana State line; (2) between Bridgeton and Seabrook, N.J., on the one hand, and, on the other, Ashtabula, Ohio, and those points in Ohio on, west, and north of U.S. Highway 24; (3) between Atlantic City, Cape May, and Hammonton, N.J., on the one hand, and, on the other, Ashtabula, Ohio, and those points in Ohio on and north of a line beginning at Lake Erie and extending along U.S. Highway 20 to junction Ohio Highway 101, thence along Ohio Highway 101 to junction U.S. Highway 224, thence along U.S. Highway 224 to junction U.S. Highway 25, thence along U.S. Highway 25 to junction Ohio Highway 81, thence along Ohio Highway 81 to the Ohio-Indiana State line; (4) between Camden, N.J., on the one hand, and, on the other, Ashtabula, Ohio, and those points in Ohio, on, west, and north of a line beginning at Lake Erie and extending along U.S. Highway 6 to junction Ohio Highway 13, thence along Ohio Highway 13 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction U.S. Highway 24, thence along U.S. Highway 24 to the Ohio-Indiana State line.

(5) Between Trenton and Toms River, N.J., on the one hand, and, on the other, those points in Ohio on, north, and west of a line beginning at the Ohio-Pennsylvania State line and extending along U.S. Highway 20 to junction U.S. Highway 18, thence along U.S. Highway 18 to junction U.S. Highway 224, thence along U.S. Highway 224 to junction U.S. Highway 25, thence along U.S. Highway 25 to junction Ohio Highway 81, thence along Ohio Highway 81 to the Ohio-Indiana State line; (6) between Asbury Park, N.J., on the one hand, and, on the other, those points in Ohio on, north, and west of a line beginning at the Ohio-Pennsylvania State line and extending along Interstate Highway 80 to junction Interstate Highway 76, thence along Interstate Highway 76 to junction Ohio Highway 44, thence along Ohio Highway 44 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction Ohio Highway 3, thence along Ohio Highway 3 to junction Ohio Highway 229, thence along Ohio Highway 229 to junction U.S. Highway 23, thence along U.S. Highway 23 to junction Ohio Highway 47, thence along Ohio Highway 47 to junction Interstate Highway 75, thence along Interstate Highway 75 to junction U.S. Highway 36, thence along U.S. Highway 36 to the Ohio-Indiana State line; (7) between New Brunswick, South Amboy, Sayreville, and Perth Amboy, N.J., on the one hand, and, on the other, those points in Ohio on, north, and west of a line beginning at the Ohio-Pennsylvania State line and extending along Ohio Highway 14 to junction Ohio Highway 14A, thence along Ohio Highway 14A to junction U.S. Highway 62, thence along U.S. Highway 62 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction Ohio Highway 3, thence along Ohio Highway 3 to junction U.S. Highway 36, thence along U.S. Highway 36 to junction Ohio Highway 37, thence along Ohio Highway 37 to junction Ohio Highway 347, thence along Ohio Highway 347 to junction Ohio Highway 4, thence along Ohio Highway 4 to junction U.S. Highway 68, thence along U.S. Highway 68 to junction U.S. Highway 42, thence along U.S. Highway 42 to the Ohio-Kentucky State line.

(8) Between Bergen, Essex, Hudson, Passaic, and Union Counties, N.J., on the one hand, and, on the other, those points in Ohio on, north, and west of a line beginning at the Ohio-Pennsylvania State line and extending along Ohio Highway 14, thence along Ohio Highway 14 to junction Ohio Highway 14A, thence along Ohio Highway 14A to junction U.S. Highway 62, thence along U.S. Highway 62 to junction U.S. Highway 22, thence along U.S. Highway 22 to the Ohio-Kentucky State line; (9) between those points in New Jersey bounded by a line beginning at Toms River and extending along U.S. Highway 9 to junction New Jersey Highway 526, thence along New Jersey Highway 526 to junction New Jersey Highway 23, thence along New Jersey Highway 23 to the New Jersey-Pennsylvania State line, and bounded by a line beginning at the New Jersey-Pennsylvania State line and extending along U.S. Highway 1 to junction New Jersey Highway 440 to the Hudson River; (10) between those points in New Jersey on and north of a line beginning at the New Jersey-Pennsylvania State line and extending along Interstate Highway 78 to junction Interstate Highway 287, thence along Interstate Highway 287 to junction New Jersey Highway 440, thence along New Jersey Highway 440 to the Hudson River, on the one hand, and, on the other, those points in Ohio on, north, and west of a line beginning at the Ohio-Pennsylvania State line and extending along U.S. Highway 20 to junction Ohio Highway 58, thence along Ohio Highway 58 to junction U.S. Highway 42, thence along U.S. Highway 42 to junction Ohio Highway 95, thence along Ohio Highway 95 to junction Ohio Highway 739, thence along Ohio Highway 739 to junction Ohio Highway 47, thence along Ohio Highway 47 to junction U.S. Highway 127, thence along U.S. Highway 127 to junction Ohio Highway 502, thence along Ohio Highway 502 to the Ohio-Indiana State line; (11) between Millville and Vineland, N.J., on the one hand, and, on the other, those points in Indiana on and north of a line beginning at the Indiana-Ohio State line and extending along U.S. Highway 224 to junction Indiana Highway 37, thence along Indiana Highway 37 to junction Indiana Highway 26, thence along Indiana Highway 26 to the Indiana-Illinois State line.

(12) Between Bridgeton, N.J., on the one hand, and, on the other, those points in Indiana on and north of a line beginning at the Indiana-Ohio State line and extending along Indiana Highway 14 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction Indiana Highway 9/37, thence along Indiana Highway 9/37 to junction Indiana Highway 37, thence along Indiana Highway 37 to junction U.S. Highway 35, thence along U.S. Highway 35 to junction Indiana Highway 22, thence along Indiana Highway 22 to junction Indiana Highway 29, thence along Indiana Highway 29 to junction Indiana Highway 26, thence along Indiana Highway 26 to the Indiana-Illinois State line; (13) between Seabrook, N.J., on the one hand, and, on the other, those points in Indiana on, north, and west of a line beginning at the Indiana-Ohio State line and extending along Indiana Highway 14 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction U.S. Highway 31, thence along U.S. Highway 31 to junction Indiana Highway 26, thence along Indiana Highway 26 to the Indiana-Illinois State line; (14) between Hammonton, N.J., on the one hand, and, on the other, those points in Indiana on, north, and west of a line beginning at the Indiana-Ohio State line and extending along Indiana Highway 32 to junction U.S. Highway 40, thence along U.S. Highway 40 to the Indiana-Illinois State line; (15) between Camden, N.J., on the one hand, and, on the other, Evansville and Vincennes, Ind., and those points in Indiana on and north of a line beginnnig at the Indiana-Ohio State line and extending along Indiana Highway 67 to junction Indiana Highway 18, thence along Indiana Highway 18 to junction Indiana Highway 9, thence along Indi-

ana Highway 9 to junction Indiana Highway 32, thence along Indiana Highway 32 to the Indiana-Illinois State line; (16) between Atlantic City and Cape May, N.J., on the one hand, and, on the other, those points in Indiana on, north, and west of a line beginning at the Indiana-Ohio State line and extending along Indiana Highway 32 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction U.S. Highway 40, thence along U.S. Highway 40 to junction U.S. Highway 41, thence along U.S. Highway 41 to the Indiana-Kentucky State line.

(17) Between Toms River and Trenton, N.J., on the one hand, and, on the other, those points in Indiana on, north, and west of a line beginning at the Indiana-Ohio State line and extending along Indiana Highway 32 to junction U.S. Highway 36, thence along U.S. Highway 36 to junction Indiana Highway 37, thence along Indiana Highway along U.S. Highway 231 to the Indiana-37 to junction U.S. Highway 231, thence Kentucky State line; (18) between Asbury Park, New Brunswick, and Perth Amboy, N.J., on the one hand, and, on the other, Madison, Ind., those points in Indiana on, north, and west of a line beginning at the Indiana-Ohio State line and extending along U.S. Highway 40 to junction Indiana Highway 37, thence along Indiana Highway 37 to junction U.S. Highway 150, thence along U.S. Highway 150 to the Indiana-Kentucky State line; (19) between points in Bergen County, N.J., on the one hand, and, on the other, points in Indiana; (20) between points in Essex, Hudson, Passaic, and Union Counties, N.J., on the one hand, and, on the other, those points in Indiana on, north, and west of a line beginning at the Indiana-Ohio State line and extending along U.S. Highway 40 to junction Indiana Highway 37, thence along Indiana Highway 37 to junction U.S. Highway 150, thence along U.S. Highway 150 to the Indiana-Kentucky State line; (21) between those points in New Jersey beginning at the Atlantic Ocean and extending along U.S. Highway 9 to junction New Jersey Highway 526, thence along New Jersey Highway 526 to junction New Jersey Highway 33, thence along New Jersey Highway 33 to junction U.S. Highway 1, thence along U.S. Highway 1 to junction New Jersey Highway 440, thence along New Jersey Highway 440 to the New Jersey-Pennsylvania State line, on the one hand, and, on the other, those points in Indiana on, north, and west of a line beginning at the Indiana-Ohio State line and extending along Indiana Highway 32 to junction U.S. Highway 36, thence along U.S. Highway 36 to junction Indiana Highway 37, thence along Indiana Highway 37 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction U.S. Highway 231, thence along U.S. Highway 231 to the Indiana-Kentucky State line.

(22) Between those points in New Jersey on and north of a line beginning at the New Jersey-Pennsylvania State line and extending along Interstate Highway 78 to junction Interstate Highway 287, thence along Interstate Highway 287 to junction New Jersey Highway 440, thence along New Jersey Highway 440 to the New Jersey-Pennsylvania State line, on the one hand, and, on the other, those points in Indiana on, north, and west of a line beginning at the Indiana-Ohio State line and extending along Indiana Highway 32 to junction U.S. Highway 36, thence along U.S. Highway 36 to junction Indiana Highway 37, thence along Indiana Highway 37 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction U.S. Highway 231, thence along U.S. Highway 231 to the Indiana-Kentucky State line; (23) between those points in New Jersey on and south of U.S. Highway 40, on the one hand, and, on the other, those points in Indiana on, north, and west of a line beginning at the Indiana-Ohio State line and extending along U.S. Highway 6 to junction U.S. Highway 31, thence along U.S. Highway 31 to junction Indiana Highway 25, thence along Indiana Highway 25 to junction Indiana Highway 26, thence along Indiana Highway 26 to the Indiana-Illinois State line; (24) between Hammonton, N.J., on the one hand, and, on the other, those points in Illinois on, west, and north of a line beginning at the Illinois-Indiana State line and extending along U.S. Highway 40 to junction Illinois Highway 130, thence along Illinois Highway 130 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction Illinois Highway 37, thence along Illinois Highway 37 to the Illinois-Kentucky State line; (25) between Millville, N.J., on the one hand, and, on the other, those points in Illinois on, north, and west of a line beginning at the Illinois-Indiana State line and extending along Interstate Highway 74 to junction U.S. Highway 45, thence along U.S. Highway 45 to junction Interstate Highway 57, thence along Interstate Highway 57 to the Illinois-Kentucky State line.

(26) Between Vineland, N.J., on the one hand, and, on the other, those points in Illinois on, north, and west of a line beginning at the Illinois-Indiana State line and extending along Interstate Highway 74 to juction U.S. Highway 45, thence along U.S. Highway 45 to junction Interstate Highway 57, thence along Interstate Highway 57 to the Illinois-Kentucky State line; (27) between Bridgeton, N.J., on the one hand, and, on the other, those points in Illinois on, north, and west of a line beginning at the Illinois-Indiana State line and extending along Interstate Highway 74 to junction U.S. Highway 45, thence along U.S. Highway 45 to junction Interstate Highway 57, thence along Interstate Highway 57 to the Illinois-Kentucky State line; (28) between Seabrook, N.J., on the one hand, and, on the other, those points in Illinois on, north, and west of a line beginning at the Illinois-Indiana State line and extending along Interstate Highway 74 to junction U.S. Highway 45, thence along U.S. Highway 45 to junction Interstate Highway 57, thence along Interstate Highway 57 to the Illinois-Kentucky State line; (29) between Camden, N.J., on the one hand, and, on the other, those points in Illinois on, north, and west of a line beginning at the Illinois-Indiana State line and extending along U.S. Highway 40 to junction Illinois Highway 130, thence along Illinois Highway 130 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction Interstate Highway 57, thence along Interstate Highway 57 to the Illinois-Kentucky State line; (30) between Atlantic City and Cape May, N.J., on the one hand, and, on the other, points in Illinois; (31) between Toms River and Trenton, N.J., on the one hand, and, on the other, points in Illinois; (32) between points in New Jersey on and north of New Jersey Highway 33, on the one hand, and, on the other, points in Illinois; (33) between points in New Jersey south of New Jersey Highway 33, on the one hand, and, on the other, points in Illinois on and north of Illinois Highway 9; (34) from those points in New Jersey south of New Jersey Highway 33 to those points in Missouri on and north of U.S. Highway 50; (35) from those points in New Jersey on and north of New Jersey Highway 33 to points in Missouri.

(36) Between those points in New Jersey south of New Jersey Highway 33, on the one hand, and, on the other, points in Michigan (except points in Monroe County); (37) between those points in New Jersey on and north of New Jersey Highway 33, on the one hand, and, on the other, points in Michigan; (38) between Atlantic City, Bridgeton, Cape, Millville, Seabrook, and Vineland, N.J., on the one hand, and, on the other, points in Michigan; (39) from Millville and Vineland, N.J., to those points in that part of Kentucky on and west of a line beginning at the Kentucky-Indiana State line and extending along U.S. Highway 431 to junction U.S. Highway 62, thence along U.S. Highway 62 to junction U.S. Highway 41, thence along U.S. Highway 41 to junction U.S. Alternate Highway 41, thence along Alternate Highway 41 to the Kentucky-Tennessee State line; (40) from Bridgeton and Seabrook, N.J., to those points in Kentucky on and west of a line beginning at the Kentucky-Tennessee State line and extending along Alternate U.S. Highway 41 to junction U.S. Highway 41, thence along U.S. Highway 41 to the Kentucky-Indiana State line; (41) from Cape May, N.J., to those points in Kentucky on and west of a line beginning at the Kentucky-Tennessee State line and extending along Interstate Highway 65 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction Kentucky Highway 764, thence along Kentucky Highway 764 to junction Kentucky Highway 69, thence along Kentucky Highway 69 to the Kentucky-Indiana State line; (42) from Hammonton, N.J., to those points in Kentucky on and west of a line beginning at the Kentucky-Tennessee State line and extending along U.S. Highway 31E to junction Kentucky Highway 90, thence along Kentucky Highway 90 to junction Interstate Highway 65, thence along Interstate Highway 65 to junction U.S. Highway 31W, thence along U.S. Highway 31W to the Kentucky-Indiana State

line; (43) from Atlantic City, N.J., to those points in Kentucky on and west of a line beginning at the Kentucky-Tennessee State line and extending along U.S. Highway 31E to junction Kentucky Highway 90, thence along Kentucky Highway 90 to junction Interstate Highway 65, thence along Interstate Highway 65 to the Kentucky-Indiana State line.

(44) From Camden, N.J., to those points in Kentucky on and west of a line beginning at the Kentucky-Tennessee State line and extending along U.S. Highway 231 to junction Kentucky Highway 764, thence along Kentucky Highway 764 to junction Kentucky Highway 144, thence along Kentucky Highway 144 to junction Kentucky Highway 69, thence along Kentucky Highway 69 to the Kentucky-Indiana State line; (45) from Trenton, N.J., to those points in Kentucky on and west of a line beginning at the Kentucky-Tennessee State line and extending along U.S. Highway 127 to junction U.S. Highway 421, thence along U.S. Highway 421 to the Kentucky-Indiana State line; (46) from Toms River, N.J., to those points in Kentucky on and west of a line beginning at the Kentucky-Tennessee State line and extending along Kentucky Highway 63 to junction Kentucky Highway 163, thence along Kentucky Highway 163 to junction U.S. Highway 68, thence along U.S. Highway 68 to junction Kentucky Highway 70, thence along Kentucky Highway 70 to junction Kentucky Highway 55, thence along Kentucky Highway 55 to junction Kentucky Highway 555, thence along Kentucky Highway 555 to junction Kentucky Highway 53, thence along Kentucky Highway 53 to junction U.S. Highway 62, thence along U.S. Highway 62 to junction U.S. Highway 127, thence along U.S. Highway 127 to junction U.S. Highway 60/460, thence along U.S. Highway 60/460 to the Kentucky-Indiana State line; (47) from Asbury Park, N.J., to those points in that part of Kentucky on and west of a line beginning at the Kentucky-Tennessee State line and extending along U.S. Highway 127 to junction U.S. Highway 27, thence along U.S. Highway 27 to the Kentucky-Ohio State line.

(48) From New Brunswick, Perth Amboy, Sayreville, and South Amboy, N.J., to those points in Kentucky on and west of a line beginning at the Kentucky-Tennessee State line and extending along Kentucky Highway 200 to junction Kentucky Highway 90, thence along Kentucky Highway 90 to junction U.S. Highway 27, thence along U.S. Highway 27 to junction Kentucky Highway 80, thence along Kentucky Highway 80 to junction Interstate Highway 75, thence along Interstate Highway 75 to junction U.S. Highway 68, thence along U.S. Highway 68 to the Kentucky-Ohio State line; (49) from those points in New Jersey bounded on the south by a line beginning at the Atlantic Ocean and extending along U.S. Highway 9 to junction New Jersey Highway 526, thence along New Jersey Highway 526 to junction New Jersey Highway 33, thence along New Jersey Highway 33 to the New Jersey-Pennsylvania State line, and bounded on the north by a line beginning at the New Jersey-Pennsylvania State line and extending along U.S. Highway 1 to junction New Jersey Highway 440, thence along New Jersey Highway 440 to the Hudson River, those points in Kentucky on and west of a line beginning at the Kentucky-Tennessee State line and extending along U.S. Highway 127 to junction U.S. Highway 42, thence along U.S. Highway 42 to the Kentucky-Indiana State line; (50) from those points in New Jersey on and north of a line beginning at the New Jersey-Pennsylvania State line and extending along Interstate Highway 78 to junction Interstate Highway 287, thence along Interstate Highway 287 to junction New Jersey Highway 440, thence along New Jersey Highway 440 to the Hudson River, to those points in Kentucky on and west of a line beginning at the Kentucky-Indiana State line and extending along U.S. Highway 421 to junction U.S. Highway 127, thence along U.S. Highway 127 to junction U.S. Highway 150, thence along U.S. Highway 150 to junction Kentucky Highway 55, thence along Kentucky Highway 55 to junction Kentucky Highway 80, thence along Kentucky Highway 80 to junction Kentucky Highway 163, thence along Kentucky Highway 163 to the Kentucky-Tennessee State line.

(51) From Cape May, N.J., to those points in New York on and west of a line beginning at the New York-Pennsylvania State line and extending along New York Highway 282 to junction New York Highway 17, thence along New York Highway 17 to junction New York Highway 38, thence along New York Highway 38 to junction New York Highway 13, thence along New York Highway 13 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction New York Highway 8, thence along New York Highway 8 to junction New York Highway 28, thence along New York Highway 28 to junction New York Highway 12, thence along New York Highway 12 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction New York Highway 30, thence along New York Highway 30 to the United States-Canada International Boundary line; (52) from Millville, Seabrook, and Vineland, N.J., to those points in New York on and west of a line beginning at the New York-Pennsylvania State line and extending along New York Highway 282 to junction New York Highway 17, thence along New York Highway 17 to junction New York Highway 38, thence along New York Highway 38 to junction New York Highway 13, thence along New York Highway 13 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction New York Highway 3, thence along New York Highway 3 to the United States-Canada International Boundary line; (53) from Hammonton, N.J., to those points in New York on and west of a line beginning at the New York-Pennsylvania State line and extending along New York Highway 282 to junction New York Highway 17, thence along New York Highway 17 to junction New York Highway 13, thence along New York Highway 13 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction New York Highway 30, thence along New York Highway 30 to the United States-Canada International Boundary line; (54) from Camden, N.J., to those points in New York on and west of a line beginning at the New York-Pennsylvania State line and extending along New York Highway 14 to junction New York Highway 13, thence along New York Highway 13 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction New York Highway 30, thence along U.S. Highway 30 to the United States-Canada International Boundary line.

(55) From Deepwater, N.J., to those points in New York on and west of a line beginning at the New York-Pennsylvania State line and extending along New York Highway 14 to junction New York Highway 13, thence along New York Highway 13 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction New York Highway 8, thence along New York Highway 8 to junction New York Highway 12, thence along New York Highway 12 to junction New York Highway 26, thence along New York Highway 26 to junction New York Highway 3, thence along New York Highway 3 to junction New York Highway 30, thence along New York Highway 30 to the United States-Canada International Boundary line; (56) from those points in New Jersey on and south of a line beginning at the Delaware River and extending along U.S. Highway 30 to junction New Jersey Highway 38, thence along New Jersey Highway 38 to junction New Jersey Highway 70, thence along New Jersey Highway 70 to junction New Jersey Highway 37, thence along New Jersey Highway 37 to the Atlantic Ocean, to those points in New York on and west of a line beginning at the New York-Pennsylvania State line and extending along New York Highway 14 to junction New York Highway 13, thence along New York Highway 13 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction New York Highway 30, thence along New York Highway 30 to the United States-Canada International Boundary line; (57) from New Brunswick, N.J., to those points in New York on, west, and north of a line beginning at the New York-Pennsylvania State line and extending along New York Highway 14 to junction New York Highway 13, thence along New York Highway 13 to junction New York Highway 34, thence along New York Highway 34 to junction New York Highway 5, thence along New York Highway 5 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction New York Highway 56A, thence along New York Highway 56A to junction New York Highway 345, thence along New York Highway 345 to the United States-Canada International Boundary line.

(58) From those points in New Jersey on and south of a line beginning at the New Jersey-Pennsylvania State line and extending along Interstate Highway 78 to junction U.S. Highway 22, thence along U.S. Highway 22 to junction Interstate Highway 287, thence along In-

terstate Highway 287 to junction New Jersey Highway 440, thence along New Jersey Highway 440 to the Hudson River, to those points in New York on, west, and north of a line beginning at the New York-Pennsylvania State line and extending along New York Highway 14 to junction New York Highway 13, thence along New York Highway 13 to junction New York Highway 34, thence along New York Highway 34 to junction New York Highway 104, thence along New York Highway 104 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction New York Highway 56A, thence along New York Highway 56A to junction New York Highway 345, thence along New York Highway 345 to the United States-Canada International Boundary line; (59) from those points in New Jersey on and west of a line beginning at the New York-Pennsylvania State line and extending along New York Highway 14 to junction New York Highway 17, thence along New York Highway 17 to junction U.S. Highway 15, thence along U.S. Highway 15 to junction unnumbered highway at Rochester, thence along unnumbered highway to Lake Ontario; and (60) from Paterson, Bloomfield, Clifton, Passaic, Newark, Elizabeth, Secaucus, Hoboken, Jersey City, and Bayonne, N.J., to Ogdensburg, N.Y. The purpose of this filing is to eliminate the gateway of Elmira, N.Y.

No. MC 113843 (Sub-No. E564), filed May 20, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen seafood*, from those points in Delaware, Maryland, and Virginia east of the Chesapeake Bay and south of the Chesapeake and Delaware Canal, to those points in New York on and north of a line beginning at Lake Ontario and extending along New York Highway 3 to junction New York Highway 30, thence along New York Highway 30 to the United States-Canada International Boundary line. The purpose of this filing is to eliminate the gateway of Elmira, N.Y.

No. MC 113843 (Sub-No. E917), filed June 4, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned foods;* (1) from those points in Delaware and Maryland on and south of U.S. Highway 40 and on and north of a line beginning at the Delaware River and extending along Delaware Highway 8 to junction Delaware Highway 44, thence along Delaware Highway 44 to junction Delaware-Maryland Highway 300, thence along Delaware-Maryland Highway 300 to junction Delaware 213, thence along Delaware Highway 213 to junction U.S. Highway 50, thence along U.S. Highway 50 to the Chesapeake Bay, to those points in Wisconsin on, north, and west of a line beginning at the Wisconsin-Illinois State line and extending along Interstate Highway 90 to junction Wisconsin Highway 26, thence along Wisconsin Highway 26 to junction Wisconsin Highway 33, thence along Wisconsin Highway 33 to Lake Michigan; (2) from those points in Delaware and Maryland south of a line beginning at the Delaware River and extending along Delaware Highway 8 to junction Delaware Highway 44, thence along Delaware Highway 44 to junction Delaware-Maryland Highway 300, thence along Delaware-Maryland Highway 300 to junction Delaware Highway 213, thence along Delaware Highway 213 to junction U.S. Highway 50, thence along U.S. Highway 50 to the Chesapeake Bay, and on and north of a line beginning at Cape Henlopen, and extending along unnumbered highway to junction Delaware Highway 18, thence along Delaware Highway 18 to junction Delaware Highway 28, thence along Delaware Highway 28 to junction Delaware Highway 20, thence along Delaware Highway 20 to junction Maryland Highway 392, thence along Maryland Highway 392 to junction Maryland Highway 16, thence along Maryland Highway 16 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction Maryland Highway 343, thence along Maryland Highway 343 to the Chesapeake Bay, to those points in Wisconsin on and north of a line beginning at the Wisconsin-Minnesota State line and extending along U.S. Highway 16 to junction Interstate Highway 90, thence along Interstate Highway 90 to junction Wisconsin Highway 173, thence along Wisconsin Highway 173 to junction Wisconsin Highway 80, thence along Wisconsin Highway 80 to junction Wisconsin Highway 13, thence along Wisconsin Highway 13 to junction Wisconsin Highway 97, thence Wisconsin Highway 97 to junction Wisconsin Highway 29, thence along Wisconsin Highway 29 to junction U.S. Highway 45, thence along U.S. Highway 45 to junction Wisconsin Highway 64, thence along Wisconsin Highway 64 to Lake Michigan; and (3) from those points in Delaware and Maryland south of a line beginning at Cape Henlopen, and extending along unnumbered highway to junction Delaware Highway 18, thence along Delaware Highway 18 to junction Delaware Highway 28, thence along Delaware Highway 28 to junction Delaware Highway 20, thence along Delaware Highway 20 to junction Maryland Highway 392, thence along Maryland Highway 392 to junction Maryland Highway 16, thence along Maryland Highway 16 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction Maryland Highway 343, thence along Maryland Highway 343 to the Chesapeake Bay, to those points in Wisconsin on, north, and west of a line beginning at the Wisconsin-Minnesota State line and extending along Wisconsin Highway 60 to junction U.S. Highway 61, thence along U.S. Highway 61 to junction Wisconsin Highway 27, thence along Wisconsin Highway 27 to junction Wisconsin Highway 54, thence along Wisconsin Highway 54 to junction U.S. Highway 51, thence along U.S. Highway 51 to junction Wisconsin Highway 64, thence along Wisconsin Highway 64 to the Lake Michigan. The purpose of this filing is to eliminate the gateway of the plant sites and storage facilities of Duffy-Mott Co., Inc., at or near Hamlin, Holley, and Williamson, N.Y.

No. MC 113843 (Sub-No. E949), filed December 2, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned foods*, from those points in Virginia on and south of U.S. Highway 40 and east of the Susquehanna River and Chesapeake River, to points in Iowa. The purpose of this filing is to eliminate the gateway of the plant sites and storage facilities of Duffy-Mott Co., Inc., at or near Hamlin, Holley, and Williamson, N.Y.

No. MC 113843 (Sub-No. E947), filed December 2, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned foods*, from those points in Delaware, Maryland, and Virginia on and south of U.S. Highway 40 and east of the Susquehanna River and Chesapeake Bay, to Sault Ste. Marie, Mich., and those points in the Upper Peninsula of Michigan on, north, and west of a line beginning at the Michigan-Wisconsin State line, and extending along U.S. Highway 8 to junction Michigan Highway 95, thence along Michigan Highway 95 to junction U.S. Highway 41, thence along U.S. Highway 41 to Lake Superior. The purpose of this filing is to eliminate the gateway of the plant sites and storage facilities of Duffy-Mott Co., Inc., at or near Hamlin, Holley, and Williamson, N.Y.

No. MC 113843 (Sub-No. E948), filed December 2, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned foods*, from those points in Delaware, Maryland, and Virginia on and south of U.S. Highway 40 and east of the Susquehanna River and Chesapeake Bay, to points in Nebraska. The purpose of this filing is to eliminate the gateway of the plant site and storage facilities of Duffy-Mott Co., Inc., at or near Hamlin, Holley, and Williamson, N.Y.

No. MC 113843 (Sub-No. E950), filed December 2, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned foods*, from those points

in Delaware, Maryland, and Virginia on and south of U.S. Highway 40 and east of the Chesapeake Bay, to points in Kansas. The purpose of this filing is to eliminate the gateway of the plant sites and storage facilities of Duffy-Mott Co., Inc., at or near Hamlin, Holley, and Williamson, N.Y.

No MC 113843 (Sub-No. E953), filed December 2, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, between points in Lackawanna and Luzerne Counties, Pa., on the one hand, and, on the other, points in Indiana. The purpose of this filing is to eliminate the gateway of Elmira, N.Y.

No. MC 113843 (Sub-No. E954), filed December 2, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, between points in Lycoming County, Pa., on the one hand, and, on the other, points in Indiana (except Wayne, Randolph, Jay, Adams, Fayette, Union, Franklin, Switzerland, Ohio, Dearborn, and Ripley Counties). The purpose of this filing is to eliminate the gateway of Elmira, N.Y.

No. MC 113855 (Sub-No. E64) (partial correction), filed May 30, 1974. Published in the FEDERAL REGISTER May 12, 1975. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Rd. SE., Rochester, Minn. 55901. Applicant's representative: Michael E. Miller, 502 First Nat'l Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *New construction, road-building earth-moving, excavating, loading, maintenance, lodging, and mining machinery and equipment, tractors* (not including truck-tractors), and *pipelayers* and when moving in combination loads on the same vehicle from the same consignor or consignors of the above-specified commodities, *generators, internal combustion engines, and generators and engines combined* (except aircraft and missile engines), and *attachments, accessories*, and parts of or for the above-specified equipment and machinery, the transportation of which, because of their 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 said carrier of commodities which by reason of size or weight require special equipment, from Scranton, Reading, Allentown, Harrisburg, Lancaster, and Hazleton, Pa., and mines in that part of Pennsylvania south and west of a line beginning at the Pennsylvania-Ohio State line and extending along U.S. Highway 224 to junction U.S. Highway 422, thence along U.S. Highway 422 to junction U.S. Highway 19 near Rose Point, Pa., thence along U.S. Highway 19 to junction unnumbered highway near Portersville, Pa., thence along unnumbered highway via Prospect, Pa., to junction U.S. Highway 422, thence along U.S. Highway 422 to Ebensburg, Pa., thence along U.S. Highway 22 to junction U.S. Highway 522, thence along U.S. Highway 522 to junction Pennsylvania Highway 641 (formerly Pennsylvania Highway 433), thence along Pennsylvania Highway 641 to junction Pennsylvania Highway 997, thence along Pennsylvania Highway 997 to the Pennsylvania-Maryland State line, including points on the indicated portions of the highways specified, to points in Arizona, restricted against any service to pipelines, pipeline rights-of-way, pump stations, or pipeline construction projects along such rights-of-way other than in California, and restricted against the transportation of iron and steel articles, and boats. The purpose of this filing is to eliminate the gateway of Elgin, Ill. The purpose of this partial correction is to correct the commodity descriptions in (1) above. The remainder of this letter-notice will remain as previously published.

No. MC 113855 (Sub-No. E145) (Correction), filed May 30, 1974, published in the FEDERAL REGISTER May 15, 1975. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Rd. SE., Rochester, Minn. 55901. Applicant's representative: Michael E. Miller, 502 First Nat'l Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Hay balers and parts*, (2) *Irrigation sprinklers* and *winches* designed for use with irrigation sprinklers, (3) *Stump-cutting, cable-laying, trench-digging, trench-backfilling, and tree-moving equipment*, (4) *parts and attachments* for the commodities named in (2) and (3) above, and (5) *Trailers* designed for the transportation of which, because of their size or weight, require the use of special equipment, and (6) *Self-propelled articles* described in (1) and (3) above which do not require special equipment for their transportation each weighing 15,000 pounds or more and related machinery, tools, parts and supplies moving in connection therewith (restricted to commodities transported on trailers), from points in (A) Oregon, Washington, Idaho (except points in Bannock, Caribou, Franklin, Bear Lake, Power, and Oneida Counties), to points in Oklahoma on and east of U.S. Highway 75 (Utah, Pella, Iowa)*; (B) from points in that part of Oregon on, west and north of a line extending from U.S. Highway 97 from the Oregon-Washington State line in a southerly direction to junction U.S. Highway 20, thence along U.S. Highway 20 in a westerly direction to the Pacific Ocean, to points in Texas on, east and north of a line beginning at the Texas-Oklahoma State line extending in a southerly direction along U.S. Highway 75 to junction U.S. Highway 80, thence along U.S. Highway 80 to the Texas-Louisiana State line (Utah and Pella, Iowa)*.

(C) From points in Washington and points in Boundary County, Idaho, to points in Texas on and east of a line beginning along Interstate Highway 35 from the Texas-Oklahoma State line extending along to junction U.S. Highway 81, thence along U.S. Highway 81 to junction U.S. Highway 77, thence along U.S. Highway 77 to junction U.S. Highway 87, thence along U.S. Highway 87 to the Gulf of Mexico (Utah and Pella, Iowa)*; (D) from points in Colorado to points in Maine, Vermont, and New Hampshire (South Dakota and Pella, Iowa)*; (E) from points in Colorado on and north of U.S. Highway 24 to points in Georgia and those in Florida in and east of Leon and Wakulla Counties (South Dakota and Pella, Iowa)*; (F) from points in Colorado on, west, and north of a line beginning at the New Mexico-Colorado State line extending along U.S. Highway 285 to junction U.S. Highway 50, thence along U.S. Highway 50 to the Colorado-Kansas State line to points in South Carolina (South Dakota and Pella, Iowa)*; (G) from points in Colorado on and north of U.S. Highway 6 to points in Alabama on and east of a line beginning at the Mississippi-Alabama State line extending along U.S. Highway 82 to Montgomery, Ala., thence along U.S. Highway 331 to the Alabama-Florida State line, and points in Tennessee on and east of a line beginning at the Mississippi-Tennessee State line extending along U.S. Highway 45 to junction U.S. Highway 45E, thence along U.S. Highway 45E to the Kentucky-Tennessee State line (South Dakota and Pella, Iowa)*. The purpose of this filing is to eliminate the gateways indicated by the asterisks above. The purpose of this correction is to clarify the commodities to be carried.

No. MC 113908 (Sub-No. E209), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180—Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from Fremont, Bailey, and Belding, Mich., to points in California, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Oklahoma City, Okla.

No. MC 113908 (Sub-No. E210), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180—Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from Lyndonville and North Rose, N.Y., to points in California, with no transportation for compensation on return except as otherwise authorized. The purpose of

this filing is to eliminate the gateway of Rogers, Ark.

No. MC 113908 (Sub-No. E211), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180—Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from Rogers, Ark., to points in California, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Kansas City, Mo.

No. MC 113908 (Sub-No. E212), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180—Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles from Rogers, Ark., to points in Illinois and Michigan, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Nixa, Mo.

No. MC 113908 (Sub-No. E213), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180—Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from Rogers, Ark., to points in California, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Paris, Tex.

No. MC 113908 (Sub-No. E214), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180—Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from Rogers, Ark., to points in California, with no transportation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Oklahoma City, Okla.

No. MC 113908 (Sub-No. E239), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180—Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from Charlotte, N.C., to points in Colorado and Nebraska, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Wichita, Kans.

No. MC 113908 (Sub-No. E242), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180—Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from Lyndonville and North Rose, N.Y., to points in Oklahoma, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Oklahoma City, Okla.

No. MC 113908 (Sub-No. E243), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180—Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from Lyndonville and North Rose, N.Y., to points in California, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Kansas City, Mo.

No. MC 113908 (Sub-No. E244), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180—Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from Bailey, Belding, and Fremont, Mich., to points in California, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Kansas City, Mo.

No. MC 113908 (Sub-No. E245), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180—Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from Memphis, Tenn., to points in California, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Nexa, Mo.

No. MC 113908 (Sub-No. E246), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180—Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from Memphis, Tenn., to points in California, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Rogers, Ark.

No. MC 113908 (Sub-No. E247), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180—Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from Charlotte, N.C., to points in California, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Paris, Tex.

No. MC 113908 (Sub-No. E248), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180—Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar and vinegar stock*, in bulk, in tank vehicles, from Charlotte, N.C., to points in Minnesota, with no transportation for compensation on return except as otherwise authorized, restricted against the transportation of vinegar to Chaska and Minneapolis, Minn. The purpose of this filing is to eliminate the gateway of Belding, Mich.

No. MC 113908 (Sub-No. E249), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180—Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar* and *vinegar stock*, in bulk, in tank vehicles, from Lyndonville and North Rose, N.Y., to points in Colorado, Iowa, Kansas, Nebraska, and Minnesota, with no transportation for compensation on return except as otherwise authorized, and restricted against the transportation of vinegar to Chaska and Minneapolis, Minn. The purpose of this filing is to eliminate the gateway of Belding, Mich.

No. MC 113908 (Sub-No. E250), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180—Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from Chicago, Ill., to points in California, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Belding, Mich.

No. MC 113908 (Sub-No. E251), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180–Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka,

Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from Lyndonville and North Rose, N.Y., to points in California, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Memphis, Tenn.

No. MC 113908 (Sub-No. E252), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180–Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from Lyndonville and North Rose, N.Y., to points in California, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Belding, Mich.

No. MC 113908 (Sub-No. E253), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180–Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from Chicago, Ill., to points in California, with no transportation for compensation on return, except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Kansas City, Mo.

No. MC 113908 (Sub-No. E313), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180–Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar* and *vinegar stock*, in bulk, in tank vehicles, from Charlotte, N.C., to points in Missouri south and west of a line beginning at the Kansas-Missouri State line and extending along U.S. Highway 54 to junction Missouri Highway 13, thence along Missouri Highway 13 to junction U.S. Highway 65, thence along U.S. Highway 65 to the Arkansas-Missouri State line, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Rogers, Ark.

No. MC 113908 (Sub-No. E317), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180—Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from points in Washington to Rogers, Ark., to Charlotte, N.C., and Memphis, Tenn., with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Paris, Tex.

No. MC 113908 (Sub-No. E318), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180—Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk in tank vehicles, from Bailey, Belding, and Fremont, Mich., to points in Oklahoma and those points in Arkansas on, west, or south of U.S. Highway 64 and U.S. Highway 167, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Marionville, Mo.

No. MC 113908 (Sub-No. E319), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180-Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from Memphis, Tenn. to points in Arkansas and those in Oklahoma on, north, or west of a line beginning at the Arkansas-Oklahoma State line and extending along Interstate Highway 40 to junction U.S. Highway 266, thence along U.S. Highway 266 to junction U.S. Highway 69, thence along U.S. Highway 69 to the Oklahoma-Texas State line, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Marionville, Mo.

No. MC 113908 (Sub-No. E321), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180-Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from Hutchinson and Wichita, Kans., to points in California in and north of Fresno, Inyo, and San Benito Counties, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Kansas City, Mo.

No. MC 113908 (Sub-No. E323), filed December 5, 1974. Applicant: ERICKSEN TRANSPORT CORP., P.O. Box 3180–Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from Lyndonville and North Rose, N.Y., to points in Texas and those in Missouri south and west of U.S. Highway 160 and U.S. Highway 165, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Rogers, Ark.

No. MC 113908 (Sub-No. E340), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180–Glenstone Station, Springfield, Mo. 65804. 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: *Vinegar*, in bulk, in tank vehicles, from Wenatchee and Yakima, Wash., to points in Illinois, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Nixa, Mo.

No. MC 113908 (Sub-No. E341), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180–Glenstone Station, Springfield, Mo. 65804. 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: *Vinegar*, in bulk, in tank vehicles, from St. Paul, Minn., to points in Texas, and those in Missouri on and south of Interstate Highway 44 and U.S. Highway 60, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Rogers, Ark.

No. MC 113908 (Sub-No. E342), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180–Glenstone Station, Springfield, Mo. 65804. 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: *Vinegar*, in bulk, in tank vehicles, from Wenatchee or Yakima, Wash., to points in Missouri on, south or east of Missouri Highway 116 and U.S. Highway 69, and those in Texas east of U.S. Highway 281, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Rogers, Ark.

No. MC 113908 (Sub-No. E345), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180-Glenstone Station, Springfield, Mo. 65804. 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: *Vinegar*, in bulk, in tank vehicles, from Dallas, Houston, or Paris, Tex., to points in Iowa, Indiana and Ohio, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Nixa, Mo.

No. MC 113908 (Sub-No. E350), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180-Glenstone Station, Springfield, Mo. 65804. 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: *Vinegar*, fom Hutchinson and Wichita, Kans., to points in Indiana, Ohio, Mississippi, and those in Arkansas on and east of Arkan-

sas Highway 7, and those in Louisiana on, south or east of a line beginning at the Texas-Louisiana State line and extending along Arkansas Highway 6 to its junction with U.S. Highway 84, thence along U.S. Highway 84 to its junction with U.S. Highway 167, thence along U.S. Highway 167 to the Louisiana-Arkansas State line, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Nixa, Mo.

No. MC 113908 (Sub-No. E421), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180-Glenstone Station, Springfield, Mo. 65804. 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: *Vinegar*, in bulk, in tank vehicles, from those points in Washington west and north of a line beginning at the United States-Canada International Boundary line and extending along U.S. Highway 97 to its junction with U.S. Highway 90, thence along U.S. Highway 90 to its junction with U.S. Highway 5, thence along U.S. Highway 5 to Washington Highway 6, thence along Washington Highway 6 to the Pacific Ocean, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateways of Nixa, Mo., and Wichita, Kans.

No. MC 113908 (Sub-No. E424), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180-Glenstone Station, Springfield, Mo. 65804. 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: *Vinegar*, in bulk, in tank vehicles, from Belding, Mich., to points in Texas on and west of U.S. Highway 75, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateways of Memphis, Tenn., and Rogers, Ark.

No. MC 114457 (Sub-No. E16), filed June 3, 1974. Applicant: DART TRANSIT COMPANY, 780 North Prior Avenue, St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except commodities in bulk), from Darien, Wis., to points in Lyon, Sioux, Osceola, O'Brien, Dickinson and Emmet Counties, Iowa, points in South Dakota (except points in Bon Homme, Yankton, Clay and Union Counties), and points in North Dakota. The purpose of this filing is to eliminate the gateway of Shakopee, Minn.

No. MC 115331 (Sub-No. E25), filed June 3, 1974. Applicant: TRUCK TRANSPORT, INC., 230 Saint Clair Avenue, East St. Louis, Ill. 62201. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Chemicals*, in containers, from points in New Jersey to points in Iowa, Missouri, Minnesota, Nebraska, Wisconsin, points in that part of Illinois on and west of a line beginning at the Wisconsin-Illinois State line and extending along U.S. Highway 51 to junction Illinois Highway 17, thence along Illinois Highway 17 to junction Illinois Highway 1, thence along Illinois Highway 1 to junction Interstate Highway 74, thence along Interstate Highway 74 to junction U.S. Highway 45, thence along U.S. Highway 45 to the Illinois-Kentucky State line, and points in that part of Kentucky on and north of a line beginning at the Illinois-Kentucky State line and extending along U.S. Highway 60 to Paducah, Ky.; and (2) *chemicals*, in containers, from points in New Jersey to points in Kansas, Arkansas, and Oklahoma. The purpose of this filing is to eliminate the gateways of (1) El Paso, Ill., and (2) El Paso, Ill., and East St. Louis, Ill.

No. MC 115331 (Sub-No. E30), filed June 3, 1974. Applicant: TRUCK TRANSPORT, INC., 230 Saint Clair Avenue, East St. Louis, Ill. 62201. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Chemicals*, in containers, from points in California to points in Illinois, Indiana, Kentucky, West Virginia, Pennsylvania, Ohio, Michigan, points in that part of Wisconsin on and east of a line beginning at the Minnesota-Wisconsin State line and extending along U.S. Highway 53 to junction U.S. Highway 63, thence along U.S. Highway 63 to Ashland, and points in that part of Iowa on and east of a line beginning at the Missouri-Iowa State line and extending along U.S. Highway 218 to Cedar Rapids, thence along Iowa Highway 150 to Decorah and thence along U.S. Highway 52 to the Iowa-Minnesota State line; and (2) *chemicals*, in containers, from points in California to points in Tennessee on and east of Interstate Highway 65. The purpose of this filing is to eliminate the gateways of (1) El Paso, Ill., and (2) El Paso, Ill., and Utica or Oglesby, Ill.

No. MC 115331 (Sub-No. E32), filed June 3, 1974. Applicant: TRUCK TRANSPORT, INC., 230 Saint Clair Avenue, East St. Louis, Ill. 62201. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Chemicals*, in containers, (a) from points in that part of Indiana on and north of a line beginning at the Illinois-Indiana State line and extending along U.S. Highway 24 to Fort Wayne, and thence along Indiana Highway 14 to the Illinois-Ohio State line, to points in Arkansas and Kansas and (b) from points in that part of Indiana on and north of a line beginning at the Illinois-Indiana State line and extending along Interstate Highway 74 to Indianapolis, and thence along U.S. Highway 40 to the Indiana-Ohio State line, to points in Oklahoma; (2) *chemicals*, in containers, (a) from points in that part of Indiana on and north of a line beginning at the Illinois-Indiana State line and extending along U.S. Highway 24 to Fort Wayne, and thence along Indiana Highway 14 to the Indiana-Ohio State line, to points in Missouri, (b) from points in Indiana on and south of Interstate Highway 70 to points in the Upper Peninsula of Michigan on and west of U.S. Highway 41, (c) from points in Indiana on and south of U.S. Highway 24 to points in Minnesota and Iowa, (d) from points in Indiana on and south of U.S. Highway 40 to points in Wisconsin on and west of U.S. Highway 51, (e) from points in Indiana to points in Nebraska, (f) from points in that part of Indiana on, west and south of a line beginning at the Illinois-Indiana State line and extending along U.S. Highway 460 to junction U.S. Highway 231, and thence along U.S. Highway 231 to the Indiana-Kentucky State line to Chicago, Ill., (g) from points in Indiana on and north of Indiana Highway 14 to points in Illinois on, south and west of a line beginning at the Iowa-Illinois State line and extending along U.S. Highway 34 to junction Illinois Highway 116, thence along Illinois Highway 116 to Peoria, thence along U.S. Highway 24 to junction U.S. Highway 51, thence along U.S. Highway 51 to junction Interstate Highway 64, thence along Interstate Highway 64 to junction Interstate Highway 57, thence along Interstate Highway 57 to the Illinois-Kentucky State line. The purpose of this filing is to eliminate the gateways of (1) El Paso and East St. Louis, Ill., and (2) El Paso, Ill.

No. MC 115841 (Sub-No. E138), filed June 4, 1974. Applicant: COLONIAL REFRIGERATED TRANSPORTATION INCORPORATED, P.O. Box 10327, Birmingham, Ala. 35202. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen poultry, frozen seafood*, and *frozen fruits and vegetables*, and *frozen foods*, when moving in mixed loads with frozen poultry, frozen seafood, and frozen fruits and vegetables, in vehicles equipped with mechanical refrigeration, from points in Virginia east of the Chesapeake Bay and south of the Chesapeake and Delaware Canal, to points in Alabama, Arkansas, California, Louisiana, Mississippi, Missouri, Oregon, and Washington, and points in Georgia on and west of Interstate Highway 75. The purpose of this filing is to eliminate the gateways of Birmingham, Ala., and Chattanooga, Memphis, and Nashville, Tenn.

No. MC 115841 (Sub-No. E139), filed June 4, 1974. Applicant: COLONIAL REFRIGERATED TRANSPORTATION

INCORPORATED, P.O. Box 10327, Birmingham, Ala. 35202. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen poultry, frozen seafood*, and *frozen fruits and vegetables*, and *frozen foods*, when moving in mixed load with frozen poultry, frozen seafood, and frozen fruits and vegetables, in vehicles equipped with mechanical refrigeration, from points in Maryland east of the Chesapeake Bay and south of the Chesapeake and Delaware Canal, to points in Alabama, Arkansas, California, Louisiana, Mississippi, Oregon, and Washington, and points in Georgia on and west of Interstate Highway 75. The purpose of this filing is to eliminate the gateways of Birmingham, Ala., and Chattanooga and Nashville, Tenn.

No. MC 119777 (Sub-No. E58), filed April 23, 1974. Applicant: LIGON SPECIALIZED HAULER, INC., P.O. Drawer L, Madisonville, Ky. 42431. Applicant's representative: Jean Holmes (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, wirebound boxes, and pallets;* (1) (a) from points in Alabama on and east of a line beginning at the Tennessee-Alabama State line, thence along Alabama Highway 17 to junction Alabama Highway 157, thence along Alabama Highway 157 to junction Alabama Highway 33, thence along Alabama Highway 33 to junction Alabama Highway 195, thence along Alabama Highway 195 to junction U.S. Highway 78, thence along U.S. Highway 78 to junction U.S. Highway 280, thence along U.S. Highway 280 to junction Alabama Highway 22, thence along Alabama Highway 22 to the Alabama-Georgia State line, to points in Arizona, (b) from points in Alabama, on and east of a line beginning at the Alabama-Mississippi State line, thence along Alabama Highway 19 to junction Alabama Highway 187, thence along Alabama Highway 187 to junction U.S. Highway 43, thence along U.S. Highway 43 to junction U.S. Highway 82, thence along U.S. Highway 82 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction Alabama Highway 53, thence along Alabama Highway 53 to the Alabama-Florida State line to points in California, (c) from points in Alabama, on, north, and east of a line beginning at the Mississippi-Alabama State line, thence along Alabama Highway 14 to junction Alabama Highway 61, thence along Alabama Highway 61 to junction U.S. Highway 80, thence along U.S. Highway 80 to Alabama Highway 5, thence along Alabama Highway 5 to junction Alabama Highway 28, thence along Alabama Highway 28 to junction Alabama Highway 10, thence along Alabama Highway 10 to junction Alabama Highway 47, thence along Alabama Highway 47 to junction Alabama Highway 83, thence along Alabama Highway 83 to junction U.S. Highway 31, thence along U.S. Highway 31 to junction Alabama Highway 41, thence along Alabama Highway 41 to the Alabama-Florida State line, to points in Nevada.

(d) From points in Alabama on, north, and east of a line beginning at the Tennessee-Alabama State line, extending along U.S. Highway 43 to junction Alabama Highway 20, thence along Alabama Highway 20 to junction Alabama Highway 157, thence along Alabama Highway 157 to junction Interstate Highway 65, thence along Interstate Highway 65 to junction U.S. Highway 280, thence along U.S. Highway 280 to the Alabama-Georgia State line, to points in New Mexico, on, north, and west of a line beginning at the Colorado-New Mexico State line extending along U.S. Highway 85 to junction U.S. Highway 60, thence along U.S. Highway 60 to the Arizona-New Mexico State line, and (e) from points in Alabama on, north, and west of a line beginning at the Mississippi-Alabama State line extending along U.S. Highway 80 to junction U.S. Highway 43, thence along U.S. Highway 43 to junction U.S. Highway 84, thence along U.S. Highway 84 to junction Alabama Highway 21, thence along Alabama Highway 21 to the Alabama-Florida State line to points in Utah on, north, and west of a line beginning at the Utah-Nebraska State line extending along Utah Highway 56 to junction U.S. Highway 91, thence along U.S. Highway 91 to junction Interstate Highway 15, thence along Interstate Highway 15 to junction Utah Highway 4, thence along Utah Highway 4 to junction U.S. Highway 89, thence along U.S. Highway 89 to junction Interstate Highway 70, thence along Interstate Highway 70 to the Utah-Colorado State line; (2) (a) from points in Arkansas on, north, and east of a line beginning at the Arkansas-Missouri State line extending along U.S. Highway 67 to junction U.S. Highway 62, thence along U.S. Highway 62 to the Arkansas-Missouri State line and points on, north, and east of a line beginning at the Arkansas-Missouri extending along Arkansas Highway 77 to junction Arkansas Highway 18, thence along Arkansas Highway 18 to junction U.S. Highway 61, thence along U.S. Highway 61 to the Arkansas-Missouri State line to points in California on, west, and south of a line beginning at the Nevada-California State line extending along U.S. highway 50 to junction California Highway 49, thence along California Highway 49 to California Highway 140, thence along California Highway 140 to junction California Highway 59, thence along California Highway 59 to junction California Highway 152, thence along California Highway 152 to junction California Highway 156, thence along California Highway 156 to its terminus at Monterey, Calif.

(b) From points in Arkansas, on and east of a line beginning at the Arkansas-Missouri State line extending along U.S. Highway 61 to the Arkansas-Tennessee State line to points in Idaho, on, north, and west of a line beginning at the Idaho-Utah State line extending along U.S. Highway 93 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 30N, thence along U.S. Highway 30N to junction U.S. Highway 191, thence along U.S. Highway 191 to junction U.S. Highway 91 and Interstate Highway 15, thence along U.S. Highway 91 and Interstate Highway 15 to the Idaho-Montana State line, (c) from points in Arkansas on and east of a line beginning at the Arkansas-Missouri State line extending along U.S. Highway 61 to junction Interstate Highway 55, thence along Interstate Highway 55 to the Arkansas-Tennessee State line, to points in Montana, on, north, and west of a line beginning at the Montana-Wyoming State line, thence along U.S. Highway 89 to junction Interstate Highway 90, thence along Interstate Highway 90 to junction U.S. Highway 191, thence along U.S. Highway 191 to junction U.S. Highway 2, thence along U.S. Highway 2 to junction Montana Highway 13, thence along Montana Highway 13 to junction Montana Highway 5, thence along Montana Highway 5 to the North Dakota-Montana State line, (d) from points in Arkansas on and east of a line beginning at the Missouri-Arkansas State line extending along Interstate Highway 55 to the Arkansas-Tennessee State line to points in Nevada, on, north, and west of a line beginning at the Utah-Nevada State line extending along Nevada Highway 30 to junction U.S. Highway 40, thence along U.S. Highway 40 to junction U.S. Highway 95, thence along U.S. Highway 95 to junction U.S. Highway 50, thence along U.S. Highway 50 to the Nevada-California State line.

(e) From points in Arkansas on, north, and east of a line beginning at the Arkansas-Missouri State line extending along U.S. Highway 67 to junction U.S. Highway 62, thence along U.S. Highway 62 to junction Arkansas Highway 135, thence along Arkansas Highway 135 to junction Arkansas Highway 1, thence along Arkansas Highway 1 to junction U.S. Highway 49, thence along U.S. Highway 49 to the Arkansas-Mississippi State line, and points on and east of a line beginning at the Arkansas-Mississippi State line extending along U.S. Highway 82 to junction U.S. Highway 65, thence along U.S. Highway 65 to the Arkansas-Louisiana State line, to points in Oregon, (f) from points in Arkansas on and east of a line beginning at the Arkansas-Missouri State line extending along U.S. Highway 61 to junction Arkansas Highway 120, thence along Arkansas Highway 120 to the Arkansas-Tennessee State line to points in Utah on and north of a line beginning at the Utah-Wyoming State line extending along Interstate Highway 80 to junction U.S. Highway 40, thence along U.S. Highway 40 to junction U.S. Highway 50A, thence along U.S. Highway 50A to the Utah-Nevada State line, (g) from points in Arkansas on and east of a line beginning at the Arkansas-Missouri State line extending along U.S. Highway 67 to junction U.S. Highway 62, thence along U.S. Highway 62 to junction Arkansas Highway 135, thence along Arkansas Highway 135 to junction Arkansas Highway 1, thence along Arkansas Highway 1 to junction Arkansas Highway 54, thence along Arkansas

Highway 54 to junction U.S. Highway 65, thence along U.S. Highway 65 to junction U.S. Highway 165, thence along U.S. Highway 165 to the Arkansas-Louisiana State line to points in Washington.

(h) From Blytheville, Ark., and its commercial zone to points in Wyoming on and west of a line beginning at the Wyoming-Utah State line extending along Wyoming Highway 530 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction U.S. Highway 187, thence along U.S. Highway 187 to junction Wyoming Highway 28, thence along Wyoming Highway 28 to junction U.S. Highway 287, thence along U.S. Highway 287 to junction Wyoming Highway 789, thence along Wyoming Highway 789 to junction U.S. Highway 16, thence along U.S. Highway 16 to junction Interstate Highway 25, thence along Interstate Highway 25 to junction Interstate Highway 90, thence along Interstate Highway 90 to junction U.S. Highway 87, thence along U.S. Highway 87 to the Wyoming-Montana State line; (3) (a) from points in Connecticut to points in Montana, on, south, and west of a line beginning at the United States-Canada International Boundary line extending along U.S. Highway 91 to junction U.S. Highway 89, thence along U.S. Highway 89 to junction U.S. Highway 10, thence along U.S. Highway 10 to Billings, Mont., thence along U.S. Highway 10 to junction U.S. Highway 310, thence along U.S. Highway 310 to the Wyoming-Montana State line, and (b) from points in Connecticut to points in Wyoming on, west, and south of a line beginning at the Wyoming-Nebraska State line extending along U.S. Highway 20 to junction Interstate Highway 25, thence along Interstate Highway 25 to junction Wyoming Highway 59, thence along Wyoming Highway 59 to the Wyoming-Montana State line; (4) from points in Delaware to points in Montana on, south, and west of a line beginning at the United States-Canada International Boundary line extending along Interstate Highway 15 to junction U.S. Highway 87, thence along U.S. Highway 87 to junction U.S. Highway 191, thence along U.S. Highway 191 to junction Interstate Highway 90, thence along Interstate Highway 90 to junction U.S. Highway 212, thence along U.S. Highway 212 to junction Montana Highway 59, thence along Montana Highway 59 to the Wyoming-Montana State line.

(5) (a) From points in Florida, on and west of a line beginning at the Georgia-Florida State line extending along U.S. Highway 27 to junction U.S. Highway 319, thence along U.S. Highway 319 to junction Florida Highway 363, thence along Florida Highway 363 to its terminus at the Gulf of Mexico to points in Arizona, on and west of a line beginning at the Arizona-New Mexico State line extending along U.S. Highway 60 to junction Arizona Highway 287, thence along Arizona Highway 287 to junction Interstate Highway 10, thence along Interstate Highway 10 to junction Interstate Highway 8, thence along Interstate Highway 8 to junction Arizona Highway 85, thence along Arizona Highway 85 to the United States-Mexico International Boundary line, (b) from points in Florida to points in California on and north of a line beginning at Morro Bay, Calif., on the Pacific Ocean, thence along California Highway 1 to junction California Highway 101, thence along California Highway 101 to junction California Highway 41, thence along California Highway 41 to junction California Highway 46, thence along California Highway 46 to junction California Highway 99, thence along California Highway 99 to junction California Highway 178, thence along California Highway 178 to junction U.S. Highway 395, thence along U.S. Highway 395 to junction California Highway 190, thence along California Highway 190 to junction California Highway 127, thence along California Highway 127 to the California-Nevada State line, (c) from points in Florida on, east, and south of a line beginning at the Alabama-Florida State line extending along Florida Highway 85 to its terminus at Ft. Walton Beach, Fla., on the Gulf of Mexico to points in Nevada.

(d) From points in Florida on, south, and east of a line beginning at the Georgia-Florida State line extending along U.S. Highway 17 to junction Florida Highway 20, thence along Florida Highway 20 to junction U.S. Highway 441, thence along U.S. Highway 441 to junction U.S. Highway 301, thence along U.S. Highway 301 to junction U.S. Highway 92, thence along U.S. Highway 92 to St. Petersburg, Fla., on the Gulf of Mexico to points in New Mexico on, north, and west of a line beginning at the Arizona-New Mexico State line extending along Interstate Highway 10 to junction U.S. Highway 85, thence along U.S. Highway 85 to junction U.S. Highway 60, thence along U.S. Highway 60 to the Texas-New Mexico State line; (6) (a) from points in Georgia, on, north, and east of a line beginning at the Georgia-Alabama State line extending along U.S. Highway 280 to junction Georgia Highway 55, thence along Georgia Highway 55 to junction U.S. Highway 82, thence along U.S. Highway 82 to junction Georgia Highway 50, thence along Georgia Highway 50 to junction U.S. Highway 19, thence along U.S. Highway 19 to the Georgia-Florida State line to points in Arizona, on and north of a line beginning at the Arizona-New Mexico State line extending along U.S. Highway 60 to junction U.S. Highway 80 and U.S. Highway 89, thence along U.S. Highway 80 and U.S. Highway 89 to junction Arizona Highway 287, thence along Arizona Highway 287 to junction Arizona Highway 84, thence along Arizona Highway 84 to junction U.S. Highway 80, thence along U.S. Highway 80 to junction U.S. Highway 95, thence along U.S. Highway 95 to the United States-Mexico International Boundary line, and (b) from points in Georgia on, north, and east of a line beginning at the Alabama-Georgia State line extending along U.S. Highway 278 to junction U.S. Highway 41, thence along U.S. Highway 41 to junction U.S. Highway 341, thence along U.S. Highway 341 to junction U.S. Highway 53, thence along U.S. Highway 53 to junction Georgia Highway 23, thence along Georgia Highway 23 to the Georgia-Florida State line to points in New Mexico on, north, and west of a line beginning at the Texas-New Mexico State line extending along Interstate Highway 10 to junction U.S. Highway 70, thence along U.S. Highway 70 to the New Mexico-Texas State line.

(7) (a) From points in Illinois, on, east, and south of a line beginning at and including Chicago, Ill., and its commercial zone, thence along Illinois Highway 1 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction Illinois Highway 130, thence along Illinois Highway 130 to junction Illinois Highway 15, thence along Illinois Highway 15 to junction Illinois Highway 37, thence along Illinois Highway 37 to junction U.S. Highway 60, thence along U.S. Highway 60 to the Illinois-Kentucky State line to points in Arizona on and south of a line beginning at the Arizona-New Mexico State line extending along U.S. Highway 180 to junction U.S. Highway 66, thence along U.S. Highway 66 to junction Arizona Highway 68, thence along Arizona Highway 68 to the Arizona-Nevada State line, (b) from points in Illinois, on and west of a line beginning at the Illinois-Indiana State line extending along U.S. Highway 136 to junction U.S. Highway 150, thence along U.S. Highway 150 to junction Illinois Highway 16, thence along Illinois Highway 16 to junction U.S. Highway 45, thence along U.S. Highway 45 to junction Interstate Highway 57, thence along Interstate Highway 57 to junction Illinois Highway 161, thence along Illinois Highway 161 to junction U.S. Highway 51, thence along U.S. Highway 51 to junction Illinois Highway 154, thence along Illinois Highway 154 to junction Illinois Highway 150, thence along Illinois Highway 150 to the Illinois-Missouri State line to points in California, (c) from points in Illinois on, south, and east of a line beginning at the Illinois-Indiana State line extending along U.S. Highway 50 to junction Illinois Highway 130, thence along Illinois Highway 130 to junction Illinois Highway 1, thence along Illinois Highway 1 to junction U.S. Highway 45, thence along U.S. Highway 45 to junction Illinois Highway 13, thence along Illinois Highway 13 to junction Interstate Highway 57, thence along Interstate Highway 57 to junction U.S. Highway 51, thence along U.S. Highway 51 to the Illinois-Kentucky State line to points in Idaho.

(d) From points in Illinois on, south, and east of a line beginning at the Illinois-Kentucky State line extending along U.S. Highway 51 to junction Interstate Highway 57, thence along Interstate Highway 57 to junction Illinois Highway 13, thence along Illinois Highway 13 to junction U.S. Highway 45, thence along U.S. Highway 45 to junction Illinois Highway 141, thence along Illinois Highway 141 to the Illinois-Indiana State line to points in Montana on, north, and west of a line beginning at the United States-Canada International Boundary line extending along

Montana Secondary Road 247 to junction U.S. Highway 1, thence along U.S. Highway 2 to junction U.S. Highway 191, thence along U.S. Highway 191 to junction Montana Highway 19, thence along Montana Highway 19 to junction U.S. Highway 87, thence along U.S. Highway 87 to junction U.S. Highway 10, thence along U.S. Highway 10 to junction U.S. Highway 310, thence along U.S. Highway 310 to the Montana-Wyoming State line, (e) from points in Illinois, on and east of a line beginning at the Indiana-Illinois State line extending along U.S. Highway 50 to junction Illinois Highway 130, thence along Illinois Highway 130 to junction Illinois Highway 15, thence along Illinois Highway 15 to junction Interstate Highway 57, thence along Interstate Highway 57 to junction U.S. Highway 51, thence along U.S. Highway 51 to the Illinois-Kentucky State line to points in Nevada, (f) from points in Illinois on and east of a line beginning at Chicago, Ill., including its commercial zone, thence along Interstate Highway 90 to junction Illinois Highway 1, thence along Illinois Highway 1 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction Illinois Highway 130, thence along Illinois Highway 130 to junction Illinois Highway 1, thence along Illinois Highway 1 to junction U.S. Highway 460, thence along U.S. Highway 460 to the Illinois-Indiana State line to points in New Mexico, on and south of a line beginning at the Arizona-New Mexico State line extending along Interstate Highway 10 to the New Mexico-Texas State line and points on and south of a line beginning at the Texas-New Mexico State line extending along U.S. Highway 62 to the New Mexico-Texas State line.

(g) From points in Illinois, on, south, and east of a line beginning at the Missouri-Illinois State line extending along Illinois Highway 150 to junction Illinois Highway 3, thence along Illinois Highway 3 to junction Illinois Highway 149, thence along Illinois Highway 149 to junction Illinois Highway 13, thence along Illinois Highway 13 to junction Interstate Highway 57, thence along Interstate Highway 57 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction Illinois Highway 250, thence along Illinois Highway 250 to junction U.S. Highway 50, thence along U.S. Highway 50 to the Illinois-Indiana State line to points in Oregon, (h) from points in Illinois, on and south of a line beginning at the Kentucky-Illinois State line extending along Illinois Highway 37 to junction Illinois Highway 146, thence along Illinois Highway 146 to junction U.S. Highway 45, thence along U.S. Highway 45 to junction Illinois Highway 141, thence along Illinois Highway 141 to the Illinois-Indiana State line to points in Utah, on and west of a line beginning at the Arizona-Utah State line extending along U.S. Highway 91 to junction Utah Highway 4, thence along Utah Highway 4 to junction U.S. Highway 89, thence along U.S. Highway 89 to junction Utah Highway 28, thence along Utah Highway 28 to junction U.S. Highway 91, thence along U.S. Highway 91 to junction U.S. Highway 89, thence along U.S. Highway 89 to the Utah-Idaho State line, (i) from points in Illinois, on and south of a line beginning at the Illinois-Missouri State line extending along Illinois Highway 150 to junction Illinois Highway 154, thence along Illinois Highway 154 to junction U.S. Highway 51, thence along U.S. Highway 51 to junction Illinois Highway 161, thence along Illinois Highway 161 to junction Illinois Highway 37, thence along Illinois Highway 37 to junction U.S. Highway 50, thence along U.S. Highway 50 to the Illinois-Indiana State line to points in Washington, and (j) from Metropolis and Brookport, Ill., to points in Wyoming.

(8) (a) From points in Indiana, on and east of a line beginning at the Indiana-Illinois-Illinois State line extending along U.S. Highway 40 to junction U.S. Highway 41, thence along U.S. Highway 41 to junction Indiana Highway 28, thence along Indiana Highway 28 to junction Indiana Highway 25, thence along Indiana Highway 25 to junction U.S. Highway 31, thence along U.S. Highway 31 to junction Indiana Highway 10, thence along Indiana Highway 10 to junction Indiana Highway 19, thence along Indiana Highway 19 to the Michigan-Indiana State line, to points in Arizona, (b) from points in Indiana on, south, and east of a line beginning at the Indiana-Michigan State line extending along U.S. Highway 31 to junction Indiana Highway 25, thence along Indiana Highway 25 to junction U.S. Highway 24, thence along U.S. Highway 24 to the Illinois-Indiana State line to points in California on, north, south, and west of a line beginning at the California-Nevada State line extending along California Highway 127 to junction California Highway 190, thence along California Highway 190 to junction California Highway 136, thence along California Highway 136 to junction U.S. Highway 395, thence along U.S. Highway 395 to junction California Highway 178, thence along California Highway 178 to junction California Highway 155, thence along California Highway 155 to junction California Highway 165, thence along California Highway 165 to junction California Highway 198, thence along California Highway 198 to junction California Highway 99, thence along California Highway 99 to junction California Highway 299, thence along California Highway 299 to junction U.S. Highway 395, thence along U.S. Highway 395, to the California-Oregon State line, (c) from points in Indiana on, south, and east of a line beginning at the Indiana-Ohio State line extending along U.S. Highway 40 to junction Indiana Highway 37, thence along Indiana Highway 37 to junction Indiana Highway 45, thence along Indiana Highway 45 to junction Indiana Highway 54, thence along Indiana Highway 54 to junction Indiana Highway 67, thence along Indiana Highway 67 to junction U.S. Highway 41, thence along U.S. Highway 41 to junction U.S. Highway 50, thence along U.S. Highway 50 to the Illinois-Indiana State line to points in Idaho.

(d) From points in Indiana on and south of a line beginning at the Illinois-Indiana State line extending along U.S. Highway 50 to junction Indiana Highway 135, thence along Indiana Highway 135 to junction Indiana Highway 58, thence along Indiana Highway 58 to junction Interstate Highway 65, thence along Interstate Highway 65 to junction Indiana Highway 46, thence along Indiana Highway 46 to junction Indiana Highway 7, thence along Indiana Highway 7 to junction U.S. Highway 50, thence along U.S. Highway 50 to the Indiana-Ohio State line to points in Montana on, south, and west of a line beginning at the United States-Canada International Boundary line extending along U.S. Highway 89 to junction U.S. Highway 91, thence along U.S. Highway 91 to junction U.S. Highway 287, thence along U.S. Highway 287 to junction U.S. Highway 12, thence along U.S. Highway 12 to junction U.S. Highway 89, thence along U.S. Highway 89 to junction U.S. Highway 10, thence along U.S. Highway 10 to Billings, Mont., thence along U.S. Highway 10 to junction U.S. Highway 310, thence along U.S. Highway 310 to the Montana-Wyoming State line, (e) from points in Indiana, on and south of a line beginning at the Illinois-Indiana State line extending along U.S. Highway 40 to the Indiana-Ohio State line to points in Nevada, (f) from points in Indiana, on and east of a line beginning at the Indiana-Illinois State line extending along U.S. Highway 50 to junction Indiana Highway 67, thence along Indiana Highway 67 to junction Indiana Highway 59, thence along Indiana Highway 59 to junction U.S. Highway 40, thence along U.S. Highway 40 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction Indiana Highway 25, thence along Indiana Highway 25 to junction U.S. Highway 31, thence along U.S. Highway 31 to the Indiana-Michigan State line to points in New Mexico on, west, and south of a line beginning at the Texas-New Mexico State line extending along U.S. Highway 60 to junction U.S. Highway 285, thence along U.S. Highway 285 to junction U.S. Highway 66, thence along U.S. Highway 66 to junction Interstate Highway 25, thence along Interstate Highway 25 to junction New Mexico Highway 44, thence along New Mexico Highway 44 to junction U.S. Highway 550, thence along U.S. Highway 550 to the New Mexico-Colorado State line.

(g) From points in Indiana on, south, and east of a line beginning at the Ohio-Indiana State line extending along Indiana Highway 37 to junction U.S. Highway 35, thence along U.S. Highway 35 to junction U.S. Highway 31, thence along U.S. Highway 31 to junction Indiana Highway 32, thence along Indiana Highway 32 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction U.S. Highway 40, thence along U.S. Highway 40 to the Illinois-Indiana State

line to points in Oregon, (h) from points in Indiana, on and south of a line beginning at the Indiana-Illinois State line extending along U.S. Highway 50 to junction U.S. Highway 41, thence along U.S. Highway 41 to junction Indiana Highway 67, thence along Indiana Highway 67 to junction U.S. Highway 40, thence along U.S. Highway 40 to the Indiana-Ohio State line to points in Utah, and (j) from points in Indiana, on and south of a line beginning at the Kentucky-Indiana State line extending along U.S. Highway 41 to junction U.S. Highway 460, thence along U.S. Highway 460 to junction Indiana Highway 135, thence along Indiana Highway 135 to junction Indiana Highway 56, thence along Indiana Highway 56 to junction U.S. Highway 421, thence along U.S. Highway 421 to the Indiana-Kentucky State line to points in Wyoming; (9) (a) from points in Louisiana, on and east of a line beginning at the Mississippi-Louisiana State line extending along Louisiana Highway 25 to junction U.S. Highway 190, thence along U.S. Highway 190 to the Lake Pontchartrain Causeway, thence along the Lake Pontchartrain Causeway to junction Interstate Highway 10, thence along Interstate Highway 10 to junction U.S. Highway 90BR, thence along U.S. Highway 90BR to junction Louisiana Highway 23, thence along Louisiana Highway 23 to its terminus at the Gulf of Mexico, to points in California, on and north of a line beginning at the California-Oregon State line extending along U.S. Highway 395 to junction California Highway 299, thence along California Highway 299 to junction U.S. Highway 101, thence along U.S. Highway 101 to Eureka on the Pacific Ocean, (b) from points in Louisiana, on and east of a line beginning at the Mississippi-Louisiana State line extending along Louisiana Highway 21 to junction U.S. Highway 190, thence along U.S. Highway 190 to the Lake Pontchartrain Causeway, thence along the Lake Pontchartrain Causeway to junction Interstate Highway 10, thence along Interstate Highway 10 to junction U.S. Highway 90BR, thence along U.S. Highway 90BR to junction Louisiana Highway 23, thence along Louisiana Highway 23 to Venice, La., on the Gulf of Mexico to points in Idaho.

(c) From points in Louisiana, on and east of a line beginning at the Louisiana-Mississippi State line extending along U.S. Highway 61 to junction Louisiana Highway 1 at Baton Rouge, La., and its commercial zone, thence along Louisiana Highway 1 to junction Louisiana Highway 69, thence along Louisiana Highway 69 to junction Louisiana Highway 70, thence along Louisiana Highway 70 to junction U.S. Highway 90, thence along U.S. Highway 90 to the Lower Atchafalaya River, thence along the Lower Atchafalaya River to the Gulf of Mexico, and Delta, La., and its commercial zone, to points in Montana on and north of a line beginning at the Idaho-Montana State line extending along Montana Highway 43 to junction U.S. Highway 91, thence along U.S. Highway 91 to junction U.S. Highway 10, thence along U.S. Highway 10 to junction U.S. Highway 87, thence along U.S. Highway 87 to junction Montana Highway 200, thence along Montana Highway 200 to junction Montana Highway 200S, thence along Montana Highway 200S to junction Montana Highway 16, thence along Montana Highway 16 to junction Montana Highway 200, thence along Montana Highway 200 to the North Dakota-Montana State line, (d) from points in Louisiana, on and east of a line beginning at the Mississippi-Louisiana State line extending along Louisiana Highway 21 to junction U.S. Highway 190, thence along U.S. Highway 190 to the Lake Pontchartrain Causeway, thence along the Lake Pontchartrain Causeway to junction Interstate Highway 10, thence along Interstate Highway 10 to junction U.S. Highway 90BR, thence along U.S. Highway 90BR to junction Louisiana Highway 23, thence along Louisiana Highway 23 to its terminus on the Gulf of Mexico to points in Nevada, on and north of a line beginning at the Nevada-Utah State line extending along Louisiana Highway 30 to junction U.S. Highway 40, thence along U.S. Highway 40 to junction U.S. Highway 95, thence along U.S. Highway 95 to junction Louisiana Highway 140, thence along Louisiana Highway 140 to the Nevada-Oregon State line.

(e) From points in Louisiana, on and east of a line beginning at the Mississippi-Louisiana State line extending along Interstate Highway 55 to junction Louisiana Highway 22, thence along Louisiana Highway 22 to junction Louisiana Highway 3089, thence along Louisiana Highway 3089 to junction Louisiana Highway 18, thence along Louisiana Highway 18 to junction Louisiana Highway 20, thence along Louisiana Highway 20 to junction Louisiana Highway 24, thence along Louisiana Highway 24 to Houma, La., and Delta, La., and its commercial zone, to points in Oregon, (f) from points in Louisiana, on and east of a line beginning at the Mississippi-Louisiana State line extending along Louisiana Highway 21 to junction Louisiana Highway 41, thence along Louisiana Highway 41 to junction Interstate Highway 10, thence along Interstate Highway 10 to junction U.S. Highway 90, thence along U.S. Highway 90 to junction Louisiana Highway 23, thence along Louisiana Highway 23 to its terminus on the Gulf of Mexico to points in Utah, on and north of a line beginning at the Idaho-Utah State line extending along Utah Highway 30 to the Utah-Nevada State line, (g) from points in Louisiana, on and east of a line beginning at the Louisiana-Arkansas State line extending along U.S. Highway 65 to junction Louisiana Highway 1, thence along Louisiana Highway 1 to junction Louisiana Highway 20, thence along Louisiana Highway 20 to junction Louisiana Highway 24, thence along Louisiana Highway 24 to junction Louisiana Highway 57, thence along Louisiana Highway 57 to its terminus on the Gulf of Mexico to points in Washington, and (h) from points in Louisiana, on, east, and north of a line beginning at the Mississippi-Louisiana State line extending along Louisiana Highway 21 to junction Louisiana Highway 41, thence along Louisiana Highway 41 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction U.S. Highway 190, thence along U.S. Highway 190 to junction U.S. Highway 90, thence along U.S. Highway 90 to the Mississippi-Louisiana State line to points in Wyoming on, north, and west of a line beginning at the Idaho-Wyoming State line extending along Interstate Highway 80 to junction U.S. Highway 187, thence along U.S. Highway 187 to junction Wyoming Highway 28, thence along Wyoming Highway 28 to junction Wyoming Highway 789, thence along Wyoming Highway 789 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction Interstate Highway 25, thence along Interstate Highway 25 to junction U.S. Highway 20, thence along U.S. Highway 20 to the Wyoming-Nebraska State line.

(10) (a) From points in Maine, to points in Montana, on and west of a line beginning at the Montana-Wyoming State line extending along U.S. Highway 310 to junction U.S. Highway 10, thence along U.S. Highway 10 to junction U.S. Highway 191, thence along U.S. Highway 191 to junction U.S. Highway 87, thence along U.S. Highway 87 to junction U.S. Highway 91, thence along U.S. Highway 91 to the United States-Canada International Boundary line, and (b) from points in Maine, to points in Wyoming, on and west of a line beginning at the Wyoming-Montana State line extending along Wyoming Highway 59 to junction Interstate Highway 25, thence along Interstate Highway 25 to junction U.S. Highway 85, thence along U.S. Highway 85 to the Wyoming-Colorado State line; (11) (a) from points in Maryland, to points in Montana, on and west of a line beginning at the Montana-Wyoming State line extending along Montana Highway 59 to junction U.S. Highway 212, thence along U.S. Highway 212 to junction U.S. Highway 87, thence along U.S. Highway 87 to junction U.S. Highway 12, thence along U.S. Highway 12 to junction U.S. Highway 191, thence along U.S. Highway 191 to junction U.S. Highway 87, thence along U.S. Highway 87 to junction U.S. Highway 91, thence along U.S. Highway 91 to the United States-Canada International Boundary line, and (b) from points in Maryland, to points in Wyoming, on and west of a line beginning at the Wyoming-Montana State line extending along Wyoming Highway 59 to junction U.S. Highway 26, thence along U.S. Highway 26 to the Wyoming-Nebraska State line; (12) (a) from points in Massachusetts, to points in Montana, on, south, and west of a line beginning at the United States-Canada International Boundary line extending along U.S. Highway 93 to junction Interstate Highway 90, thence along Interstate Highway 90 to junction U.S. Highway 310, thence along U.S. Highway 310 to the Montana-Wyoming State line.

(b) From points in Massachusetts to points in Wyoming, on and west of a line

beginning at the Wyoming-Montana State line extending along U.S. Highway 310 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction Wyoming Highway 220, thence along Wyoming Highway 220 to junction Wyoming Highway 487, thence along Wyoming Highway 487 to junction U.S. Highway 30/287, thence along U.S. Highway 30/287 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction U.S. Highway 85, thence along U.S. Highway 85 to the Wyoming-Colorado State line; (13) (a) from points in the Upper Peninsula of Michigan, on and east of a line beginning at the United States-Canada International Boundary line at Sault Ste. Marie, thence along Interstate Highway 75 to St. Ignace, and all points in the Lower Peninsula of Michigan to points in Arizona, on and south of a line beginning at the Arizona-New Mexico State line extending along U.S. Highway 160 to junction U.S. Highway 89, thence along U.S. Highway 89 to junction Arizona Highway 64, thence along Arizona Highway 64 to junction U.S. Highway 66, thence along U.S. Highway 66 to junction U.S. Highway 93, thence along U.S. Highway 93 to the Arizona-Nevada State line, (b) from points in Michigan, on and east of a line beginning at the Michigan-Indiana State line extending along Michigan Highway 6 to junction U.S. Highway 12, thence along U.S. Highway 12 to junction U.S. Highway 127, thence along U.S. Highway 127 to junction Interstate Highway 496, thence along Interstate Highway 496 to junction U.S. Highway 27, thence along U.S. Highway 27 to junction Michigan Highway 61, thence along Michigan Highway 61 to junction Michigan Highway 30, thence along Michigan Highway 30 to junction Michigan Highway 55, thence along Michigan Highway 55 to its terminus on Lake Huron, to points in California, (c) from Port Huron, Mich., and its commercial zone, to points in Idaho, on and west of a line beginning at Payette, Idaho, and its commercial zone, thence along Idaho Highway 62 to junction Idaho Highway 55, thence along Idaho Highway 55 to junction U.S. Highway 95, thence along U.S. Highway 95 to the Oregon-Idaho State line,

(d) From points in Michigan, on and east of a line beginning at the Michigan-Ohio State line extending along U.S. Highway 23 to junction Michigan Highway 13, thence along Michigan Highway 13 to junction Michigan Highway 247, thence along Michigan Highway 247 to its terminus on Lake Huron, to points in Nevada, on and south of a line beginning at the Utah-Nevada State line extending along Nevada Highway 25 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction U.S. Highway 95, thence along U.S. Highway 95 to junction U.S. Highway 50, thence along U.S. Highway 50 to the Nevada-California State line, (e) from points in the Lower Peninsula of Michigan, and points in the Upper Peninsula of Michigan, on and east of Interstate Highway 75, to points in New Mexico, on and south of a line beginning at the Texas-New Mexico State line extending along U.S. Highway 84 to junction Interstate Highway 40, thence along Interstate Highway 40 to the New Mexico-Arizona State line, (f) from points in Michigan, on, south, and east of a line beginning at the Ohio-Michigan State line extending along U.S. Highway 23 to junction Michigan Highway 21, thence along Michigan Highway 21 to Port Huron, Mich., to points in Oregon, on, north, and west of a line beginning at the Washington-Oregon State line extending along Oregon Highway 11 to junction Interstate Highway 80N, thence along Interstate Highway 80N to junction U.S. Highway 97, thence along U.S. Highway 97 to the Oregon-California State line, (g) from points in Michigan, on and east of a line beginning at the Ohio-Michigan State line extending along U.S. Highway 25 to junction Michigan Highway 53, thence along Michigan Highway 53 to junction Michigan Highway 46, thence along Michigan Highway 46 to junction Michigan Highway 15, thence along Michigan Highway 15 to junction Michigan Highway 13, thence along Michigan Highway 13 to junction U.S. Highway 23, thence along U.S. Highway 23 to Alpena, Mich., to points in Utah, on, south, and west of a line beginning at the Arizona-Utah State line extending along U.S. Highway 80 to Richfield, Utah, thence along U.S. Highway 89 to junction Utah Highway 4, thence along Utah Highway 4 to junction U.S. Highway 91, thence along U.S. Highway 91 to junction Utah Highway 21, thence along Utah Highway 21 to the Utah-Nevada State line.

(h) From points in the Lower Peninsula of Michcigan, on and east of a line beginning at the United States-Canada International Boundary line at Port Huron, Mich., extending along U.S. Highway 25 to junction Interstate Highway 94, thence along Interstate Highway 94 to junction U.S. Highway 25, thence along U.S. Highway 25 to the Michigan-Ohio State line, to points in Washington, on and south of a line beginning at the Oregon-Washington State line extending along U.S. Highway 197 to junction Washington Highway 14, thence along Washington Highway 14 to junction Interstate Highway 5, thence along Interstate Highway 5 to junction Washington Highway 4, thence along Washington Highway 4 to junction U.S. Highway 101, thence along U.S. Highway 101 to junction Washington Highway 103, thence along Washington Highway 103 to its terminus on the Pacific Ocean; (14) (a) from Corinth, Miss., to points in Arizona, on, south, north, and west of a line beginning at the Nevada-Arizona State line extending along U.S. Highway 93 to junction Arizona Highway 71, thence along Arizona Highway 71 to junction U.S. Highway 89, thence along U.S. Highway 89 to junction Arizona Highway 69, thence along Arizona Highway 69 to junction Interstate Highway 17, thence along Interstate Highway 17 to junction U.S. Highway 80, thence along U.S. Highway 80 to the California-Arizona State line, and Littlefield and Teec Nos Pos, Ariz., (b) from points in Mississippi, on, north, and east of a line beginning at Rosedale, Miss., extending along Mississippi Highway 8 to junction U.S. Highway 49E, thence along U.S. Highway 49E to junction U.S. Highway 82, thence along U.S. Highway 82 to junction Interstate Highway 55, thence along Interstate Highway 55 to junction U.S. Highway 49, thence along U.S. Highway 49 to Gulfport, Miss., and its commercial zone, to points in California, on and north of a line beginning at the California-Nevada State line extending along Interstate Highway 80 to junction California Highway 20, thence along California Highway 20 to Noyo, Calif.

(c) From points in Mississippi, on and east of a line beginning at the Mississippi-Arkansas State line extending along U.S. Highway 49 to junction U.S. Highway 49E, thence along U.S. Highway 40E to junction U.S. Highway 82, thence along U.S. Highway 82 to junction U.S. Highway 51, thence along U.S. Highway 51 to junction U.S. Highway 49, thence along U.S. Highway 49 to junction Mississippi Highway 13, thence along Mississippi Highway 13 to junction U.S. Highway 98, thence along U.S. Highway 98 to junction Mississippi Highway 35, thence along Mississippi Highway 35 to the Mississippi-Louisiana State line, to points in Idaho, (d) from points in Mississippi, on and east of a line beginning at the Arkansas-Mississippi State line extending along U.S. Highway 49 to junction U.S. Highway 61, thence along U.S. Highway 61 to junction Mississippi Highway 33, thence along Mississippi Highway 33 to junction Mississippi Highway 24, thence along Mississippi Highway 24 to junction U.S. Highway 61, thence along U.S. Highway 61 to the Louisiana-Mississippi State line to points in Montana, on and north of a line beginning at the Idaho-Montana State line extending along Montana Highway 43 to junction U.S. Highway 91, thence along U.S. Highway 91 to junction U.S. Highway 10, thence along U.S. Highway 10 to junction U.S. Highway 87, thence along U.S. Highway 87 to junction Montana Highway 200, thence along Montana Highway 200 to junction Montana Highway 220S, thence along Montana Highway 200S to junction Montana Highway 16, thence along Montana Highway 16 to junction Montana Highway 200, thence along Montana Highway 200 to the North Dakota-Montana State line.

(e) From points in Mississippi, on and east of a line beginning at the Tennessee-Mississippi State line extending along Mississippi Highway 7 to junction Mississippi Highway 9, thence along Mississippi Highway 9 to junction Mississippi Highway 397, thence along Mississippi Highway 397 to junction Mississippi Highway 19, thence along Mississippi Highway 19 to the Mississippi-Alabama State line, to points in Nevada, on and north of a line beginning at the Nevada-Utah State line extending along Nevada Highway 25 to junction U.S. Highway 6, thence along U.S. Highway 6 to the California-Nevada State line, (f) from points in Mississippi, on, north, and east of a line beginning at

the Louisiana-Mississippi State line extending along U.S. Highway 80 to junction Mississippi Highway 27, thence along Mississippi Highway 27 to junction Interstate Highway 55, thence along Interstate Highway 55 to the Mississippi-Louisiana State line, to points in Oregon, (g) from points in Mississippi, on and east of a line beginning at the Tennessee-Mississippi State line extending along Mississippi Highway 7 to junction Mississippi Highway 9W, thence along Mississippi Highway 9W to junction Mississippi Highway 9, thence along Mississippi Highway 9 to junction Mississippi Highway 12, thence along Mississippi Highway 12 to junction Mississippi Highway 19, thence along Mississippi Highway 19 to junction Mississippi Highway 15, thence along Mississippi Highway 15 to junction U.S. Highway 80, thence along U.S. Highway 80 to junction Interstate Highway 59, thence along Interstate Highway 59 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction U.S. Highway 49, thence along U.S. Highway 49 to Gulfport, Miss., and its commercial zone, to points in Utah, on and north of a line beginning at the Nevada-Arizona State line extending along U.S. Highway 50 to junction Interstate Highway 15, thence along Interstate Highway 15 to junction U.S. Highway 189, thence along U.S. Highway 189 to junction U.S. Highway 40, thence along U.S. Highway 40 to the Utah-Colorado State line.

(h) From points in Mississippi, on and east of a line beginning at the Mississippi-Tennessee State line extending along Mississippi Highway 7 to junction Mississippi Highway 6, thence along Mississippi Highway 6 to junction U.S. Highway 49E, thence along U.S. Highway 49E to junction Mississippi Highway 35, thence along Mississippi Highway 35 to the Mississippi-Louisiana State line, to points in Wyoming, on and west of a line beginning at the Wyoming-Montana State line extending along U.S. Highway 87 to junction U.S. Highway 16, thence along U.S. Highway 16 to junction Wyoming Highway 789, thence along Wyoming Highway 789 to junction Wyoming Highway 28, thence along Wyoming Highway 28 to junction U.S. Highway 187, thence along U.S. Highway 187 to junction Interstate Highway 80, thence along Interstate Highway 80 to the Wyoming-Utah State line; (15) (a) from points in Missouri, on and east of a line beginning at the Illinois-Missouri State line extending along Missouri Highway 72 to junction U.S. Highway 61, thence along U.S. Highway 61 to New Madrid, Mo., on the Mississippi River, to points in Arizona, on and west of a line beginning at the Nevada-Arizona State line extending along U.S. Highway 93 to junction Arizona Highway 95, thence along Arizona Highway 95 to junction U.S. Highway 95, thence along U.S. Highway 95 to the United States-Mexico International Boundary line, and Littlefield, Ariz., and its commercial zone, (b) from points in Missouri, on, north, and east of a line beginning at the Missouri-Illinois State line extending along U.S. Highway 60 to junction U.S. Highway 61, thence along U.S. Highway 61 to junction Missouri Highway 74, thence along Missouri Highway 74 to its terminus at Cape Girardeau, Mo., to points in California, (c) from points in Missouri, on, south, and east of a line beginning at the Illinois-Missouri State line extending along Missouri Highway 146 to junction U.S. Highway 61, thence along U.S. Highway 61 to junction U.S. Highway 60, thence along U.S. Highway 60 to junction Missouri Highway 53, thence along Missouri Highway 53 to junction Missouri Highway 51, thence along Missouri Highway 51 to the Missouri-Arkansas State line, to points in Idaho, on, north, and west of a line beginning at the Montana-Idaho State line extending along Interstate Highway 90 to junction Idaho Highway 3, thence along Idaho Highway 3 to junction U.S. Highway 95, thence along U.S. Highway 95 to junction Idaho Highway 55, thence along Idaho Highway 55 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction Idaho Highway 51, thence along Idaho Highway 51 to the Idaho-Nevada State line.

(d) From points in Missouri, on and east of a line beginning at the Illinois-Missouri State line at Cape Girardeau, Mo., and its commercial zone, thence along U.S. Highway 61 to New Madrid, Mo., on the Kentucky-Missouri State line, to points in Montana, on and west of a line beginning at the United States-Canada International Boundary line extending along Montana Secondary Road 233 to junction U.S. Highway 87, thence along U.S. Highway 87 to junction U.S. Highway 91, thence along U.S. Highway 91 to junction U.S. Highway 287, thence along U.S. Highway 287 to junction U.S. Highway 10, thence along U.S. Highway 10 to junction U.S. Highway 191, thence along U.S. Highway 191 to the Montana-Wyoming State line, (e) from points in Missouri, on and east of a line beginning at Cape Girardeau and its commercial zone, thence along U.S. Highway 61 to New Madrid, Mo., and its commercial zone to points in Nevada, (f) from points in Missouri, on and southeast of a line beginning at the Missouri-Arkansas State line extending along U.S. Highway 67 to junction U.S. Highway 60, thence along U.S. Highway 60 to junction U.S. Highway 61, thence along U.S. Highway 61 to junction Missouri Highway 74, thence along Missouri Highway 74 to Cape Girardeau, Mo., and its commercial zone, to points in Oregon, (g) from Sikeston, Mo., and its commercial zone to points in Utah, on, north, and west of a line beginning at the Utah-Wyoming State line extending along Utah Highway 30 to junction U.S. Highway 89, thence along U.S. Highway 89 to junction U.S. Highway 91, thence along U.S. Highway 91 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction Utah Highway 257, thence along Utah Highway 257 to junction Utah Highway 130, thence along Utah Highway 130 to junction U.S. Highway 91, thence along U.S. Highway 91 to the Utah-Arizona State line, (h) from points in Missouri, on and east of a line beginning at the Arkansas-Missouri State line extending along Missouri Highway 21 to junction U.S. Highway 160, thence along U.S. Highway 160 to junction U.S. Highway 67, thence along U.S. Highway 67 to junction Missouri Highway 72, thence along Missouri Highway 72 to junction Missouri Highway 51, thence along Missouri Highway 51 to the Missouri-Illinois State line to points in Washington; and (i) from Sikeston, Mo., and its commerical zone, to points in Wyoming, on, south, and west of a line beginning at the Wyoming-Idaho State line extending along U.S. Highway 26 to junction U.S. Highway 187, thence along U.S. Highway 187 to junction U.S. Highway 189, thence along U.S. Highway 189 to junction Interstate Highway 80, thence along Interstate Highway 80 to the Utah-Wyoming State line.

(16) (a) From points in New Hampshire, to points in Montana, on, south, and west of a line beginning at the United States-Canada International Boundary line extending along U.S. Highway 93 to junction Interstate Highway 90, thence along Interstate Highway 90 to Billings, Mont., and its commercial zone, thence along Interstate Highway 90 to junction U.S. Highway 310, thence along U.S. Highway 310 to the Montana-Wyoming State line, and (b) from points in New Hampshire, to points in Wyoming, on and west of a line beginning at the Wyoming-Montana State line extending along U.S. Highway 87 to junction Wyoming Highway 220, thence along Wyoming Highway 220 to junction Wyoming Highway 487, thence along Wyoming Highway 487 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction U.S. Highway 85, thence along U.S. Highway 85 to the Wyoming-Colorado State line; (17) (a) from points in New Jersey, to points in Montana, on, south, and west of a line beginning at the United States-Canada International Boundary line extending along Interstate Highway 15 to junction U.S. Highway 89, thence along U.S. Highway 89 to junction U.S. Highway 12, thence along U.S. Highway 12 to junction Montana Highway 3, thence along Montana Highway 3 to junction U.S. Highway 87, thence along U.S. Highway 87 to the Montana-Wyoming State line, and (b) from points in New Jersey, to points in Wyoming, on and west of a line beginning at the Wyoming-Montana State line extending along Wyoming Highway 59 to junction U.S. Highway 26, thence along U.S. Highway 26 to the Wyoming-Nebraska State line.

(18) (a) From points in New York, on and east of a line beginning at the Pennsylvania-New York State line extending along New York Highway 19 to junction New York Highway 63, thence along New York Highway 63 to junction New York Highway 98, thence along New York Highway 98 to Carlton, N.Y., to points in Idaho, (b) from points in Long Island, N.Y., and points in New York on and

south of a line beginning at the New York-New Jersey State line extending along U.S. Highway 9W to junction Interstate Highway 287, thence along Interstate Highway 287 to junction Interstate Highway 95, thence along Interstate Highway 95 to Port Chester, N.Y., on Long Island Sound, to points in Montana, on and west of a line beginning at the United States-Canada International Boundary line extending along Montana Secondary Road 233 to junction U.S. Highway 87, thence along U.S. Highway 87 to junction U.S. Highway 12, thence along U.S. Highway 12 to junction U.S. Highway 10, thence along U.S. Highway 10 to junction Montana Highway 47, thence along Montana Highway 47 to junction U.S. Highway 212, thence along U.S. Highway 212 to the Montana-Wyoming State line, and (c) from points in New York, on and south of a line beginning at the Pennsylvania-New York State line extending along New York Highway 17 to junction New York Highway 8, thence along New York Highway 8 to junction New York Highway 7, thence along New York Highway 7 to junction New York Highway 2, thence along New York Highway 2 to the New York-Massachusetts State line, to points in Wyoming, on and west of a line beginning at the Colorado-Wyoming State line extending along U.S. Highway 85 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction U.S. Highway 30, thence along Interstate Highway 30 to junction Wyoming Highway 487, thence along Wyoming Highway 487 to junction Wyoming Highway 220, thence along Wyoming Highway 220 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction Wyoming Highway 120, thence along Wyoming Highway 120 to the Wyoming-Montana State line.

(19) (a) From points in Ohio, on and south of a line beginning at the Ohio-Pennsylvania State line, extending along U.S. Highway 62 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction Ohio Highway 3, thence along Ohio Highway 3 to junction U.S. Highway 36, thence along U.S. Highway 36 to the Ohio-Indiana State line to points in Idaho, (b) from points in Ohio, on and south of a line beginning at and including Cincinnati, Ohio, and its commercial zone, thence along Interstate Highway 75 to junction Ohio Highway 4, thence along Ohio Highway 4 to junction U.S. Highway 40, thence along U.S. Highway 40 to junction U.S. Highway 22, thence along U.S. Highway 22 to the Ohio-West Virginia State line to points in Montana, on, west, and south of a line beginning at the United States-Canada International Boundary line extending along U.S. Highway 89 to junction U.S. Highway 2, thence along U.S. Highway 2 to junction U.S. Highway 93, thence along U.S. Highway 93 to junction U.S. Highway 10, thence along U.S. Highway 10 to junction U.S. Highway 12, thence along U.S. Highway 12 to junction U.S. Highway 287, thence along U.S. Highway 287 to junction U.S. Highway 10, thence along U.S. Highway 10 to junction U.S. Highway 310, thence along U.S. Highway 310 to the Montana-Wyoming State line, (c) from points in Ohio, on, east, and south of a line beginning at the Ohio-Michigan State line extending along U.S. Highway 23 to junction Interstate Highway 475, thence along Interstate Highway 475 to junction U.S. Highway 25, thence along U.S. Highway 25 to junction Ohio Highway 47, thence along Ohio Highway 47 to the Ohio-Indiana State line to points in Nevada, on, west, and south of a line beginning at the Idaho-Nevada State line extending along Nevada Highway 51 to junction U.S. Highway 50, thence along U.S. Highway 50 to the Nevada-Utah State line.

(d) From points in Ohio, on, south, and east of a line beginning at the Ohio-Indiana State line extending along Ohio Highway 121 to junction U.S. Highway 36, thence along U.S. Highway 36 to junction Ohio Highway 4, thence along Ohio Highway 4 to junction U.S. Highway 30S, thence along U.S. Highway 30S to junction U.S. Highway 42, thence along U.S. Highway 42 to Cleveland, Ohio, and its commercial zone, on Lake Erie, to points in Utah, (e) from points in Ohio, on, south, and east of a line beginning at Cleveland, Ohio, and its commercial zone, thence along U.S. Highway 42 to junction U.S. Highway 30S, thence along U.S. Highway 30S to junction Ohio Highway 4, thence along Ohio Highway 4 to junction Ohio Highway 47, thence along Ohio Highway 47 to Union City, Ohio, on the Indiana-Ohio State line, to points in Washington, and (f) from points in Ohio, on and south of a line beginning at the Ohio-Indiana State line extending along U.S. Highway 50 to the Ohio-West Virginia State line, to points in Wyoming, on, south, and west of a line beginning at the Wyoming-Montana State line extending along Wyoming Highway 59 to junction U.S. Highway 26, thence along U.S. Highway 26 to the Wyoming-Nebraska State line; (20) (a) from points in Pennsylvania, on and southeast of a line beginning at the Ohio-Pennsylvania State line extending along Pennsylvania Highway 68 to junction U.S. Highway 322, thence along U.S. Highway 322 to junction Pennsylvania Highway 66, thence along Pennsylvania Highway 66 to junction U.S. Highway 219, thence along U.S. Highway 219 to the Pennsylvania-New York State line, to points in Idaho.

(b) From points in Pennsylvania, on, south, and east of a line beginning at the New York-Pennsylvania State line extending along U.S. Highway 11 to junction Pennsylvania Highway 54, thence along Pennsylvania Highway 54 to junction Pennsylvania Highway 45, thence along Pennsylvania Highway 45 to junction U.S. Highway 15, thence along U.S. Highway 15 to junction U.S. Highway 522, thence along U.S. Highway 522 to junction U.S. Highway 22, thence along U.S. Highway 22 to junction Pennsylvania Highway 53, thence along Pennsylvania Highway 53 to junction U.S. Highway 219, thence along U.S. Highway 219 to junction Pennsylvania Highway 56, thence along Pennsylvania Highway 56 to junction Pennsylvania Highway 271, thence along Pennsylvania Highway 271 to junction Pennsylvania Highway 711, thence along Pennsylvania Highway 711 to junction Interstate Highway 70, thence along Interstate Highway 70 to the West Virginia-Pennsylvania State line to points in Montana on, south, and west of a line beginning at the United States-Canada International Boundary line extending along U.S. Highway 93 to junction Interstate Highway 90, thence along Interstate Highway 90 to Billings, Mont., thence along Interstate Highway 90 to junction U.S. Highway 310, thence along U.S. Highway 310 to the Montana-Wyoming State line, and (c) from points in Pennsylvania, on, south, and east of a line beginning at the Pennsylvania-Maryland State line extending along U.S. Highway 11 to junction Pennsylvania Highway 997, thence along Pennsylvania Highway 997 to junction Pennsylvania Highway 223, thence along Pennsylvania Highway 223 to junction Pennsylvania Highway 850, thence along Pennsylvania Highway 850 to junction Pennsylvania Highway 75, thence along Pennsylvania Highway 75 to junction U.S. Highway 22, thence along U.S. Highway 22 to junction U.S. Highway 522, thence along U.S. Highway 522 to junction U.S. Highway 15, thence along U.S. Highway 15 to junction Pennsylvania Highway 45, thence along Pennsylvania Highway 45 to junction Pennsylvania Highway 642, thence along Pennsylvania Highway 642 to junction Pennsylvania Highway 54, thence along Pennsylvania Highway 54 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction Interstate Highway 81, thence along Interstate Highway 81 to junction Pennsylvania Highway 590, thence along Pennsylvania Highway 590 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Pennsylvania Highway 652, thence along Pennsylvania Highway 652 to the Pennsylvania-New York State line to points in Wyoming, on and west of a line beginning at the Wyoming-Nebraska State line extending along U.S. Highway 26 to junction Interstate Highway 25, thence along Interstate Highway 25 to junction Interstate Highway 90, thence along Interstate Highway 90 to the Wyoming-Montana State line.

(21) From points in Rhode Island, to points in Montana, on and west of a line beginning at the United States-Canada International Boundary line extending along Montana Secondary Highway 242 to junction U.S. Highway 191, thence along U.S. Highway 191 to junction U.S. Highway 19, thence along U.S. Highway 19 to junction U.S. Highway 87, thence along U.S. Highway 87 to junction U.S. Highway 212, thence along U.S. Highway 212 to the Montana-Wyoming State line; (22) (a) from points in Tennessee, on and east of a line beginning at the Tennessee-Kentucky State line extending along Tennessee Highway 69 to junction U.S. Highway 70, thence along U.S. Highway 70 to junction Tennessee Highway 13, thence along Tennessee Highway 13

to the Tennessee-Alabama State line, to points in Arizona, (b) from points in Tennessee, on, north, and east of a line beginning at the Missouri-Tennessee State line extending along Tennessee Highway 20 to junction Tennessee Highway 104, thence along Tennessee Highway 104 to junction U.S. Highway 45W, thence along U.S. Highway 45W to junction U.S. Highway 45, thence along U.S. Highway 45 to the Tennessee-Mississippi State line to points in California, (c) from points in Tennessee, to points in Montana, on, north, and west of a line beginning at the Montana-North Dakota State line extending along U.S. Highway 12 to junction Montana Highway 47, thence along Montana Highway 47 to junction U.S. Highway 87, thence along U.S. Highway 87 to the Montana-Wyoming State line, (d) from points in Tennessee, on, north, and east of a line beginning at the Tennessee-Missouri State line extending along Tennessee Highway 20 to junction U.S. Highway 45, thence along U.S. Highway 45 to the Tennessee-Mississippi State line, to points in Nevada, (e) from points in Tennessee, on and east of a line beginning at the Tennessee-Kentucky State line extending along U.S. Highway 41A to junction U.S. Highway 431, thence along U.S. Highway 431 to junction U.S. Highway 31, thence along U.S. Highway 31 to the Tennessee-Alabama State line, to points in New Mexico, (f) from points in Tennessee, on and west of a line beginning at the Tennessee-Kentucky State line extending along Tennessee Highway 21 to junction U.S. Highway 45W, thence along U.S. Highway 45W to junction U.S. Highway 45, thence along U.S. Highway 45 to the Mississippi-Tennessee State line, to points in Utah.

(g) From points in Tennessee, on and east of a line beginning at the Tennessee-Kentucky State line extending along U.S. Highway 45E to junction U.S. Highway 45, thence along U.S. Highway 45 to junction Tennessee Highway 18, thence along Tennessee Highway 18 to the Tennessee-Mississippi State line, to points in Wyoming; (23) (a) from points in Vermont, to points in Montana, on, south, and west of a line beginning at the United States-Canada International Boundary line extending along U.S. Highway 93 to junction Interstate Highway 90, thence along Interstate Highway 90 to junction U.S. Highway 12, thence along U.S. Highway 12 to junction U.S. Highway 287, thence along U.S. Highway 287 to junction Interstate Highway 90, thence along Interstate Highway 90 to Billings, Mont., and its commercial zone, thence along Interstate Highway 90 to junction U.S. Highway 310, thence along U.S. Highway 310 to the Montana-Wyoming State line, and (b) from points in Vermont, to points in Wyoming, on and west of a line beginning at the Montana-Wyoming State line extending along U.S. Highway 87 to junction Wyoming Highway 220, thence along Wyoming Highway 220 to junction Wyoming Highway 487, thence along Wyoming Highway 487 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 85, thence along U.S. Highway 85 to the Colorado-Wyoming State line; (24) from points in Virginia, on and south of a line beginning at the Virginia-West Virginia State line extending along U.S. Highway 250 to junction U.S. Highway 360, thence along U.S. Highway 360 to its terminus at Reedville, Va., to points in Montana; (25) (a) from points in West Virginia, on and south of a line beginning at the Kentucky-West Virginia State line extending along U.S. Highway 60 to junction U.S. Highway 19, thence along U.S. Highway 19 to junction West Virginia Highway 39, thence along West Virginia Highway 39 to the Virginia-West Virginia State line, to points in Montana.

(b) From points in West Virginia, on and south of a line beginning at the West Virginia-Ohio State line extending along U.S. Highway 40 to the West Virginia-Pennsylvania State line, to points in Wyoming, on, south, and west of a line beginning at the Wyoming-Montana State line extending along U.S. Highway 87 to junction U.S. Highway 26, thence along U.S. Highway 26 to the Wyoming-Nebraska State line; and (26) (a) from points in Wisconsin, on and east of a line beginning at the Illinois-Wisconsin State line extending along Interstate Highway 94 to junction U.S. Highway 141, thence along U.S. Highway 141 to the Wisconsin-Michigan State line to points in Arizona, on, west, and south of a line beginning at the United States-Mexico International Boundary line extending along U.S. Highway 89 to junction U.S. Highway 84, thence along U.S. Highway 84 to junction U.S. Highway 80, thence along U.S. Highway 80 to the Arizona-California State line, (b) from points in Wisconsin, on and east of a line beginning at the Wisconsin-Michigan State line extending along U.S. Highway 141 to junction U.S. Highway 41, thence along U.S. Highway 41 to the Wisconsin-Illinois State line, to points in California, on and south of a line beginning at Needles, Calif., thence along U.S. Highway 95 to junction Interstate Highway 10, thence along Interstate Highway 10 to junction U.S. Highway 101, thence along U.S. Highway 101 to Santa Barbara, Calif., and its commercial zone, on the Pacific Ocean, (c) from Kenosha, Wis., and its commercial zone, to Searchlight, Nev., and its commercial zone, and (d) from points in Wisconsin, on and east of a line beginning at the Michigan-Wisconsin State line extending along U.S. Highway 141 to junction Wisconsin Highway 180, thence along Wisconsin Highway 180 to junction U.S. Highway 41, thence along U.S. Highway 41 to junction U.S. Highway 141, thence along U.S. Highway 141 to junction Wisconsin Highway 36, thence along Wisconsin Highway 36 to junction Wisconsin Highway 83, thence along Wisconsin Highway 83 to the Wisconsin-Illinois State line, to points in New Mexico, on, south, and east of a line beginning at the Texas-New Mexico State line extending along U.S. Highway 62 to the Texas-New Mexico State line. The purpose of this filing is to eliminate the gateways of Muhlenberg County, Ky., Logan County, Ky., and Karnak, Ill.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.75-14980 Filed 6-6-75;8:45 am]

[Rev. S.O. 994; ICC Order 144]

LOUISIANA MIDLAND RAILROAD CO.

Rerouting or Diversion of Traffic

In the opinion of R. D. Pfahler, Agent, the Louisiana Midland Railway Company is unable to transport traffic over its line between Archie, Louisiana, and Rhinehart, Louisiana, because of high water.

It is ordered, That:

(a) *Rerouting traffic.* The Louisiana Midland Railway Company, being unable to transport traffic over its line between Archie, Louisiana, and Rhinehart, Louisiana, because of high water, is hereby authorized to reroute or divert such traffic via any available route.

(b) *Concurrence of receiving roads to be obtained.* The railroad desiring to divert or reroute traffic under this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 1:30 p.m., May 20, 1975.

(g) *Expiration date.* This order shall expire at 11:59 p.m., May 30, 1975, unless otherwise modified, changed, or suspended.

It is further ordered, That this order shall be served upon the Association of

American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., May 20, 1975.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.75-14984 Filed 6-6-75;8:45 am]

[Notice 4]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

JUNE 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 June 30, 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-75830. By order of June 3, 1975 the Motor Carrier Board approved the transfer to Zane Sodergren and Donald Kopache, a partnership, doing business as Allied Industrial Distribution (Unlimited), Oakland, Calif., of Permit No. MC-134200 (Sub-No. 2) issued by the Commission April 11, 1973, to Bernard Reznick, doing business as Interstate Freight Distributors, Los Angeles, Calif., authorizing the transportation of general commodities, with exceptions, between points in Alameda, Contra Costa, Marin, San Francisco, San Mateo, and Santa Clara Counties, Calif., LeRoy R. Davis, Esq., Murchison & Davis, 9454 Wilshire Blvd., St. 400, Beverly Hills, Calif. 90212.

No. MC-FC-75854. By order entered June 2, 1975 the Motor Carrier Board approved the transfer to Sun Valley Stages, Inc., Twin Falls, Idaho, of the operating rights set forth in Certificate No. MC-31387, issued September 16, 1966, to Garth J. Kirkman and R. M. Kirkman, doing business as Kirkman Brothers Transportation and Sun Valley Stages, Twin Falls, Idaho, authorizing the transportation of passengers and their baggage, and express and newspapers in the same vehicle with passengers, over specified routes, between specified points in Idaho. John R. Coleman, P.O. Box 525, Twin Falls, Idaho 83301, attorney for applicants.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.75-14981 Filed 6-6-75;8:45 am]

[Notice 62]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JUNE 3, 1975.

The following are notices of filing of application, 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, for temporary authority under section 210(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 1846 (Sub-No. 6TA), filed May 20, 1975. Applicant: W. D. KIBLER TRUCKING COMPANY, 60 South State Ave., Indianapolis, Ind. 46204. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise as is dealt in by wholesale, retail, and chain grocer and food business houses, and, in connection therewith, equipment, materials, and supplies used in the conduct of such business*, between points in Indianapolis, Ind., on the one hand, and, on the other, points in Middletown, Dayton, Miamisburg, Hamilton and Harrison, Ohio, for 180 days. Supporting shipper: The Great Atlantic & Pacific Tea Co., Inc., 2 Paragon Drive, Montvale, N.J. 07645. Send protests to: Frances Sterling, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 802 Century Bldg., 36 S. Penn. St., Indianapolis, Ind. 46204.

No. MC 23441 (Sub-No. 17TA), filed May 22, 1975. Applicant: LAY TRUCKING COMPANY, INC., 1312 Lake St., La-Porte, Ind. 46350. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Radiators*, from the plantsite of McCord Corporation at Plymouth, Ind., to the plantsite and warehouse facilities of Deere & Company at Waterloo and Dubuque, Iowa and the plantsite of White Farm Equipment Company at Charles City, Iowa, for 180 days. Supporting shipper: McCord Corporation, 2850 West Grand Blvd., Detroit, Mich. 48202. Send protests to: J. H. Gray, District Supervisor, 345 West Wayne St., Room 204, Fort Wayne, Ind. 46802.

No. MC 30884 (Sub-No. 19TA), filed May 23, 1975. Applicant: JACK COOPER TRANSPORT COMPANY, INC., 3501 Manchester Trafficway, Kansas City, Mo. 64129. Applicant's representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Ave., Memphis, Tenn. 38137. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles* (except trailers), in initial movements, in truckaway service, from the plants of General Motors Corporation, located at Kansas City, Mo., to points in Ohio, with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with General Motors Corporation, for 180 days. Supporting shipper: GM Logistics Operations, 30007 Van Dyke Ave., Warren, Mich. 48090. Send protests to: John V. Barry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 30884 (Sub-No. 20TA), filed May 23, 1975. Applicant: JACK COOPER TRANSPORT COMPANY, INC., 3501 Manchester Trafficway, Kansas City, Mo. 64129. Applicant's representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Ave., Memphis, Tenn. 38137. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles* (except trailers), in initial movements, in truckaway service, from the plantsites of General Motors Corporation at Norwood, Ohio, to points in Arkansas, Colorado, Iowa, Kansas, Missouri, Nebraska, New Mexico, Oklahoma, and Texas, with no transportation for compensation on return except as otherwise authorized. Restriction: The authority granted above is restricted to the transportation of traffic moving through Kansas City, Mo., from the plantsites of General Motors Corporation at Norwood, Ohio, to points in Kansas City, Mo., with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract or contracts with General Motors Corporation, for 180 days.

Supporting shipper: GM Logistics Operations, 30007 Van Dyke Ave., Warren, Mich. 48090. Send protests to: John V. Barry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 31389 (Sub-No. 198TA), filed May 27, 1975. Applicant: MCLEAN TRUCKING COMPANY, 617 Waughtown St., P.O. Box 213, Winston-Salem, N.C. 27102. Applicant's representative: David F. Eshelman (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsite of Potlatch Corporation, located in Desha County, Ark., having a railroad designation of Cypress Bend, Ark., as an off-route point in conjunction with applicant's regular route operations, applicant intends to join with MC-31389 and interline at all present interline points, for 180 days. Supporting shipper: Potlatch Corporation, P.O. Box 1016, Lewiston, Idaho 83501. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Road, CC516, Charlotte, N.C. 28205.

No. MC 39406 (Sub-No. 18TA), filed May 27, 1975. Applicant: CENTRAL MOTOR LINES, INCORPORATED, P.O. Box 10303, Charlotte, N.C. 28237. Applicant's representative: Charles R. Sanderson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Candy, confectionery and related articles* serving the plantsite and storage facilities of E. J. Brach & Sons, Division of American Home Products Corporation, at or near Carol Stream, Ill., as an off-route point in connection with carrier's presently authorized-regular-route-operations, for 180 days. Supporting shipper: E. J. Brach & Sons, Division of American Home Products Corporation, 4656 W. Kinzie St., Chicago, Ill. 60644. Send protests to: Terrell Price, District Supervisor, Interstate Commerce Commission, 800 Briar Creek Road, Room CC516, Mart Office Bldg., Charlotte, N.C. 28205.

No. MC 50493 (Sub-No. 56TA), filed May 22, 1975. Applicant: P.C.M. TRUCKING, INC., 1063 Main St., Orefield, Pa. 18104. Applicant's representative: Paul B. Kemmerer, 1620 North 19th St., Allentown, Pa. 18104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soy beans, soy bean meal and soy bean by-products, dry*, in bulk, from points in Frankfort and Lafayette, Ind., to points in Pennsylvania, east of U.S. Highway 15 from the Maryland state line to the New York state line, and points in New Jersey south of U.S. Highway 22, for 180 days. Supporting shipper: Lovatt and Co., 40 East Butler Ave., Ambler, Pa. 19002. Send protests to: F. W. Doyle, District Supervisor, Interstate Commerce Commission, 600 Arch St., Room 3238, Philadelphia, Pa. 19106.

No. MC 53965 (Sub-No. 109TA), filed May 23, 1975. Applicant: GRAVES TRUCK LINE, INC., 2130 South Ohio, Salina, Kans. 67401. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Meats, meat products and meat by-products and articles distributed by meat packinghouses* as described in Section A and C of Appendix I to the Report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and/or storage facilities utilized by Iowa Beef Processors, Inc., at or near Amarillo, Tex., to points in Iowa, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota, for 180 days. Supporting shipper: Iowa Beef Processors, Inc., P.O. Box 515, Dakota City, Nebr. 68731. Send protests to: Thomas P. O'Hara, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 234 Federal Bldg., Topeka, Kans. 66603.

No. MC 76629 (Sub-No. 9TA), filed May 22, 1975. Applicant: OVERLAND FREIGHT LINES, INC., P.O. Box 31136, Indianapolis, Ind. 46206. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, between the plantsite of Inland Container Corp., at Cayuga, Ind., on the one hand, and, on the other, points in Illinois, Kenucky, Ohio, and Missouri, for 180 days. Supporting shipper: Inland Container Corporation, 120 East Market St., Indianapolis, Ind. 46204. Send protests to: Frances Sterling, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 802 Century Bldg., 36 S. Penn. St., Indianapolis, Ind. 46204.

No. MC 82063 (Sub-No. 60TA), filed May 22, 1975. Applicant: KLIPSCH HAULING CO., 119 East Loughborough St., St. Louis, Mo. 63111. Applicant's representative: E. Stephen Heisley, Suite 805, 666 11th St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hydrochlorine* (Muriatic) *acid*, in bulk, in tank vehicles, from points in Memphis, Tenn., to points in Little Rock, Eldorado, and Buaxite, Ark., for 180 days. Supporting shipper: Velsicol Chemical Corporation Corporation, 341 East Ohio St., Chicago, Ill. 60611. Send protests to: J. P. Werthmann, District Supervisor, Interstate Commerce Commission, Room 1465, 210 N. 12th St., St. Louis, Mo. 63101.

No. MC 114211 (Sub-No. 245TA), filed May 21, 1975. Applicant: WARREN TRANSPORT, INC., 324 Manhard St., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Charles W. Singer, 2440 East Commercial Blvd., Ft. Lauderdale, Fla. 33308. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in, or used by, agricultural machinery, industrial equipment, and lawn and leisure products dealers* (except commodities in bulk), from the facilities of Deere & Company, at Bloomington, Minn., to points in Montana, North Dakota, South Dakota, Upper Peninsula of Michigan, Wisconsin, Wyoming, and that part of Iowa on and west of Highway 63, for 180 days. Supporting shipper: Deere & Company, 2001 West 94th St., Bloomington, Minn. 55431. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 875 Federal Bldg., Des Moines, Iowa 50309.

No. MC 118142 (Sub-No. 90TA), filed May 21, 1975. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, Kans. 67219. Applicant's representative: Lester C. Arvin, 814 Century Plaza Bldg., Wichita, Kans. 67202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and/or storage facilities utilized by Iowa Beef Processors, Inc., at or near Amarillo, Tex., to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington and Wyoming, restricted to traffic originating at and destined to named points. Supporting shipper: Iowa Beef Processors, Inc., P.O. Box 515, Dakota City, Nebr. 68731. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 501 Petroleum Bldg., Wichita, Kans. 67202.

No. MC 123048 (Sub-No. 324TA), filed May 22, 1975. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st St., Racine, Wis. 53406. Applicant's representative: Paul C. Gartzke, 121 West Doty St., Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper mill products and pulp mill products*, between the plantsite facilities of Potlatch Corp., in Desha County, Ark., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); *Materials, equipment and supplies* used or useful in the manufacture, sale and distribution of paper mill products and pulp mill products (except commodities in bulk), between the plantsite facilities of Potlatch Corporation in Desha County, Ark., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), for 180 days. Supporting shipper: Potlatch Corporation, P.O. Box 1016, Lewiston, Idaho 83501. Send protests to John E. Ryden, Interstate Commerce Commissioner, 135 West Wells St., Room 807, Milwaukee, Wis. 53203.

No. MC 123157 (Sub-No. 25TA), filed May 21, 1975. Applicant: CTI, P.O. Box 397, Rillito, Ariz. 85246. Applicant's representative: A. Michael Bernstein, 1327 United Bank Bldg., Phoenix, Ariz. 85012. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry ammonium nitrate*, in bulk, from points in Railhead at Kingman, Ariz., to The Duval Mine, Mineral Park, Ariz., approximately 18 miles northwest of Kingman, Ariz., for 180 days. Supporting shipper: Duval Corporation, P.O. Box 1271, Kingman, Ariz. 86401. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 3427 Federal Bldg., 230 North First Ave., Phoenix, Ariz. 85025.

No. MC 123872 (Sub-No. 45TA), filed May 22, 1975. Applicant: W & L MOTOR LINES, INC., P.O. Box 2607, State Road 1148, Hickory, N.C. 28601. Applicant's representative: Allen E. Bowman (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products and meat by-products* and articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to the Report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and/or storage facilities utilized by Iowa Beef Processors, Inc., at or near Amarillo, Tex., to points in Alabama, Florida, Georgia, North Carolina, South Carolina, Tennessee, and Mississippi, restricted to traffic originating at and destined to normal points, for 180 days.

No. MC 124055 (Sub-No. 3TA), filed May 22, 1975. Applicant: GEO. F. CALLAHAN, 811 Eastridge Drive, Goodland, Kans. 67735. Applicant's representative: Geo. F. Callahan (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Anhydrous ammonia and liquid fertilizer*, in shipper owned bulk tank trailers, from points in Enid, Okla.; Cheyenne, Wyo.; Hoag, Nebr.; Denver, Colo.; and Conway, Dodge City and Lawrence, Kans., to points in Burlington, Colo., and Benkelman, Nebr.; (2) *Dry Fertilizer*, in bulk, or in bags, from points in Sioux Falls, S. Dak., to points in Benkelman, Nebr.; and from points in Plainview, Etter and Houston, Tex., to points in Burlington, Colo., and Benkelman, Nebr., for 180 days. Supporting shippers: Western Fertilizer Co., Burlington, Colo. Caldwell's, Inc., Goodland, Kans. Send protests to: Thomas P. O'Hara, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 234 Federal Bldg., Topeka, Kans. 66603.

No. MC 124078 (Sub-No. 651TA), filed May 22, 1975. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th St., Milwaukee, Wis. 53215. Applicant's representative: Richard H. Prevette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand*, in bulk, in tank vehicles, from points in Roberta, Ga., to points in Copperhill, Tenn., for 180 days. Supporting shipper: Atlanta Sand & Supply Co., 3166 Maple Drive, N.E., Room 226, Atlanta, Ga. 30305. Send protests to: John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells St., Room 807, Milwaukee, Wis. 53203.

No. MC 124121 (Sub-No. 10TA), filed May 20, 1975. Applicant: NUSSBERGER BROS. TRUCKING CO., INC., Box 97, 1109 Railroad Ave., Prentice, Wis. 54556. Applicant's representative: F. H. Kroger, 1745 University Ave., St. Paul, Minn. 55104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Doors, sashes, window units, screens, frames, window blinds, and parts and accessories of the aforementioned commodities*, from points in Hawkins, Wis., to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, Pennsylvania, South Dakota and West Virginia; *Materials and supplies used in the manufacture and distribution of the commodities described above*, except commodities in bulk, in tank vehicles, from points in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, Pennsylvania, South Dakota, and West Virginia to points in Hawkins, Wis., for 180 days. Supporting shipper: Northern Sash and Door, P.O. Box 248, Hawkins, Wis. 54530. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, 139 W. Wilson St., Room 202, Madison, Wis. 53703.

No. MC 126109 (Sub-No. 3TA), filed May 22, 1975. Applicant: TRECHO TRANSPORT, INC., 2756 Short St., York, N.Y. 14592. Applicant's representative: S. Michael Richards, 44 North Ave., Webster, N.Y. 14580. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dairy products and agricultural commodities* exempt from regulation under Section 203(b) of the Act when moving in mixed shipments with dairy products; (2) *Paper articles* as described in 61 M.C.C. 290, 291 Appendix XI (boxes, cartons, egg cases, and trays), (1) from Friendship, N.Y., to New York, N.Y., and points in New Jersey and Miami, Fla.; (2) from New York, N.Y., and points in New Jersey to Friendship, N.Y., for 180 days. Supporting shipper: Friendship Dairies, Inc., Friendship, N.Y. 14739. Send protests to: Morris H. Gross, District Supervisor, Interstate Commerce Commission, Room 104, 301 Erie Blvd., West, Syracuse, N.Y. 13202.

No. MC 128273 (Sub-No. 187TA), filed May 23, 1975. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, Kans. 66701. Applicant's representative: Harry Ross, 1403 South Horton St., Fort Scott, Kans. 66701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper mill products* (except commodities in bulk), between *machinery, equipment and supplies used in manufacture and/or distribution of paper mill products and pulp mill products* (except commodities in bulk), between the plantsite and storage facilities of Potlatch Corporation in Desha County, Ark. on the one hand, and, on the other, points in the United States, for 180 days. Supporting shipper: Potlatch Corporations, P.O. Box 1016, Lewiston, Idaho 83501. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 501 Petroleum Bldg., Wichita, Kans. 67202.

No. MC 134129 (Sub-No. 7TA), filed May 23, 1975. Applicant: WILLIAM A. LONG, INC., Bealeton, Va. 22712. Applicant's representative: Daniel B. Johnson, 1123 Munsey Bldg., 1329 E St. NW., Washington, D.C. 20004. Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes, transporting: (1) *Plastic articles*, from points in Remington, Va., to points in that part of the U.S., in and east of Texas, Oklahoma, Kansas, Nebraska, South Dakota, and North Dakota; (2) *Materials, supplies, and equipment, used in the manufacture of plastic articles, articles, from* points in the destination territory in (1) above, to Remington, Va., restriction: Said operations are restricted in both instances against the transportation of commodities in bulk, in tank or hopper type vehicles, said operations are limited to a transportation service to be performed under a continuing contract or contracts with PCL Packaging, Inc., of Remington, Va., for 180 days. Supporting shipper: PCL Packaging, Inc., Box 367, Remington, Va. 22734. Send protests to: Interstate Commerce Commission, 12th & Constitution Ave., N.W., Room 317, District Supervisor, Hersman, Washington, D.C. 20423.
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No. MC 134323 (Sub-No. 747TA), filed May 22, 1975. Applicant: JAY LINES, INC., 720 North Grand St., Amarillo, Tex. 79105. Applicant's representative: Gailyn Larsen, P.O. Box 80814, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products and articles* distributed by meat packinghouses, from the plantsites and storage facilities of MBPXL Corporation at Wichita, Kans., to points in Alabama, Florida, Georgia, Louisiana and Mississippi, for 180 days. Supporting shipper: MBPXL Corporation, 29th & Mead, Wichita, Kans. Send protests to: Haskell E. Ballard, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box H–4395, Herring Plaza, Amarillo, Tex. 79101.

No. MC 136824 (Sub-No. 1TA), filed May 21, 1975. Applicant: ROBERT SPURLING, doing business as SEATTLE–TACOMA AIR TAXI, 8403 Perimeter Road South, Seattle, Wash. 98108. Applicant's representative: Clyde H.

MacIver, 1900 Peoples National Bank Bldg., 1415 Fifth Avenue, Seattle, Wash. 98171. 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 and those injurious or contaminating to other lading), between airports in Pierce, King, Snohomish, Skagit and Whatcom Counties, Wash., on the one hand, and, on the other, points in said counties (restricted to traffic having an immediately prior or subsequent movement by air and to individual shipments of 500 pounds or less), for 180 days. Supporting shippers: There are approximately 10 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Bldg., 915 Second Ave., Seattle, Wash. 98174.

No. MC 138555 (Sub-No. 5TA), filed May 21, 1975. Applicant: ROBERT H. COWEN, doing business as COWEN TRUCK LINE, Route 2, Perrysville, Ohio 44864. Applicant's representative: David A. Turano, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Household appliances and materials, equipment and supplies* (except commodities in bulk) used in the manufacture of household appliances (a) from St. Louis, Mo., to points in Holly Springs, Miss.; North Canton, Ohio; and Chicago, Ill.; (b) from Chicago, Ill., to points in North Canton, Ohio and St. Louis, Mo.; (c) from North Canton, Ohio, to points in St. Louis, Mo., and Chicago, Ill.; (d) from Holly Springs, Miss., to points in St. Louis, Mo.; (e) between the Ports of Entry at Buffalo and Niagara Falls, N.Y., on the International Boundary between the United States and Canada, on the one hand, and, on the other, points in North Canton, Ohio (restricted to shipments originating at or destined to points in Ontario, Canada), under a continuing contracts or contract with The Hoover Company, North Canton, Ohio. Note: Applicant holds contract permit authority to transport the same commodities for the same shipper between Holly Springs, Miss., and North Canton, Ohio, for 180 days. Supporting shipper: The Hoover Company, North Canton, Ohio 44720. Send protests to: James Johnson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 181 Federal Office Bldg., 1240 East Ninth St., Cleveland, Ohio 44199.

No. MC 138900 (Sub-No. 3TA), filed May 19, 1975. Applicant: REID J. CAVANAUGH, R. D. #1, Box 27, Connellsville, Pa. 15425. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed*, from points in Alexander, N.Y., to points in that part of Pennsylvania on and west of a line beginning at the New York-Pennsylvania State line and extending along U.S. Highway 219 to junction U.S. Highway 22, thence over U.S. Highway 22 to junction U.S. Highway 220, thence over U.S. Highway 220 to junction Pennsylvania Highway 164, thence over Pennsylvania Highway 164, to junction Pennsylvania Highway 26, thence over Pennsylvania Highway 26 to junction U.S. Highway 30, thence over U.S. Highway 30 to junction U.S. Highway 220, and thence over U.S. Highway 220 to the Pennsylvania-Maryland State line; (2) *animal feed*, from points in Fayette County, Pa., to points in New York on and west of a line beginning at Point Breese, N.Y., and extending along New York Highway 98 to junction U.S. Highway 219 and thence over U.S. Highway 219 to the Pennsylvania-New York State line. Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract or contracts with Allied Mille, Inc., for 180 days. Supporting shipper: Allied Mills, Inc., Everson, Pa. 15631. Send protests to: Joseph A. Niggemyer, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 416 Old Post Office Bldg., Wheeling, W. Va. 26003.

No. MC 138956 (Sub-No. 1TA), filed May 23, 1975. Applicant: ERGON TRUCKING, INC., 202 East Pearl St., Jackson, Miss. 39201. Applicant's representative: John P. Bond, 2766 Douglas Road, Miami, Fla. 33133. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Water, drilling mud, oil spillage, oil emulsion and basic sediments* in connection with oil and gas exploration, production, and discovery, in bulk, between points in Alabama, Mississippi, Louisiana, and Florida, (2) *Crude oils, condensates and distillants*, between points in Alabama and Mississippi, in bulk, for 180 days. Supporting shippers: There are approximately 7 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Bldg., Jackson, Miss. 39201.

No. MC 138991 (Sub-No. 8TA), filed May 22, 1975. Applicant: K. J. TRANSPORTATION, INC., P.O. Box 9764, Rochester, N.Y. 14623. Applicant's representative: S. Michael Richards, 44 North Avenue, Webster, N.Y. 14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from points in Newport, Ky., to points in Rochester, N.Y. and returned empty containers and pallets in reverse direction, for 180 days. Supporting shipper: Lake Beverage Corp., Rochester, N.Y. Send protests to: Morris H. Gross, District Supervisor, Interstate Commerce Commission, Room 104, 301 Erie Blvd., West, Syracuse, N.Y. 13202.

No. MC 139495 (Sub-No. 65TA), filed May 19, 1975. Applicant: NATIONAL CARRIERS, INC., P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, 1819 H St. NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pickled products* (except in bulk), from (a) Imlay City, Bridgeport, and Memphis, Michigan, to points in Greenville, Miss.; and from (b) Greenville, Miss., to points in Missouri, Kansas, Oklahoma, Texas, New Mexico, Colorado, Arizona, and California, for 180 days. Supporting shipper: Vlasic Foods, Inc., 33200 West 14 Mile Road, West Bloomfield, Mich. 48033. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 501 Petroleum Bldg., Wichita, Kans. 67202.

No. MC 139495 (Sub-No. 70TA), filed May 22, 1975. Applicant: NATIONAL CARRIERS, INC., P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, 1819 H St. NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials, equipment, and supplies used in reflective traffic markings* (except in bulk), from the facilities of The Cataphote Division of Ferro Corporation located at or near Jackson, Miss., to points in Ohio, West Virginia, Virginia, Maryland, Pennsylvania, New York, New Jersey, Connecticut, Massachusetts, Vermont, New Hampshire, Maine, Rhode Island and the District of Columbia, for 180 days. Supporting shipper: Cataphote Division, Ferro Corporation, P.O. Box 2369, Jackson, Miss. 39205. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 501 Petroleum Bldg., Wichita, Kans. 67202.

No. MC 140733 (Sub-No. 1TA), filed May 21, 1975. Applicant: DWANE L. FORD, doing business as D & G TRUCKING, 424 Canyon, Nampa, Idaho 83651. Applicant's representative: F. L. Sigloh, P.O. Box 7651, Boise, Idaho 83707. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Insulation and insulating materials and supplies*, except commodities in bulk, in tank trucks, from the plant of Thermo Products Corp., at Chilton, Tex., to points in Wyoming, Montana, Utah, Nevada, Idaho, Oregon, Washington, and those in California north of U.S. Highway 50, for 180 days. Supporting shipper: Thermo Products of Idaho, 2923 Holden Lane, Boise, Idaho 83706. Send protests to: C. W. Campbell, District Supervisor, Interstate Commerce Commission, 550 West Fort St., Box 07, Boise, Idaho 83724.

No. MC 140907 (Sub-No. 1TA), filed May 20, 1975. Applicant: C. PALUMBO

TRUCKING CO., INC., 320 Bailey Ave., Uniontown, Pa. 15401. Applicant's representative: Francis J. Palumbo, 350 West Beryley St., Uniontown, Pa. 15401. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in truckloads, from points in Friendsville, Pa., to points in Bellaire, Ohio, for 180 days. Supporting shipper: Gallatin Fuels, Inc., 76 East Main St., Uniontown, Pa. 15401. Send protests to: Joseph A. Niggemyer, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 416 Old Post Office Bldg., Wheeling, W. Va. 26003.

No. MC 140909 (Sub-No. 1TA), filed May 22, 1975. Applicant: F. T. WILLIAMS COMPANY, INCORPORATED, 3009 Rozzells Ferry Road, Charlotte, N.C. 28208. Applicant's representative: Samuel S. Williams, 139 South Tryon St., Charlotte, N.C. 28202. Authority sought to operate as a *contract carrier*, by motor vehicle, over regular routes, transporting: *Crushed stone* on very short and irregular notice, from Arrowood Road at I–77 in Mecklenburg County, N.C., to Duke Power Nuclear Station in York County, S.C., commencing October, 1975 from the plantsite of Martin Marietta's Arrowood Quarry located at I–77 and Arrowood Blvd., in Mecklenburg County, N.C., to Duke Power Company Catawba Nuclear Station, off Highway #274 near Lake Wylie in York County, S.C., route will be Highway #49 to Highway #274 to Duke Power Station, for 180 days. Supporting shipper: Martin Marietta Aggregates, P.O. Box 16268, Charlotte, N.C. 28216. Send protests to: Terrell Price, District Supervisor, Interstate Commerce Commission, 800 Briar Creek Road, Room CC516 Mart Office Bldg., Charlotte, N.C. 28205.

No. MC 140947 (Sub-No. 1TA), filed May 21, 1975. Applicant: VAN GROLL, INC., Route 4, Kaukauna, Wis. 54130. Applicant's representative: James Robert Evans, 145 W. Wisconsin Ave., Neenah, Wis. 54956. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Blood meal, meat scraps and packing house waste products*, in bulk, or in bags, from points in Chippewa Falls and Green Bay, Wis., to points in Illinois, Iowa, and Minnesota, under contract with Packerland Packing Company, Inc., Lime Kiln Road, Green Bay, Wis. 54305. Supporting shipper: Packerland Packing Company, Inc., P.O. Box 1184, Green Bay, Wis. 54305. Send protests to: John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells St., Room 807, Milwaukee, Wis. 53203.

No. MC 140982TA, filed May 16, 1975. Applicant: MARKET EXPRESS, INC., 3342 North Weber St., Fresno, Calif. 93705. Applicant's representative: Thomas M. Loughran, 100 Bush St., 21st Floor, San Francisco, Calif. 94104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Food, food stuffs, pet food, animal feed, feed supplements, cleaning compound*, advertising matter and commodities used in the preservation, preparation of serving of foods, in mechanically refrigerated equipment, from the plantsites and storage locations of Standard Brands Foods Division of Standard Brands Incorporated in Alameda, Contra Costa, Santa Clara, San Mateo, San Joaquin, Stanislaus, and San Francisco Counties, Calif., to points in Pima, Pinal and Maricopa Counties, Ariz., limited to transportation service to be performed under a continuing contract or contracts with Standard Brands Foods Division of Standard Brands Incorporated, for 180 days. Supporting shipper: Standard Brands Foods Division of Standard Brands Incorporated, 500 Paul Ave., San Francisco, Calif. 94124. Send protests to: Claud W. Reeves, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Ave., Box 36004, San Francisco, Calif. 94102.

No. MC 140983TA, filed May 21, 1975. Applicant: VINCENT JACOBO, SR., doing business as VIN-SON'S TRANSPORTATION, 14419 Farlington Street, Baldwin Park, Calif. 91706. Applicant's representative: Vincent Jacobo, Sr. (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Clay and talc* (except in bulk), from points in Dunn, El Monte, and Los Angeles, Calif., and Kingman, Ariz., to the plantsite of Highway Ceramics, Inc., at Yuma, Ariz.; (2) *Highway road markers*, from the plantsite of Highway Ceramics, Inc., at Yuma, Ariz., to points in Los Angeles, Calif., for 180 days. Supporting shipper: Highway Ceramics, Inc., 1925 North Potrero Ave., South El Monte, Calif. 91733. Send protests to: Philip Yallowitz, District Supervisor, Interstate Commerce Commission, Room 1312 Federal Bldg., 300 North Los Angeles St., Los Angeles, Calif.

No. MC 140984TA, filed May 21, 1975. Applicant: PANIC AIRFREIGHT, INC., AMF Box 81134, Cleveland Hopkins International Airport, Cleveland, Ohio 44181. Applicant's representative: Edwin C. Reminger, 731 Leader Bldg., Cleveland, Ohio 44114. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* except in bulk, having a prior or subsequent air movement, or moving in substituted air movement by motor for air service, between points in Cleveland Hopkins International Airport, Cleveland, Ohio and Lorain County Airport, Detroit, Mich., Detroit Metropolitan Airport, Wayne, Mich., and Willow Run Airport, Ypsilanti, Mich., for 180 days. Supporting shipper: There were no supporting statements attached to the application, names of shippers may be obtained from the District Supervisor. Send protests to: James Johnson, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 181 Federal Office Bldg., 1240 East Ninth St., Cleveland, Ohio 44199.

No. MC 140985TA, filed May 23, 1975. Applicant: DAVID L. AND DOLORES ANKENY, doing business as ANKENY TRUCKING, 6410 S. E. Pine St., Portland, Oreg. 97215. Applicant's representative: Russell M. Allen, 1200 Jackson Tower, Portland, Oreg. 97205. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wood residuals*, from points in Grande Ronde, Oreg., to points in Longview, Wash., for 180 days. Supporting shipper: Oregon American Lumber Co., P.O. Box 248, Grand Ronde, Oreg. 97347. Send protests to: W. J. Huetig, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, Oreg. 97204.

No. MC 140986TA, filed May 23, 1975. Applicant: GREAT NORTHERN TRUCK LINES, INC., Bank Street, Netcong, N.J. 07857. Applicant's representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, N.J. 07804. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Clay*, except in bulk, from points in Flanders, N.J., to points in Connecticut, Delaware, Kentucky, Maryland, Massachusetts, New Hampshire, New York, Ohio, Pennsylvania, Rhode Island, Tennessee, and Washington, D.C.; *Talc and materials and supplies used in the manufacturing of ceramics*, except in bulk, from points in Kentucky, Maryland, New York, Ohio, Pennsylvania, and Tennessee to points in Flanders, N.J., under a continuing contract with Byrnes-Ceramic Supply Co., Inc., Flanders, N.J., for Byrnes-Ceramic Supply Company, Inc., 95 Bartley Road, Flanders, N.J. 07836. Joel Morrows, District Supervisor, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102.

No. MC 140987TA, filed May 23, 1975. Applicant: WILLIAM FREDERICK, P.O. Box 161, Rear 77 Mechanic St., Leominster, Mass. 01453. Applicant's representative: David M. Marshall, 135 State St., Suite 200, Springfield, Mass. 01103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Pails and supplies and materials used in the manufacture and distribution of plastic pails*, between points in Leominster, Mass., on the one hand, and, on the other, Detroit and Holland, Michigan, Buffalo, Rochester, Wilson, Dunkirk, Brooklyn, Hicksville, New York, Canastota, and Poughkeepsie, N.Y., Allentown, Erie, Philadelphia, Pittsburgh, New Holland, Pa., Winchester, Va., Forestville, New Haven, Waterbury, Conn., Baltimore, Md., Boonton, Clifton, Paterson, East Brunswick, Bloomfield, Wallington, Passaic, N.J., Cincinnati, Middlefield, Ohio and Sturgeon's Bay, Wis., under a continuing contract with Plastican, Inc. for 180 days. Supporting shipper: Plastican, Inc., 25 Litchfield St., Leominster, Mass. 01453. Send protests to: Joseph W. Balin, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 338 Federal Bldg., & U.S. Courthouse, 436 Dwight St., Springfield, Mass. 01103.

No. MC 140970 (Sub-No. 1TA), filed May 19, 1975. Applicant: NORTH FORK TRUCKING, INC., 235 Main Street, Brookville, Pa. 15825. Applicant's representative: Thomas M. Mulroy, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in dump vehicles, from points in Clarion Township, Clarion County, Pa., to points in Dundee Township, Monroe County, Mich.; *Lime*, in dump vehicles, from Woodville, Ohio to points in Corsica, Pa., under a continuing contract or contracts with Basic Energies, Inc., of Du Bois, Pa., and Fitzsimmons Services, Inc., of Brookvile, Pa., for 180 days. Supporting shipper: Basic Energies, Inc., P.O. Box 511, Kiwanis Trail, Du Bois, Pa. 15801. Fitzsimmons Services, Inc., 235 Main St., Brookville, Pa. 15825. Send protests to: James C. Donaldson, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Bldg., Pittsburgh, Pa. 15222.

No. MC 140990 (Sub-No. 1TA), filed May 22, 1975. Applicant: CORKREN AND COMPANY, INC., P.O. Box 182, Brilliant, Ala. 35548. Applicant's representative: John "Peat" Self, P.O. Box 597, Hamilton, Ala. 35570. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in bulk, in dump vehicles, between points in Alabama, Tennessee, Georgia, and Mississippi, for 180 days. Supporting shipper: Brilliant Coal Company, Inc., P.O. Box 2290, Jasper, Ala. 35501. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Bldg., Birmingham, Ala. 35203.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.75-14983 Filed 6-6-75;8:45 am]

[Notice 57]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

Correction

In FR Doc. 75-13854 appearing at page 23142 in the issue of Wednesday, May 28, 1975, in the middle column on page 23143, in the sixteenth line of "No. MC 118130 (Sub-No. 74TA)", delete "points in" and insert in lieu of "Roswell".

federal register

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DEPARTMENT OF LABOR

Office of Employee Benefits Security

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EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

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[29 CFR Parts 2510, 2520]

EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Notice of Proposed Rulemaking

On December 4, 1974, notice was published in the FEDERAL REGISTER (39 FR 42234) of proposed regulations concerning reporting and disclosure under the Employee Retirement Income Security Act of 1974. On May 5, 1975, a regulation was published (40 FR 19469; see also 40 FR 20628, May 12, 1975), deferring until August 31, 1975, the requirement that plan administrators file with the Secretary of Labor, and furnish to plan participants and beneficiaries, copies of a summary plan description; and that plan administrators file a plan description with the Secretary.

On May 6, 1975, a notice was published (40 FR 19715) that the Department of Labor had begun mailing to plan administrators copies of the official plan description form, EBS–1, and that certain final regulations concerning covered plans, plan descriptions and summary plan descriptions would appear in the FEDERAL REGISTER.

On May 12, 1975, a final rule (40 FR 20629) and a proposed rule (40 FR 20653) redesignating both final and proposed subchapters, parts and sections were published in the FEDERAL REGISTER. Under this redesignation system, the section numbers of proposed and adopted regulations promulgated under Chapter XXV are based on the section numbers of the Act to which each regulation relates.

The December 4, 1974 proposed regulations have been redesignated in accordance with this proposed system.

Because these proposals cover regulatory subject matter, such as a further deferral of the initial reporting and disclosure deadline and guidance concerning coverage of certain types of plans under Title I of the Act, publication of these proposals in final form should be accomplished as soon as possible.

Interested persons are invited to submit written data, views, or arguments concerning proposals contained in this document, on or before July 9, 1975. Such data, views and arguments should be submitted to the Office of Employee Benefits Security, Labor Management Services Administration, U.S. Department of Labor, Washington, D.C. 20216. All comments should be clearly referenced to the number of the sections to which the comments are directed.

Section 2510.3–2. Under proposed § 2510.3–2, severance pay plans are not "employee pension benefit plans" (pension plans) even though payments are made to employees on or after the date on which they terminate employment, provided the payments are completed before normal retirement age. While the term "employee pension benefit plan" encompasses plans which result "in the deferral of income by employees for periods extending to the termination of covered employment or beyond," these plans do not result in a deferral of income of the kind contemplated in section 3(2) of the Act. Furthermore, to categorize such severance plans as pension plans would erode the distinction between "welfare plan," as defined in section 3(1) of the Act, and pension plans. Distributions from welfare plans are related to specific contingencies such as severance before normal retirement, while pension plans are those under which income is deferred, and considerations such as vesting, actuarial reductions for early retirement and the like affect the eventual payment of such deferred income. Consistent with this distinction between pension and welfare plans, section 3(2)(B) covers, for example, profit-sharing plans which provide for payments either at termination of employment or at later dates up to the participant's normal retirement date.

Section 2510.3–3. Since the enactment of the Act, the Labor Department has received numerous inquiries relating to the coverage under Title I of the Act of various types of practices of employers with respect to employees and arrangements between employers and employees. This proposed section, issued under the authority of section 505 of the Act, is designed to resolve some of the questions of coverage which have been raised in these inquiries by clarifying the definition of the term "employee benefit plan" in section 3(3) of the Act. This § 2510.3–3, lists a number of employer-employee practices and arrangements which are not employee benefit plans within the meaning of section 3(3) of the Act. Since under section 4(a) of the Act, only employee benefit plans within the meaning of section 3(3) are subject to Title I, the practices and arrangements listed in this section will not be subject to Title I of the Act.

This section does not purport to present an exhaustive treatment of the statutory definition of employee benefit plans. Moreover, because of the great diversity of arrangements between employers and employees, it is impossible to discuss, or even list, all of them. Consequently, it is not intended that inferences as to the treatment of particular practices and arrangements not listed herein can be drawn from the inclusion or omission of any topic in this section.

Several of the practices listed in this section illustrated the principal that only those plans, funds and programs which provide benefits within the intended scope of the listing of benefits in section 3(1) of the Act are welfare plans. Therefore, such practices as overtime pay (§ 2510.3–3(a)) shift and holiday premiums (§ 2510.3–3(b)), holiday gifts (§ 2510.3–3(c)), discount sales (§ 2510.3–3(d)), on-premises service facilities which do not provide section 3(1) benefits (§ 2510.303(e)), hiring halls (§ 2510.3–3(f)), and pay for jury duty and court testimony (§ 2510.3–3(g)), are not covered by section 3(1). These practices are not welfare plans because they do not provide benefits listed in section 3(1). Because they clearly are not pension plans under section 3(2), they do not constitute employee benefit plans and are not covered by Title I of the Act.

Bonus programs (§ 2510.3–3(h)) are not welfare plans because they do not provide benefits listed in section 3(1). However, unlike practices discussed in the preceding paragraph, they may be pension plans. For example, if payments are systematically deferred to the termination of covered employment or beyond, or so as to provide retirement income to employees, or both, a bonus program may fall within the criteria of section 3(2) and, therefore, constitute a pension plan.

Although first-aid stations (§ 2510.3–3(i)) are instrumental in the provisions of medical care in the event of sickness or accident, and arguably might fall within section 3(1), coverage of such facilities would not be consonant with the Congressional intent. While conferring incidental benefits on employees, these facilities are primarily established and maintained in the context of providing a safe and efficient workplace. The protection which would be afforded to employees if such facilities were treated as employee benefit plans would not justify the costs of Title I compliance. Therefore, first-aid stations are not employee benefit plans under section 3(3) of the Act.

Remembrance funds (§ 2510.3–3(j)) are not employee benefit plans. Although these funds might fall within the literal terms of section 3(1) of the Act, their impact on the continued well-being and security of employees affected by them is too insignificant to warrant coverage under Title I. However, it is not intended that a fund designed to accumulate savings of employees or members of employee organizations to be applied towards funeral expenses would be excluded from coverage under Title I. The assurance that the cost of a funeral will not have to be borne by an employee's survivors is by no means an insignificant contribution to the employee's sense of financial security and peace of mind, and therefore would be covered by Title I.

A strike fund (§ 2510.3–3(k)) is not a welfare plan under section 3(1) of the Act. Although unemployment benefits are among the benefits listed in section 3(1), a strike is not to be equated with unemployment.

An informal employer policy or absences under which employees are permitted to be absent and relieved from duties from time to time without loss of usual compensation, with no commitment that any absence will be so treated, is not a "plan" or "program" (§ 2510.3–3(l)). Those terms contemplate a systematic and predetermined treatment of classes or types of similar situations. An informal policy—where, for example, an employer states that as a general rule, no pay will be deducted from an employee's wages on account of occasional short absences—fails to rise to the level of a plan or program.

Paid sick leave and paid vacations (§ 2510.3–3(m)) are not treated as employee benefit plans because they are associated with regular wages or salary, rather than benefits triggered by contingencies such as hospitalization. More-

over, the abuses which created the impetus for the reforms in Title I were not in this area, and there is no indication that Congress intended to subject these practices to Title I coverage.

Industry advancement programs which serve as mere conduits for insurance payments by member employers to employee benefit plans are not employee benefit plans if they do not provide benefits meeting the criteria of section 3(1) or 3(2) of the Act to employees or their beneficiaries (§ 2510.3–3(n)). The benefit plans to which payments are channeled through such a program, however, may be employee benefit plans if they meet the criteria of section 3(1) or 3(2) of the Act. For example, a funded program maintained by a trade association provides public relations services for the industry, sponsors management, market development and accident prevention seminars, and also transfers funds to health plans maintained by member employers. The program is not an employee benefit plan; the member employers' health benefit plans are.

Although section 3(1) of the Act could be read to include job-skill training within the term "welfare plan", such training is virtually inseparable from an employee's normal duties for which compensation is paid, and therefore is not treated as an employee benefit plan (§ 2510.3–3(o)).

A group insurance program offered by an insurer to employees of an employer or members of an employee organization is not an employee benefit plan if it meets the criteria set forth in proposed § 2510.3–3(p). The program must be on a completely voluntary basis i.e., no employee or member may be required to participate as a condition of employment or membership. The functions of the employer or employee organization must be limited to publicizing the program and handling premium payments through payroll deductions* or dues checkoffs. The employer or employee organization must not make contributions or receive consideration in connection with the program, and must not hold out the program as a benefit of employment or membership. The involvement of the employer or employee organization in such programs is so minimal that the program cannot be said to be "established and maintained by an employer or by an employee organization or by an employee organization or by both,"—a requirement for both welfare plans under section 3(1) of the Act and pension plans under section 3(2).

Under proposed § 2510.3–3(q), a plan fund or program established or maintained by an employer is not an employee benefit plan if no employees (as defined in section 3(6) of the Act and in § 2510.3–6) are participants covered under the plan (as that term is defined in § 2520.104–1 (c), (d) and (e). This rule follows from the definitions of "welfare plan" in section 3(1) of the Act and "pension plan" in section 3(2) of the Act.

In order to constitute a welfare plan under section 3(1), a plan, fund or program must be established or maintained to provide one or more specified types of welfare benefits to its participants or their beneficiaries. Under section 3(7) of the Act, a participant is an employee of an employer or a member or former member of an employee organization. Under section 3(7), with respect to a plan established and maintained by an employer, it is the common law employment relationship which confers the status of participant covered under the plan on an individual. A plan established or maintained by an employer which does not provide welfare benefits to any individual who is an employee (or former employee) or a beneficiary of an employee (or former employee) is not an employee welfare benefit plan within the meaning of section 3(1).

In order to constitute a pension plan under section 3(2), a plan, fund or program must either provide retirement income to employees or result in a deferral of income by employees. If none of the individuals for whom a plan provides retirement income or results in a deferral of income is an employee (or former employee) then the plan is not a pension plan.

One effect of proposed § 2510.3–3(q), when read in conjunction with proposed § 2510.3–6, is that so-called "Keogh" ("H.R. 10") plans which provide contributions or benefits only for employees within the meaning of section 401(c)(1) of the Internal Revenue Code of 1954 ("the Code"), self-employed individuals and owner-employees will generally not be employee pension benefit plans within the meaning of section 3(3) of the Act and, therefore, not covered by Title I. For example, a Keogh plan under which only partners or only a sole proprietor are participants covered under the plan will not be covered under Title I. However, a Keogh plan under which one or more common law employees, in addition to the self-employed individuals themselves, are participants covered under the plan will be covered by Title I.

Section 2510.3–6. Proposed § 2510.3–6 provides that, for purposes of Title I of the Act, sole proprietors of unincorporated trades or businesses and their spouses are not employees with respect to their unincorporated trades or businesses, and partners are not employees with respect to their partnerships.

Under proposed § 2510.3–3(q) a plan, fund or program established or maintained by an employer under which no participant covered under the plan is an employee (or former employee) is not an employee benefit plan under section 3(3) of the Act.

The definition of the term "employee" in section 3(6) of the Act could be read as broadly as section 401(c)(1) of the Code, which sweeps almost any working individual under the term "employee" for purposes of section 401, regardless of common law or other established concepts of the employment relationship. In view of the policies set forth in section 2 of the Act, however, the basic thrust of the protections which Congress provided in Title I is not directed toward so wide a class of individuals. In situations where Title I protections are unnecessary—where the abuses which Congress sought to prevent are unlikely to occur—enforcement of Title I would not only impose unnecessary costs on benefit plans, but also divert resources of the Department of Labor from administering Title I in situations where genuine abuses existed or could arise.

Consequently, the definition of "employee" in section 3(6) of the Act should not be read as broadly as the definition of "employee" in section 401(c)(1) of the Code. Proposed § 2510.3–6 is designed to clarify the extent to which certain classes of individuals are to be treated as employees for purposes of Title I. It is not intended to represent an exhaustive treatment of the term "employee" however, and no inferences should be drawn with respect to situations not expressly discussed therein.

Under proposed § 2510.3–6(a), sole proprietors of unincorporated trades or businesses and their spouses are not treated as employees with respect to such trades or businesses. The sole proprietor and his or her spouse have no need for the protections of Title I with respect to a benefit plan controlled by the sole proprietor. Moreover, neither the sole proprietor nor his or her spouse is generally considered to be an "employee" in ordinary usage of the term.

Under proposed § 2510.3–6(b), partners are not treated as employees with respect to their partnerships. In ordinary usage and under common law, the term "employee" is generally not considered to include a partner. In addition, in a plan or program covering only partners, the protection which Title I was designed to provide is unnecessary, because partners are generally capable of protecting their own interests under existing law.

There may, however, be situations where employer-employee relationships are deliberately structured or restructured as partnerships to evade the requirements of Title I—for example, where a wage-earning clerical employee of a professional partnership is given a minute interest in the partnership in addition to his or her wages. The Department of Labor intends to examine these relationships in light of the policy set forth in section 2 of the Act, and may take the position that some individuals in these situations are in fact, employees under section 3(6) of the Act and entitled to the protection of Title I.

Under proposed § 2510.3–6(b), partnership buy-out agreements described in section 736 of the Code will not be subject to Title I. Specific exemptions for such buy-out agreements from Parts 2, 3 and 4 of Title I appear in sections 201(5), 301(a)(6) and 401(a)(2) respectively. Although there is no specific exemption from Part 1, the legislative history of the Act suggests that section 736 agreements were not intended to be covered by Title I.

In many instances an executive of a smaller or medium-sized corporation who is also a shareholder of the corporation occupies a position with respect to an employee benefit plan maintained by the corporation similar to the position occu-

plied by a partner with respect to a plan maintained by a partnership. No provision for plans covering only such corporate executive-shareholders has been included in proposed § 2510.3–6. In view of the greater complexity of corporate relationships, and in view of the fact that virtually every individual who is an employee of a publicly traded corporation may readily acquire a few shares of the corporation, a blanket exclusion of corporate shareholders from the term "employee" would obviously be inappropriate.

However, plan administrators of plans which cover only corporate executives may be entitled to take advantage of the alternative method of compliance for pension plans for a select group of management or highly compensated employees in § 2520.104–23, or the exemption for welfare plans for certain selected employees in § 2520.104–24.

Section 2520.102–2. Proposed § 2520.-102–2 (§ 2523.25 of the December 4, 1974, proposed regulations) describes the style and format of the summary plan description which must be furnished to participants and beneficiaries.

Several comments raised objections to the requirement that a statement concerning plan termination insurance coverage under Title IV be placed on the front cover. The proposed rule has been modified to require that the statement concerning coverage of benefits under termination insurance need only be noted conspicuously on the first page of text rather than on the cover of a summary plan description booklet. Such notice of coverage should reference the more detailed discussion, located elsewhere in the summary plan description, of any limitations on benefit coverage and the manner in which further information may be obtained on termination insurance.

Plan termination insurance under Title IV does not apply to multiemployer plans until January 1, 1978. Therefore, no requirement is placed on multiemployer plans to include a statement concerning plan termination insurance until January 1, 1978.

Several comments received on the proposed rule also discussed the requirement that assistance be provided to non-English speaking participants if a majority of the participants in one facility covered by the plan were not literate in the English language and were, therefore, unable to fully understand the rights and obligations described in the summary plan description. These comments pointed out the difficulty of defining an employer "facility" for purposes of the regulation and the possibility of a wide variance in the application of this rule as a result of different interpretations of the term, "facility."

The proposed rule has been modified to eliminate this ambiguity and to clarify those situations in which assistance must be provided. In the case either of a plan which has 500 participants literate only in a language other than English or of any employer establishment which has 50 percent or more plan participants who are literate only in a language other than English, assistance must be given in the appropriate language. "Establishment" is defined as that term is used in the Fair Labor Standards Act of 1938, as amended (52 Stat. 1060; 29 U.S.C. 201 et seq.) Regulations under the Fair Labor Standards Act define an "establishment" as "a distinct physical place of business," rather than "an entire business or enterprise." (29 CFR 779.23). This approach treats the problem both on plan-wide basis, where a substantial number of participants justify the requirement that assistance be provided (and may make translation of some materials economically feasible), and on an establishment basis, where a relatively small number of participants in a rather isolated establishment may have the most critical need for assistance and could be aided on an informal basis at modest cost. The assistance which is to be provided may be in the form of oral counseling and need not involve any written material.

Section 2520.102–3. Proposed § 2520.-102–3 (§ 2535.35 in the December 4, 1974, proposed regulations) sets forth the information that must be included in the summary plan description furnished to plan participants and beneficiaries.

Several comments on this regulation noted that the requirement of describing the relevant provisions of any applicable collective-bargaining agreement could be unduly burdensome, as could the requirement that all plan trustees and agents for service of legal process for the plan be listed and identified.

The proposed regulation has been revised to ease the burden, particularly on large multiemployer plans, of describing relevant provisions of applicable collective-bargaining agreements. Large multiemployer plans may involve a great many collective-bargaining agreements, and detailed reporting as to each would be onerous and non-productive. Even for smaller multiemployer plans and single employer plans, the requirement to summarize collective-bargaining provisions would not be justified by the usefulness of the information provided. Accordingly proposed § 2520.102–3 states that the summary plan description need not describe the relevant provisions of all applicable collective-bargaining agreements. Rather, the summary plan description must contain a list of the relevant collective-bargaining agreements and specify the relevant section numbers. Plans with ten or more collective-bargaining agreements are required only to list the organizations which are parties to the collective-bargaining agreements. In addition, the summary plan description should include in a very general sense the topics which are the subject matter of the relevant provisions in collective-bargaining agreements. For example, the rate of contribution to the plan may be identified as one general topic treated in the relevant collective-bargaining agreement provisions.

The requirement to list all the trustees of a plan or agents for service of legal process was retained, as this information could be important to a participant or beneficiary seeking further information or bringing a law suit for the clarification or enforcement of his rights under the plan.

A new paragraph (m) has been added setting forth the requirement to state certain facts, when applicable, concerning provisions set forth in the summary plan description. The new paragraph is addressed to the following situation. Pension plans may have provisions relating to participation, vesting, joint and survivor annuities and the like which are not in compliance with Title I of the Act on May 30, 1976. It may be intended that amendments, retroactive to the first day of the 1976 plan year, will be made at a later date to bring these provisions into compliance. It would be misleading merely to list the provisions currently in force in such a case. The regulation requires that the summary plan description explain the conditional status of such provisions for the 1976 plan year. Specifically, it must identify the provisions that, as set forth, are not in compliance with Title I of the Act, and state the intention to amend those provisions and make the amendments retroactive to the first day of the 1976 plan year. This information will present a significantly more comprehensive and accurate picture of the plan to participants and beneficiaries.

Upon further consideration of the application of the disclosure requirements of the Act to plans funded from union members' dues, a specific reference to this situation was provided in paragraph (s).

Dues-funded welfare plans have a long history in many unions. In a number of cases, they are referred to as funds, and special mention of them is made in union constitutions. It is not uncommon for a portion of individual dues (e.g., $1, of a member's $2.50 payment) to be identified in communications to members as their contribution to a fund or funds. The amounts so collected are often separately identified and allocated in the accounting records of the union.

Typically, however, they are not held in trust by one or more trustees and, therefore, do not obtain the degree of protection—e.g., protection from general creditors of the union—afforded trusteed arrangements. In fact the union is not legally bound to use amounts collected for the plan only for plan purposes. It may use the amounts so identified for plan purposes or for general union purposes. It may also allocate additional amounts from general union funds for plan purposes.

The disclosure requirements of the Act require clear disclosure to participants of non-trusteed, dues-financed plans of the fact that amounts collected in the name of specified plans may potentially be used for other purposes. The regulation proposed by the Department of Labor is directed solely at effectuating the requirement of clear disclosure. There is no intent to require any substantive change in the way such plans are administered; specifically, this regulation does not state or imply that a

formal trust must be imposed on funds collected by unions for dues-paid plans.

Accordingly, paragraph (s) clarified the application of the disclosure requirements of the Act to dues-paid plans as follows: It explicitly calls for a statement in the summary plan description that contributions to the plan may be used for general union purposes, when that is the case. If union documents governing the plan contain statements that contributions may not be used for non-plan purposes, when, in fact, the union uses such funds for non-plan purposes, the regulation states that the summary plan description must also contain an affirmation that the funds are subject to general union use notwithstanding contrary statements in union documents.

The Department recognizes that this is an imperfect method of disclosure. It is proposed as a temporary measure so that unions with documents containing inconsistent statements will not be deemed to be in non-compliance with the disclosure provisions of the Act unless they amend immediately, even at the cost of calling a special convention to revise the union constitution.

The Act is structured to provide clear information to participants and beneficiaries about important aspects of their plans. Contradictions between summary plan descriptions and other plan documents—to which participants and beneficiaries are assured access by the Act—detract from achievement of that end. Accordingly, it is proposed in paragraph (s) that a summary plan description which is still contradicted by other plan documents after a reasonable time has elapsed will no longer be considered in compliance. The intent of this provision is to allow a union to continue normal operations, on the basis of the summary plan description statement and affirmation discussed above, only until the next regular occasion to amend inconsistent documents—in the case of union constitutions, usually the next convention.

Section 2520.102–4. Proposed section 2520.102–4 (§ 2523.22 of the December 4, 1974, proposed regulations) provides an option to prepare different summary plan descriptions for various classes of participants or beneficiaries, within the requirement of section 104(b)(1) of the Act that a summary plan description be furnished to certain participants and beneficiaries covered under the plan.

The comments to the December 4 proposed regulations contained objections to the requirement that the plan administrator who elects this option must list on the cover of the summary plan description booklet the classes of participants for which different summary plan descriptions have been prepared. The listing could be quite lengthy, and would affect the attractiveness of the plan booklet's cover. A long listing of various classes of participants and beneficiaries on the cover page could also mislead or confuse a reader of the summary plan description. Therefore, this proposed regulation has been modified to require that the listing of the various classes of participants and beneficiaries for whom different summary plan descriptions have been prepared be clearly identified on the first page of text. Under this requirement, a long listing of classes would not dominate or overwhelm the entire cover of the summary plan description.

Section 2520.104–2. Proposed section 2520.104–2 (§ 2520.30 of the December 4, 1974, proposed regulations) provides a postponement of the effective date of the annual reporting requirements for an employee benefit plan having a plan year other than a calendar year and an extension of the WPPDA reporting requirements for such plans.

The comments received on the December 4 proposed regulation requested clarification of filing dates for the last annual report under the WPPDA and the first annual report under ERISA. This proposed regulation has been revised by clarifying the requirements and also by providing a more detailed example of the effect of the regulation. In addition, this proposal has been revised to clarify the postponement of the disclosure requirements to make copies of the latest annual report available for inspection and to furnish such reports to a participant or beneficiary upon request. Under this proposed regulation such disclosure is not necessary until the filing of the first annual report under ERISA.

Section 2520.104–3. Section 2520.104–3 proposes to amend the present § 2520.104–3, published in the FEDERAL REGISTER on May 5, 1975 (40 FR 19469, see also 40 FR 20628, May 12, 1975), to defer the reporting and disclosure dates for certain provisions of Part 1, Title I of the Act until May 30, 1976. Under the provisions of Part 1 and the December 4, 1974 proposed regulations, administrators of plans subject to Part 1 on January 1, 1975 were required to file a plan description and a copy of the summary plan description with the Secretary and to furnish a summary plan description to plan participants and certain beneficiaries by April 30, 1975. Several comments were received recommending an extension of this reporting and disclosure date to allow plan administrators sufficient time to adequately prepare the required documents. In view of these comments, the April 30, 1975 reporting and disclosure date was deferred until August 31, 1975 by § 2520.104–3, promulgated on May 5, 1975.

An analysis by the Department of Labor of the effect of the August 31, 1975 deadline, re-evaluation of the comments on the December 4, 1974 proposed regulations and consideration of subsequently received comments demonstrate that a further deferral is necessary. Plan administrators would not have enough time to gather records and data necessary to prepare and disclose the initially required documents by August 31, 1975. Moreover, amendments to pension plans required to comply with structural fiduciary requirements of Part 4 of Title I of the Act may be deferred for some plans to December 31, 1975 under regulations of the Department of Labor. Therefore, reports and descriptions made in 1975 might reflect provisions that would shortly be amended. By providing an opportunity to submit these documents after amendments are due, the May 30, 1976 date permits preparation of more useful documents and avoids early amendments to them.

It was therefore determined that a deferral of the August 31, 1975 reporting and disclosure deadline to May 30, 1976 would be in the best interests of all concerned. Plan participants will receive much better plan documents, plans will be able to avoid the substantial burdens created by a premature reporting and disclosure date, and the Department of Labor will receive complete and timely filed documents.

This regulation proposes deferral of the reporting and disclosure deadline until May 30, 1976. The deferral applies only to plans subject to Part 1 of Title I of the Act on or before January 31, 1976. In effect, the deferral operates as an exception to several provisions of Part 1.

First, the deferral is an exception to the general rule that a plan administrator must report and disclose certain documents within 120 days after the plan becomes subject to Part 1. Plans subject to Part 1 on or before January 31, 1976 may defer both the initial disclosure of the summary plan description and the initial filing of the plan description and a copy of the summary plan description until May 30, 1976. These plans are, however, required to file a short form plan description—consisting of the first two pages of Department of Labor Form EBS–1 and the signature page (item 38 only)—with the Secretary of Labor before May 30, 1976. Those plans subject to Part 1 on or before May 4, 1975 must file the short form plan description by August 31, 1975. Plans which become subject to Part 1 on a date after May 4, 1975 must file the short form plan description within 120 days of such date. The short form plan description will be used by the Department as an aid in making determinations about plan coverage and reporting and disclosure requirements.

Second, in the case of certain pension plans, the deferral operates as an exception to the general rule that a plan administrator must furnish plan participants and certain beneficiaries with summaries of material modifications to the plan within 120 days after the end of the plan year in which they are adopted. Under the alternative to defer the initial reporting and disclosure requirements, the regulation reduces the period for furnishing summaries of specific matreial modifications to ensure timely filing consistent with provisions of the Act. Some pension plans may not be amended to comply with certain provisions of the Act e.g. minimum participation and vesting standards, by the first day of the plan year beginning in 1976. Rather, these plans will be subsequently amended and the amendments, when made, will be retroactive to the first day of the 1976 plan year. The administrator of such plans is required to disclose summaries of these amendments within 120 days after they are made.

Other pension plans will be amended to comply with certain provisions of the Act on the first day of the 1976 plan year or at a later date, but will make these amendments conditional upon a determination by the Internal Revenue Service that the amendments meet the requirements of the Internal Revenue Code for tax qualification. These plans must disclose summaries of these amendments within 120 days after receiving the determination.

Section 2520.104–4. Some of the comments received in response to publication of the December 4, 1974 proposed regulations suggested special provisions for pension plans which have absorbed other pension plans through a merger or other acquisition. Such a merger could create a limited class of participants and beneficiaries who still have "grandfathered" benefit rights under the provisions of the old merged or acquired plan. This class of participants and beneficiaries would be affected by provisions of both the old plan and the successor plan. Those who are participants and beneficiaries only of the successor plan would not be affected by the provisions of the old plan or plans. Therefore, inclusion of relevant provisions of the old plan in a summary plan description furnished to all participants and beneficiaries of the successor plan would be useless for many of them, and might confuse or mislead them. Accordingly, § 2520.104–4 proposes an alternative method of compliance under section 110 of the Act for certain successor pension plans.

To elect this alternative method of compliance, a successor pension plan must have furnished, at the time of the merger, certain documents to participants covered under the plan, beneficiaries receiving benefits under the plan, and former employees with vested benefits. These documents include a copy of the summary plan description or plan booklet of the new successor plan, and descriptions of the merger agreement and any transitional provisions affecting benefits of participants and beneficiaries. A copy of the old plan summary description must also have been made available, without charge, at the same time.

The summary plan description which must be furnished by the successor plan under this alternative method of compliance need not describe the relevant provisions of any old plan. Similarly, a summary plan description of the provisions of any old plan need not be filed with the Secretary of Labor. However, the successor plan must furnish a summary plan description which lists on the first page of the text the class or classes of participants and beneficiaries still affected by the provisions of any former plan. In this way, all participants and beneficiaries will be made aware of the various classes or groups which are still affected by relevant provisions of a former plan. The summary plan description must also state that a copy of the summary plan description or plan booklet of any old plan will be furnished to any participant or beneficiary upon request, so that a participant or beneficiary who may have lost or misplaced his old plan booklet may obtain another copy.

Section 2520.104–20. Proposed § 2520.104–20 (§ 2521.10 of the December 4 proposed regulations) provides an exemption from filing requirements for certain welfare plans.

Although most of the comments received indicated that the exemption set forth by the proposed rule would provide essential relief to certain small welfare plans from the expensive and burdensome task of filing various reports with the Secretary of Labor, some comments suggested that the exemption was not sufficiently broad. Several urged that the exemption be extended to all unfunded or totally insured welfare plans, regardless of size, while others urged that totally insured plans which furnish copies of an insurance certificate to participants and beneficiaries should be exempt from the requirement of furnishing a summary plan description.

The exemption provided in this proposed rule is based on the assumption that certain reporting requirements of Title I of the Act are inappropriate as applied to many small unfunded or totally insured welfare plans. For this reason, only those plans with fewer than 100 participants, which could be totally overwhelmed by the expense and administrative burden of all the reporting and disclosure requirements, have been exempted.

Although the exemption is intended to ease the burden on small welfare plans to the greatest extent possible, an exemption from the requirement of furnishing a summary plan description to participants and beneficiaries would frustrate the purposes of the Act. Disclosure to participants and beneficiaries concerning their rights and obligations under the plan and the Act would not be guaranteed through the distribution of insurance certificates.

This proposed rule has been modified in response to comments which pointed out that the exemption from filing certain reports with the Secretary must also apply to the requirements that these documents be furnished upon written request or made available in the principal office of the plan administrator. For example, a plan which is not required to file an EBS–1 form with the Secretary of Labor is also exempted from the requirement of section 104(b)(4) that a plan description be furnished upon written request and the requirement of section 104(b)(2) that a copy of the plan description be made available in the principal office of the plan administrator.

In addition, the language of the regulation describing what type of small welfare plans are subject to the exemption has been made consistent throughout the regulation to avoid confusion. The exemption applies to welfare benefit plans with fewer than 100 participants "for which benefits are paid as needed solely from the general assets of the employer or employee organization maintaining the plan or the benefits of which are provided exclusively through insurance contracts or policies, the premiums for which are paid directly by the employer or employee organization from its general assets, issued by an insurance company or similar organization which is qualified to do business in any State, or both." An additional phrase, not in the definition proposed in the December 4 regulation, has been added to distinguish a totally insured plan which pays premiums directly from the employer's assets from a totally insured plan which uses a trust fund or other entity as a conduit for the payment of insurance premiums.

A question has been raised concerning the applicability of this exemption to small welfare plans which are funded by both employer and employee contributions. For purposes of this proposed rule, only a plan which is funded solely from the general assets of the employer or employee organization maintaining the plan will be eligible for this exemption.

The Secretary anticipates issuance of a regulation requiring each exempted plan to file an identification statement for the purposes of establishing a list of welfare plans covered by the Act which could be used to facilitate requests for information from and about these plans in the future. Details of the content of the identification statement and the time for filing will be set forth in that regulation.

Section 2520.104–21. Comments received in response to § 2521.10 of the December 4, 1974 proposed regulations (providing an exemption from filing requirements for certain welfare plans) raised questions concerning the applicability of this exemption to totally insured welfare plans which are part of a group insurance arrangement. As a result of these comments and further consideration and study of the characteristics of group insurance arrangements, frequently used by groups of small unaffiliated employers or by trade associations representing employers in order to obtain group insurance rates, a limited exemption is proposed under the authority of section 104(a)(3) of the Act.

The proposed rule provides an exemption from certain reporting and disclosure requirements for welfare plans with fewer than 100 participants which are part of a group insurance arrangement, if such arrangement meets certain conditions. The arrangement must (1) involve two or more unaffiliated employers, (2) fully insure the welfare benefit plan or plans of these employers, through insurance contracts purchased solely by the employers, with all benefit payments made directly by the insurance company, and (3) use a trust or other entity, such as a trade association, as the legal owner of the insurance contracts and the conduit for payment of premiums to the insurance company.

A plan is eligible for this exemption even though former participants covered under the plan continue insurance coverage by making premium payments on their own. For example, a retired participant is no longer given coverage paid for by the employer but is able to purchase coverage of benefits offered under the plan at group insurance rates. These plans would not be required to file a plan description, copy of the summary plan

description, description of a material modification in the terms of the plan or change in the information required to be included in the plan description, and any terminal report. Similarly, these plans will be exempt from disclosing the plan description and any terminal report, either upon written request of a participant or beneficiary or by making these documents available for inspection in the principal office of the plan administrator. These plans, however, would not be exempt from the requirements of furnishing to participants and beneficiaries of the plan a summary plan description and updated summary plan descriptions, as required by section 104(b)(1) of the Act.

It should also be noted that this proposed rule does not include an exemption from the provision of section 104(a)(1)(A) of the Act which requires that plan administrators file an annual report with the Secretary of Labor, nor does the exemption extend to section 104(b)(3) of the Act, which requires that certain portions of the annual report be furnished to participants and beneficiaries of the plan.

The Secretary of Labor intends to propose further regulations which will provide simplified annual reporting procedures designed to obtain certain financial information from the trust fund or other entity which acts as the conduit for the insurance premiums in these group arrangements. These regulations would provide that the trust or other entity may, with the consent of the plan administrator, stand in the place of the plan for purposes of preparing, filing and disclosing a simplified annual report. The intent is to provide necessary information about the trust or other entity without imposing costly reporting requirements on the plans involved.

Section 2520.104–22. Proposed § 2520.104–22 sets forth a limited exemption from the reporting and disclosure provisions of Part 1 of Title I of the Act for plans which provide only apprenticeship training benefits. Although the December 4, 1974 proposed regulations did not include a provision specifically dealing with apprenticeship plans, several comments, particularly those pertaining to the exemptions from filing requirements for certain welfare plans (§ 2521.10) were received indicating that these plans should be excluded from Part 1.

The Department of Labor's consideration of this matter disclosed persuasive reasons why full application of the reporting and disclosure provisions of Part 1 would be inappropriate with respect to apprenticeship plans. Apprenticeship plans do not have participants in the same sense as typical welfare plans. The journeymen in a trade with an apprenticeship plan do not receive training or any other direct benefit from the apprenticeship program. Their only interest is the general one of preserving existing trade skills and practices. Thus the journeymen are not participants in a conventional sense, although the funding for apprenticeship plans frequently is provided by employers for the account of journeymen; that is, certain amounts are contributed to the plan, according to collective bargaining agreements, based on hours worked or earnings of journeymen. The apprentices who do receive training are a much smaller group, which changes in composition continuously as new apprentices join and others either drop out or graduate to journeymen status.

Therefore, application of all of the provisions of Part 1 would provide little benefit to the plan participants and beneficiaries and would, at the same time, impose a burden on the operation of these plans. For example, furnishing summary plan descriptions to all journeymen on whose account employer contributions are made would be costly and unproductive.

However, it is proposed that apprenticeship plans not be exempted from all of the provisions of Part 1 at this time. The legislative history suggests that, if there are no substantial reasons to the contrary, apprenticeship plans be exempted from the reporting requirements of Part 1. Such a determination must be a knowledgeable one. Information such as the initial level of assets of the plan, the type of management, the existence of a trust, is essential to a proper determination that there will be no adverse circumstances resulting from a complete exemption of apprenticeship plans.

In view of the comments received, analysis by the Department of Labor and the need for additional information, it was determined that apprenticeship plans would be exempted from all but certain enumerated provisions of Part 1, Title I of the Act. The regulation specifies that an administrator of an apprenticeship plan is exempted from all the provisions of Part 1 except for the requirements to file a short form plan description (applicable only to plans subject to Part 1 on or before January 31, 1976), an initial plan description, and an annual report.

Section 2520.104–23. Proposed § 2520.104–23, under the authority of section 110 of the Act, provides an alternative method of compliance for unfunded pension plans for certain select employees. This section was developed in response to comments on the December 4, 1974, proposed regulations which pointed out that highly compensated and management employees generally have ready access to information concerning their rights and obligations under benefit plans covering them and do not need the protections afforded by the reporting and disclosure provisions of Part 1 of Title I of the Act.

Proposed § 2520.104–23 permits the administrator of an unfunded or insured plan maintained by an employer primarily for the purpose of providing deferred compensation to a select group of management or highly compensated employees to satisfy the reporting and disclosure requirements of Part 1 of Title I of the Act by filing with the Secretary of Labor a statement that the employer maintains such plans and by providing plan documents to the Secretary as requested under section 104(a)(1) of the Act. Only one statement need be filed with the Secretary for each employer maintaining one or more such plans. The statement must be filed on or before August 31, 1975, with respect to an employer maintaining such plans which are in existence on May 4, 1975. With respect to an employer maintaining such plans, none of which is subject to Part 1 of Title I of the Act on May 4, 1975, the statement must be filed within 120 days after the first such plan becomes subject to the Act.

Proposed § 2520.104–23 provides no definition of the term "select group of management or highly compensated employees." There are a number of issues involved in framing such a definition. For example, a test of high compensation based on annual income seems unsatisfactory because of regional and industry variations. In addition, the use of similar terms in sections 201(2), 301(a)(3) and 401(a)(1) of Title I of the Act and sections 401(a)(4)(C) and 410(b)(1)(B) of the Internal Revenue Code of 1954, raises problems extending beyond § 2520.104–23 in scope. The Department of Labor solicits comments on the appropriate scope of this term. Pursuant to section 110 of the Act, the Secretary proposes to make the following findings with respect to the alternative method of compliance for pension plans for certain selected employees in proposed § 2520.104–23:

(1) The use of this alternative method of compliance is consistent with the purposes of Title I to the Act, and provides adequate reporting to the Secretary and adequate disclosure to the participants and beneficiaries in plans with respect to which it is available. The class of employees with respect to whom this alternative method of compliance applies—highly compensated or management employees—generally have ready access to information concerning their rights and obligations and do not need the protections afforded them by Part 1 of Title I of the Act. In addition, the possibility of breaches of fiduciary responsibilities is decreased because this alternative method of compliance applies only to unfunded pension plans. Consequently, reporting requirements geared to the enforcement of the fiduciary responsibility provisions of Title I, such as certain portions of the annual report, become less important.

(2) Application of the reporting and disclosure requirements of Part 1 of Title I would increase the administration costs of plans to which this alternative method applies. The imposition of the reporting and disclosure requirements of Part 1 of Title I of the Act on unfunded pension plans maintained by employers primarily for the purpose of providing deferred compensation for select groups of management or highly compensated employees would entail wasteful expenses associated with the preparation, printing and distribution of unnecessary materials.

(3) The application of Part 1 of Title I to unfunded pension plans maintained

by employers primarily for the purpose of providing deferred compensation for select groups of management or highly compensated employees would be adverse to the interest of plan participants in the aggregate. Imposition of these requirements might cause employers to eliminate such plans altogether or curtail benefits offered under such plans.

Section 2520.104–24. Proposed § 2520.104–24, under the authority of section 104(a)(3) of the Act, exempts unfunded or insured welfare plans maintained by an employer for the purpose of providing benefits for a select group of management or highly compensated employees from the reporting and disclosure provisions of Part 1 of Title I of the Act, except for the requirement to provide plan documents to the Secretary upon request under section 104(a)(1) of the Act.

The reasoning in § 2520.104–23 underlying the alternative method of compliance for pension plans for certain select employees applies with equal force to welfare plans for the same class of employees. Participants in these plans generally have ready access to information concerning their rights and obligations under them, and do not need the protections afforded by the reporting and disclosure provisions of the Act. The requirement that plans exempt under proposed § 2520.104–24 be unfunded or insured greatly reduces the need for reporting and disclosure requirements geared to enforcement of the fiduciary provisions.

Section 2520.104–25. Proposed § 2520.104–25 exempts day care centers from almost all the reporting and disclosure provisions of Part 1 of Title I of the Act. Section 104(a)(3) of the Act permits the Secretary of Labor to exempt any welfare benefit plan from all or part of the reporting and disclosure requirements of Title I, if he finds that such requirements are inappropriate as applied to such plan.

Day care centers are specifically included in the definition of "welfare plan" in section 3(1) of the Act. However, the Labor Department is unaware of any mention of abuses in this area in the legislative history, or of evidence which would warrant imposition of the reporting and disclosure requirements of Part 1 of Title I of the Act. In addition, there is evidence in the legislative history of the Act that Congress intended that day care centers be exempt from reporting under the Act unless such reporting is found to be necessary. For these reasons and because of the expense which the imposition of these requirements would cause for day care centers, the reporting and disclosure requirements of Part 1 of Title I of the Act are inappropriate as applied to them.

General Reporting Requirements

Proposed § 2520.104a–1 (§ 2522.1 of the December 4, 1974 proposed regulations) states, in general terms, the manner in which a plan administrator must fulfill the requirements of Part 1, Title I of the Act relating to filing certain reports and documents with the Secretary of Labor. No comments were received on this regulation and it remains substantially the same as the December 4, 1974, proposed regulation. The filing address has been deleted and is now set forth in those regulations specifically requiring a filing.

Section 2520.104a–2. Section 2520.104a–2 (§§ 2522.10 and 2522.20 in the December 4, 1974 proposed regulations) sets forth the requirements pertaining to filing the plan description with the Secretary of Labor. The general rule for fulfilling this obligation requires filing of the plan description with the Secretary of Labor within 120 days after the plan first becomes subject to Part 1, of Title I of the Act. This general rule applies only to plans which become subject to Part 1 after January 31, 1976. Plans subject to Part 1 on or before January 31, 1976 are required to file on or before May 30, 1976 under the special deferral rule set forth in § 2520.104–3. All plan descriptions must be filed on Department of Labor Form EBS–1. A filing address is supplied.

Section 2520.104a–3. Section 2520.104a–3 (§§ 2522.30, 2522.35 and 2522.40 of the December 4, 1974 proposed regulations) states the procedure for filing a copy of the summary plan description with the Secretary of Labor. The general rule is that a copy of the summary plan description must be filed on or before the last day for furnishing copies of it to plan participants and beneficiaries. Section 2520.104a–3 refers to other proposed regulations which set forth the different dates for furnishing copies of summary plan descriptions under various circumstances.

If a plan administrator files both a copy of the summary plan description and the plan description at the same time, the proposed regulations provide that both documents shall be filed together, in the same package. This method of filing will contribute to the efficiency of the filing process without cost or inconvenience for plan administrators.

The rules for filing copies of multiple summary plan descriptions for one plan also appear in the proposed regulation. A copy of each summary plan description used by the plan must be filed, plus a list identifying all of them. The employer's name and IRS employer identification number (EIN) must be on each description filed and on the list of descriptions.

Under §§ 2522.40 and 2523.30 of the December 4, 1974 proposed regulations, a plan administrator would have been permitted to use form EBS–1 to satisfy the requirements of filing a copy of the summary plan description with the Secretary under section 104(a)(1)(C) of the Act and furnishing copies of the summary plan description to participants covered under the plan and beneficiaries receiving benefits under the plan under section 104(b)(1) of the Act. Because the proposed deferral of the initial reporting and disclosure deadline to May 30, 1976 (under proposed § 2520.104–3) affords a substantial period of time for the development of a summary plan description, it is no longer necessary to allow disclosure by means of form EBS–1 as the earlier proposal provided. However, prior to publication of this proposed regulation, some plan administrators will have relied on the earlier deferral of the initial reporting and disclosure date to August 31, 1975, which was issued in final form as 29 CFR 2520.104–3 on April 30, 1975 (40 FR 19469; see also 40 FR 20628, May 12, 1975) and on §§ 2522.40 and 2523.30 of the December 4, 1974 proposed regulations. Although, strictly speaking, it could be argued that these plan administrators relied on the proposed regulations at their own peril, it would be unfair to penalize them by requiring filing and distribution to participants and beneficiaries of a second summary plan description, particularly when they have attempted to meet the requirements of the Department of Labor in a timely fashion. Therefore, plan administrators who have filed copies of the Form EBS–1 with the Secretary of Labor on or before June 16, 1975 to satisfy the summary plan description filing requirement will be deemed to have satisfied the requirements of sections 104(a)(1)(C) and 104(b)(1) of the Act and of proposed §§ 2520.104a–3 and 2520.104b–2.

Section 2520.104a–4. Proposed § 2520.104a–4 states rules and procedures for filing with the Secretary material modifications to the plan and changes in information required to be reported in the plan description, pursuant to the provisions of sections 101(b), 102(a), and 104(a)(1)(D) of the Act. The December 4, 1974 proposal contained no similar regulation. However, an analysis by the Department of Labor and certain comments demonstrated a need for guidance regarding these statutory provisions.

The proposed regulation requires that a plan administrator file any material modification to the plan or change in information required to be included in the plan description within sixty days after the adoption or occurrence of the modification or change. The effect of a retroactive plan amendment is clarified: for purposes of the proposal, an amendment is adopted on the date that it is made, irrespective of when it is applied. Material modifications and changes in information must be reported on Department of Labor Form EBS–1. An address for reporting is supplied.

The effect of a timely incorporation of the material modification or change in information in either the initial plan description or an updated plan description is explained. A plan administrator is not required to report a material modification or change in information which is adopted or occurs prior to filing the initial plan description. Nor is a plan administrator required to report separately a material modification or change in information when such modification or change is incorporated in an updated plan description and the updated plan description is filed prior to the expiration of the 60-day period for reporting the modification or change. For applicable rules regarding filing of material modifications and changes in plan description information for plans subject to the deferral of the filing date for the initial plan description, see § 2520.104–3.

Section 2520.104b–1. Proposed 2520.-104b–1 (§§ 2523.1, 2523.10, and 2523.20 of the December 4, 1974 proposed regulations) describes the general requirements for fulfilling the disclosure obligation.

Comments were received on these proposed rules which have been redesignated paragraphs (a) and (b) of § 2520.104–1. These paragraphs have been republished as proposed rules which contain no substantive changes from their counterparts in the December 4, 1974 proposed regulations. In response to comments received by the Labor Department on § 2523.20 of the December 4 proposal (dealing with the obligation to furnish a summary plan description), paragraphs (c), (d), and (e), defining the class of participants who are entitled to receive certain plan documents, have been proposed.

Several comments received by the Labor Department objected to the requirement that plan documents which must be furnished to all participants and beneficiaries be sent by first-class mail unless another method of delivery is at least as likely to result in full distribution. The comments pointed out that this requirement imposed a more substantial cost burden on plans than other methods of delivery. However, after consideration of these comments, the specific mention of first-class mail as an approved method of delivery was retained because first-class mail ensures that plan documents will be forwarded to participants and beneficiaries for whom the plan has no up-to-date address.

Other comments suggested that plan administrators should be permitted to use union periodicals as a method for distribution of plan documents. The proposed regulation suggests that inserts in such periodicals may be an adequate means of furnishing materials under certain conditions. The periodical containing the insert would have to be mailed first class; the mailing list would have to ensure comprehensive and up-to-date coverage of the group to be reached, and the periodical would have to feature a prominent frontpage notice that the issue contained an insert with important information about readers' rights under the employee benefit plan and the Act which they should read and retain.

In an effort to clarify disclosure under section 104(b)(2) of the Act which requires that plan documents be made available for examination by participants and beneficiaries in "the principal office of the administrator and in such other places as may be necessary to make available all pertinent information to all participants", paragraphs 2, 3, 4, and 5 of section 104b–1(b) have been proposed. These paragraphs define the locations in which documents must be made available for examination as an employer establishment in which at least 50 participants are working, in the case of a plan maintained by an employer, or a union's local meeting hall, in the case of a plan maintained by an employee organization. The term "establishment" has been defined as a separate physical location where business is conducted or where services or industrial operations are performed. This definition is based on the use of the term "establishment" under the Fair Labor Standards Act of 1938, as amended, (52 Stat. 1060; 29 U.S.C. 201 et seq.) as set forth in the regulations at 29 CFR 779.24 and the regulations at 29 CFR 1903.2 under the Occupational Safety and Health Act of 1970 (84 Stat. 1590; 29 U.S.C. 651). When employees engage in activities which are physically dispersed, the "establishment" is considered the place where employees report to begin their work or the location from which employees customarily carry out their operations, such as the central sales office for a traveling salesman, or the field office of an engineering firm.

In essence, the proposed regulation also defines the requirement that plan documents be "made available for examination." The documents need not be physically kept at the required employer establishment or local meeting hall if they can be provided for examination within three working days after a participant has made a request for at the required employee establishment or local meeting hall if they can be provided for examination within two working days after a participant has made a request for disclosure. For example, a plan which has access to a means by which plan documents could be rapidly transported to far-flung worksites might choose to maintain the copies of the plan documents at a few key locations. However, the documents must be provided to any participant requesting disclosure at an employer establishment or union local meeting hall, as defined in the regulation, within three working days.

A number of the comments received by the Labor Department on the proposed regulation dealing with the obligation to furnish the summary plan description suggested that future regulations ought to include provisions defining the class of participants to whom certain plan documents (such as the summary plan description and portions of the annual report) must be furnished under section 101(a) and 104(b)(1) of the Act without charge and without written request. In the absence of such provisions, the proposed regulations apparently required that these documents be furnished to all individuals who were participants within the meaning of section 3(7) of the Act. Section 3(7) is broad enough to include many individuals whose interest in an employee benefit plan is minimal. For example, since former employees who had no vested benefits when they left the employment of an employer maintaining a pension plan might at some future date return to employment with the employer and ultimately become entitled to benefits under the plan, they would be participants within the meaning of section 3(7) of the Act. The comments pointed out that the additional cost burdens which would be imposed on plans by requiring distribution of plan documents to a large number of individuals who have no material interest in the plan—costs which in many cases would ultimately be borne by plan participants and beneficiaries in the form of reduced benefits—could not be justified by significant increases in the degree of protection afforded to employees.

In response to these comments, paragraphs (c), (d) and (e) of proposed § 2520.104b–1 define the class of participants which is entitled to receive copies of certain plan documents without charge and without request under sections 101(a) and 104(b)(1) of the Act. Under section 101(a) of the Act, these documents must be furnished to each "participant covered under the plan," not to each participant. By using the term "participant covered under the plan" Congress provided a ground for distinguishing between the class of all participants included within the meaning of section 3(7) of the Act and the class of participants who are entitled to receive copies of plan documents without charge and without request. Accordingly, paragraphs (c), (d) and (e) define the term "participants covered under the plan."

Although under these paragraphs participants who are not covered under the plan will not be entitled to receive plan documents without charge and without request, they will be entitled to access to plan documents which the plan administrator must make available to all participants at appropriate locations under section 104(b)(2) of the Act. They may also obtain copies of certain plan documents—including those which must be furnished to participants covered under the plan—upon written request at a reasonable charge under section 104(b)(4) of the Act and proposed § 2520.104b–30. These disclosure rights are sufficient to ensure that participants who are not covered under the plan and, therefore, not entitled to free distribution of plan documents will be able to obtain such information as may be necessary to protect their rights. For example, in the event of a dispute between an employee of an employer maintaining the plan and plan officials as to the employee's status as a participant covered under the plan, the plan officials will not be able to deny the participant access to plan documents which they must make available under section 104(b)(2) of the Act.

Because of fundamental differences between welfare and pension plans, paragraphs (c), (d) and (e) generally treat the two types of plans differently. For welfare plans, an individual becomes a participant covered under the plan on the earlier of the date designated by the plan as the date on which the individual begins participation, the date on which the individual first receives benefits under the plan, the date on which the individual first becomes eligible to receive a benefit under the plan (for example, in the case of a plan providing hospital care, the date on which the individual becomes eligible to receive such care, regardless of whether he or she has a need for it on that date) or the date on which the individual makes a contribution to the

plan (under a plan providing for employee contributions). Thus, a plan could not define "participant" so as to prevent an employee from receiving plan documents after the employee made his or her first contriution to the plan.

Under a welfare plan an individual ceases to be a participant covered under the plan on the earliest date on which the individual is neither eligible to receive benefits nor designated as a participant by the plan.

In the case of pension plans, a distinction must be drawn between plans subject to Part 2 of Title I of the Act, which prescribes mandatory participation standards, and plans not subject to Part 2. Under proposed § 2520.104b–1(c), a plan subject to Part 2 will generally be able to apply its own participation rules to determine when an individual becomes a participant covered under the plan, unless the plan provides for employee contributions to be made earlier than an employee's date of participation.

However, since these regulations will also be applicable to plans which have not yet become subject to Part 2—such as non-calendar year plans in existence on January 1, 1974 which are not amended to comply with the requirements of Part 2 before the initial deadline for furnishing the summary plan description on May 30, 1976—such plans must be dealt with. Some of these plans will already have participation rules for active (non-retired) employees: Such plans, like plans which are subject to Part 2, may give effect to their own participation rules, provided that participation is not deferred until after the first employee contribution. Plans which have no participation rules but provide for employee contributions must treat all individuals who have made contributions as participants covered under the plan. Plans which neither provide for employee contributions nor have participation rules for active employees present a problem: Comments received suggested that merely to treat as participants covered under such a plan all employees of an employer maintaining such a plan, or, in the case of a multiemployer plan, all employees whose employment, however brief, entered into the computation base for employer contributions, would impose an unjustifiably costly burden on the plan. Many such employees would leave employment in a very short time with no prospects of ultimately receiving benefits. The interest of such individuals in the plan would be minimal. Consequently, proposed § 2520.104b–1(c) requires employees to complete a year of employment before becoming participants covered under such plans. The period of a year was chosen as a reasonable period which will ensure that participants covered under a plan will have some interest in the plan. It is anticipated that the administrator of such a plan will make a reasonable determination of what constitutes a year of employment. This rule will, of course, no longer be applicable after the plan adopts participation rules which comply with the Part 2 standards.

All pension plans are permitted to treat an employee who has incurred a 1-year break in service as having terminated his or her status as a participant covered under the plan until the participant completes a year of service after returning. The terms "1-year break in service" and "year of service" are to have the same meaning as in sections 203(b)(3)(A) and 203(b)(2)(A) of the Act respectively for plans subject to Part 2 of Title I of the Act; plans not yet subject to Part 2 may define these terms themselves, although they are restricted generally in amending their definitions by section 211(e)(1) of the Act.

In response to comments, proposed § 2520.104b–1(d)(2) provides that an individual who has received a legally enforceable insurance or annuity contract which represents the balance to his or her credit under a pension plan, and an individual who has received a distribution representing the balance to his or her credit under a pension plan, are not to be treated as participants covered under the plan. Because these individuals will no longer look to the plan for their benefits, to furnish them with plan documents would be costly to the plan and confusing to them.

Section 2520.104b–2. Proposed § 2520.104b–2(a) (§ 2523.35 of the December 4, 1974, proposed regulations) relates to the obligation to furnish the summary plan description.

Proposed § 2520.104b–2(a) essentially restates section 104(b)(1) of the Act with adjustments for the deferral of the initial reporting and disclosure deadline to May 30, 1976. Administrators of plans subject to the deferral—that is, administrators of plans subject to Part 1 of Title I of the Act on January 31, 1976—must furnish copies of the summary plan description to individuals who are participants covered under the plan or beneficiaries receiving benefits under the plan (other than participants' dependents receiving benefits under a welfare plan) as of March 2, 1976. Other plans must distribute copies of the summary plan description to participants covered under the plan and beneficiaries receiving benefits under pension plans in accordance with the requirements of section 104(b)(1) of the Act.

As in the December 4, 1974 proposal, this regulation does not require that participants' dependents receiving benefits under a welfare plan receive copies of the summary plan description. This provision, based on the assumption that the participant's copy would be available to his or her dependents, was designed to reduce wasteful costs to welfare plans. However, this proposed regulation, unlike the December 4 proposal, requires that a copy of the summary plan description must be furnished without charge to such a beneficiary upon request.

Under a pension plan a beneficiary generally receives benefits only after the death of the participants by whom the beneficiary was designated—typically the beneficiary's spouse. Thus, a beneficiary under a pension plan will generally need a separate copy of the summary plan description. Under a welfare plan, however, the beneficiary will generally be eligible for benefits only while his or her participant remains a participant covered under the plan, in which case the participant's copy of the summary plan description should suffice for both participant and beneficiary if the beneficiary has access to the participant's copy.

As comments to the earlier draft pointed out, it cannot be assumed that every beneficiary of a participant, or even every beneficiary who is a dependent of a participant, will have access to the participant's copy of the summary plan description. For example, some spouses will be separated and, in some cases, welfare plans provide benefits to beneficiaries whose participants are no longer participants covered under the plan. To deal with these exceptional situations by trying to determine whether each beneficiary has access to a participant's copy of the summary plan description would cause severe administrative problems, both for plan administrators and for the Department of Labor. Proposed § 2520.104b–2 does not attempt such a distinction. It does not require that the plan administrator of a welfare plan furnish a copy of the summary plan description to each beneficiary receiving benefits under the plan. It does require that documents be supplied without charge upon request by the beneficiary.

In addition, the term "participant in the plan" used in the December 4, 1974 proposed regulation has been changed throughout to "participant under the plan" in the final version to conform to section 101(a) of the Act. The reason for this change is more fully discussed in the preamble to § 2520.104b–1 of these regulations.

The public comments on § 2523.20 of the December 4 proposal suggested that literal compliance with the distribution requirements of that proposal would be a physical impossibility for many multiemployer plans, which provide benefits to a large number of employees and retirees. Many of these plans currently do not maintain records of individuals who are not receiving benefits under the plan. Under such plans, an individual who seeks a benefit has generally been expected to produce evidence of his or her eligibility for that benefit.

In recognition of this situation, proposed § 2520.104b–2(b) would relax the requirements for initial distribution of the summary plan description to participants for multiemployer plans in existence on January 1, 1974. Plans which have come into existence after January 1, 1974 were on notice of the requirements of the Act at a sufficiently early stage in their development that they are expected to have accumulated adequate records.

The summary plan description distribution requirements for multiemployer plans in proposed § 2520.104b–2(b) would apply only with respect to participants. There should be no problem in identifying and furnishing copies of the summary plan description to beneficiaries receiving benefits under the plan.

The method of distributing the summary plan description set forth in proposed § 2520.104b–2(b) is designed to strike a balance between the need for adequate disclosure to participants covered under multiemployer plans and the need for rules which are not so far beyond the present capacity of affected plans that compliance would be impossible.

Essentially, proposed § 2520.104b–2(b) enables plan administrators of multiemployer plans to which it applies to distribute copies of the summary plan description only to those participants who can be identified. In addition, the plan administrator may satisfy the distribution requirements by requesting employers or employee organizations to distribute copies of the summary plan description furnished to them by the plan administrator, or by publication in a periodical, the circulation of which includes participants entitled to receive the summary plan description without charge, such as a union newspaper. The plan administrator must furnish a copy of the summary plan description to any participant who has not received one upon request, and must take measures—such as posting notices on the premises of employers or employee organizations, or publication of notices in union or other periodicals—to inform unidentified participants of the availability of copies of the summary plan description.

Proposed § 2520.104b–2(b) contemplates that plan administrators who are obliged to avail themselves of its provisions will prompty begin to develop adequate records so that by the publication of the updated summary plan description within a five or ten year period the plan will be able to furnish that document to all participants covered under the plan. Consequently, proposed § 2520.104b–2(b) is available only with respect to the initial summary plan description.

As a result of further consideration of some of the issues raised concerning the disclosure requirements of section 104(b)(1) of the Act, paragraph (c) of § 2520.-104b–2, relating to the obligation to furnish subsequent summary plan descriptions, has been proposed. Under this proposed rule, a plan administrator must file a subsequent, updated summary plan description within five years (or ten years if there have been no plan amendments) after furnishing the initial summary plan description. Regardless of the specific date on or before May 30, 1976 upon which the initial summary plan description is furnished, an updated summary plan description must be furnished within five (or ten) years of that date. For example, a plan administrator who furnishes a summary plan description meeting the requirements of section 102 of the Act and §§ 2520.102–2 and 2520.102–3 on April 1, 1976, must furnish a subsequent plan description on or before April 1, 1981 (or April 1, 1986).

The subsequent summary plan description may be furnished on any date within the five or ten year periods. This publication will start the running of the next five or ten year period. For example, the administrator of a plan which furnished an initial summary plan description to participants and beneficiaries on May 30, 1976, may choose to furnish an updated summary plan description, integrating numerous plan amendments adopted in plan year 1978, on July 1, 1978. Another updated summary plan description must be furnished by July 1, 1983 (or July 1, 1988).

Section 2520.104b–3. Proposed § 2520.-104b–3 describes the procedures for furnishing participants under the plan and certain beneficiaries receiving benefits from the plan with summaries of material modifications to the plan and changes in information required to be included in the summary plan description. These procedures were not contained in the December 4, 1974 proposed regulations. However, analysis by the Department of Labor and review of comments received demonstrated a need to provide guidance for satisfying this obligation.

This regulation generally follows the statutory language of sections 102 and 104(b)(1) of the Act. The regulation states the requirement that a plan administrator furnish a summary of any material modifications to the plan and changes in information required to be included in the summary plan description within 210 days of the close of the plan year in which it is adopted or occurs. This summary must be comprehensive, accurate and "written in a manner calculated to be understood by the average plan participant." Also, the effect of a retroactive plan amendment is explained. That is, the modification or change is deemed to be adopted on the date the amendment is made, irrespective of when it is applied. For example, a calendar year plan is amended on January 11, 1977. The amendment is made retroactive to November 3, 1976. The plan administrator furnishes a summary of the amendments to participants and certain beneficiaries by July 29, 1978.

The regulation also clarifies the effect of timely publication of a summary plan description upon the requirement to furnish summaries of material modifications and changes in information required to be in the summary plan description. The initial summary plan description must accurately reflect the terms of the plan and other information pertaining to the plan at the time of disclosure. Therefore, no separate disclosure is required for modifications or changes in plan information which are incorporated in the initial summary plan description. Plans which, pursuant to § 2520.104–3, defer disclosure of the initial summary plan description until May 30, 1976 will generally follow this rule. However, there are special provisions for disclosing certain amendments to pension plans. The effect of the deferral upon both pension and welfare plans is explained in the deferral regulation, § 2520.104–3. In addition, modifications and changes in plan information which are incorporated in an updated summary plan description are not required to be separately disclosed if the updated summary plan description is furnished prior to the expiration of the disclosure period for the modifications and changes. Modifications and changes not incorporated in a timely summary plan description must be separately disclosed if the updated summary plan description is furnished prior to the expiration of the disclosure period for the modifications and changes. Modifications and changes not incorporated in a timely summary plan description must be separately disclosed within 210 days after the close of the plan year in which the modifications or changes are adopted or occur.

Section 2520.104b–4. Comments received by the Department of Labor on § 2523.20 of the December 4, 1974 proposed regulations, relating to the obligation to furnish the summary plan description, suggested that the plan administrator of a pension plan should not be required to furnish detailed current information about a plan to retired participants. Specifically, it was suggested that copies of the summary plan description, updated summary plan descriptions, and summaries of modifications and changes described in section 102(a)(1) of the Act which do not affect the retiree should not be required if the retiree has previously been furnished a copy of a document describing his or her benefits. The comments pointed out that to require furnishing superfluous and irrelevant plan documents to retirees would not only be wasteful to plans, but also might result in confusion, misunderstandings and uncertainty on the part of the retirees. Since many retirees would seek clarification of these documents from the plan staff, plan administrative burdens and costs would be increased with little or no countervailing benefit to the retirees.

In accordance with these comments, under the authority of section 110 of the Act, proposed § 2520.104b–4 provides an alternative method of compliance for pension plans for furnishing copies of the summary plan description, updated summary plan descriptions, and summaries of certain material modifications to the plan and certain changes in the information required by section 102 of the Act to be included in the summary plan descriptions to retired participants, and to beneficiaries of retired or deceased participants receiving benefits under the plan, who have already received a copy of a document satisfying the summary plan description style, format, and content requirements. This alternative method would also be available with respect to beneficiaries of retired and deceased participants because the arguments applicable in the case of retirees apply with equal force to such beneficiaries.

Under this proposed alternative method, each time the summary plan description or updated summary plan description is published, the retiree or beneficiary must receive a notice stating that he or she may obtain a copy of it without

charge upon request from the plan administrator. The notice must also state that the retiree's or beneficiary's benefit rights are set forth in a summary plan description which was furnished earlier. In addition, if the plan administrator has not furnished the retiree or beneficiary with information about his or her rights under the Act, whether as a supplementary statement or as part of a summary plan description, the notice must provide such information.

If a retiree or beneficiary does request a copy of the current summary plan description, the plan administrator must provide it, without charge.

Summaries of material modifications in the terms of the plan and changes in the information required by section 102 (b) of the Act to be included in the summary plan description need not be furnished to retired participants if these modifications or changes in no way affect the retirees' or beneficiaries' rights under the plan. It is contemplated that these modifications and changes will consist primarily of prospective amendments to the plan benefit structure which do not affect retirees or their beneficiaries. Changes in the plan administration, however, generally affect retirees and their beneficiaries. As with summary plan descriptions, retirees or beneficiaries are entitled to receive copies of material modifications and changes in information, without charge on request.

Pursuant to the requirements of section 110 of the Act, the Secretary intends to make the following findings with respect to the proposed alternative method of compliance for furnishing pension plan documents to retired participants and their beneficiaries:

(1) The use of this alternative method of compliance is consistent with the purposes of Title I of the Act and provides adequate disclosure to participants and beneficiaries with respect to whom the alternative method may be used. Under the alternative method, only information which is superfluous or irrelevant to such participants and beneficiaries will not be furnished to them, and in any case, they may obtain copies of this information, without charge, upon request.

(2) The application of the requirements of section 104(b)(1) of the Act, relating to the time for furnishing copies of the summary plan description, updated summary plan description, and summary descriptions of material modifications and changes in the information required to be contained in the summary plan description, would increase costs to pension plans and impose unreasonable administrative burdens with respect to the operation of such plans, unnecessary costs associated with printing, handling and mailing superfluous and irrelevant information, and would create unnecessary administrative burdens by causing plan staff to devote time and effort to clearing up the confusion and misunderstanding which this information would occasion.

(3) The application of Part 1 of Title I of the Act would be adverse to the interest of plan participants in the aggregate. For retired participants and beneficiaries with respect to whom this alternative method is available, application of Part 1 would engender confusion, misunderstandings and uncertainty.

Section 2520.104b–30. Proposed § 2520.-104b–30 (§ 2523.80 of the December 4, 1974 proposed regulations) provides guidelines for assessing reasonable charges for furnishing plan documents.

Several comments received on the December 4 proposal objected to the prohibition from charging for the postage and handling costs of furnishing plan documents. Postage and handling costs are associated with the performance of a service function of a plan and, therefore, are more appropriately paid from the plan's funds than by a particular participant or beneficiary.

The potential for numerous requests for documents, with a significant burden of handling and postage costs to the plan, is offset by the fact that the person requesting documents must pay reasonable charges assessed by the plan for reproduction. This cost factor should deter frivolous requests, without the addition of charges for postage and handling.

Other comments pointed out that although the preamble to the proposal stated that the regulation prohibited charging for postage and handling, precise language stating so is not used in the proposal. The new proposed regulation has been revised to clarify this point.

The argument was also made that 20 cents per page is an excessive maximum charge because participants have an absolute right under the Act to receive these documents. This has been changed to a maximum of 10 cents per page to be consistent with present Department of Labor policy to charge only 10 cents per page for documents provided pursuant to the Freedom of Information Act. (See 29 CFR 70.62.)

Several comments also pointed out that an individual may request a copy of only a few pages of a many-paged pamphlet. A problem arises because the document as a whole is effectively destroyed once one page is removed, and, therefore, the actual cost of furnishing that one page is the cost of the entire pamphlet. To deal with this problem, this proposed regulation has been revised by specifically limiting charges to the least expensive means of acceptable reproduction. Thus, if a 50-page pamphlet costs $1.00, but only one page were requested, the charge could be as much as 10 cents even though the actual cost of reproduction for the entire pamphlet ($1.00) is equal to 2 cents per page. On the other hand, if 11 pages of the pamphlet were requested the charge could be no more than $1.00.

Accordingly, it is proposed to amend Chapter XXV of Title 29 of the Code of Federal Regulations as follows:

1. By adding a new Subchapter B and Part 2510 which read as follows:

SUBCHAPTER B—DEFINITIONS AND COVERAGE UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

PART 2510—DEFINITIONS OF TERMS USED IN SUBCHAPTERS C, D, E, F AND G OF THIS CHAPTER

Sec.
2510.3–2 Employee pension benefit plan.
2510.3–3 Employee benefit plan.
2510.3–6 Employee.

AUTHORITY: Sec. 111(c), 505, Pub. L. 93–406, 88 Stat. 852, 894, 29 U.S.C. 1031, 1135; Secretary of Labor's Order No. 27–74, and Labor-Management Services Administration Order No. 2–6.

§ 2510.3–2 Employee pension benefit plan.

For purposes of Title I of the Act and this chapter, the term "employee pension benefit plan" shall not include the following arrangement:

Severance pay plan. A severance pay plan under which payment is made to employees on or after the date on which they terminate employment, but where payment is completed before normal retirement age.

§ 2510.3–3 Employee benefit plan.

For purposes of Title I of the Act and this chapter, the term "employee benefit plan" shall not include the following practices and arrangements:

(a) *Overtime pay.* The payment of current compensation by an employer on account of work performed in excess of a fixed maximum number of hours during specified periods at a rate in excess of the normal rate of compensation for such work.

(b) *Shift and holiday premiums.* The payment of current compensation by an employer on account of work performed outside usual periods of employment—for example, at night or on holidays—at a rate in excess of the normal rate of compensation for such work.

(c) *Holiday gifts.* The distribution of gifts such as turkeys or hams by an employer to employees at Christmas and other holiday seasons.

(d) *Discount sales.* The sale to employees at less than fair market value of goods or the provision of services which the employer offers in the normal course of business at fair market value.

(e) *On-premises service facilities.* The maintenance on the premises of an employer or an employee organization of recreation, dining, or other facilities (other than day care centers and facilities providing benefits described in section 3(1) of the Act) for use by employees or members without charge or at a charge below the value of the use of the facilities.

(f) *Hiring hall.* A fund or program maintained by an employee organization with contributions from an employer or group or association of employers for the purpose of providing a hiring hall facility used by the employers.

(g) *Jury duty and court testimony.* Payment by an employer on account of time during which employees are absent and relieved from duties for the purpose

of serving as jurors or testifying in official judicial or administrative proceedings.

(h) *Bonus program.* Payments made by an employer to some or all of its employees as bonuses for work performed, unless such payments are systematically deferred to the termination of covered employment or beyond, or so as to provide retirement income to employees.

(i) *First aid station.* The maintenance on the premises of an employer of free facilities for the treatment of minor injuries or illness occurring during working hours.

(j) *Remembrance fund.* A program under which contributions are made to provide remembrances such as flowers, an obituary notice in a newspaper, or a small cash gift to an eleemosynary institution, on occasions such as the sickness, hospitalization, death or termination of employment of employees, or members of an employee organization, or members of their families.

(k) *Strike fund.* A fund maintained by an employee organization to provide payments to members during strikes and for related purposes.

(l) *Informal policy on absences.* An employer policy of permitting employees to be absent and relieved from duties from time to time without loss of regular compensation, but with no commitment that any absence or class or type of absences will be so treated.

(m) *Paid sick and vacation leave.* The payment of normal compensation by an employer out of the employer's general assets to employees on account of specified periods of time during which the employees perform no duties while sick or on vacation.

(n) *Industry advancement programs.* A program maintained by an employer or group or association of employers, which has no employee participants and does not provide benefits to employees or their dependents, regardless of whether the program serves as a conduit through which funds or other assets are channelled to employee benefit plans covered under Title I of the Act.

(o) *Job-skill training.* The payment by an employer of regular compensation (whether or not subsidized in whole or in part by Federal, State or local government funds) to employees for on-the-job or other training which is sponsored by the employer.

(p) *Certain group insurance programs.* A group insurance program offered by an insurer to employees or members of an employee organization under which

(1) No contributions are made by an employer;

(2) Participation in the program is completely voluntary for employees or members;

(3) The sole functions of the employer or employee organization with respect to the program are to publicize the plan to employees or members, to collect premiums through payroll deductions or dues checkoffs and to remit them to the insurer;

(4) The employer or employee organization receives no consideration in the form of cash or otherwise in connection with the program; and

(5) The employer or employee organization makes no representation to its employees or members that the insurance program is a benefit of employment with the employer or membership in the employee organization.

(q) *Plans without employees.* Any plan, fund or program established or maintained by an employer, under which no employees (as defined in section 3(6) of the Act and § 2510.3-6) are participants covered under the plan pursuant to § 2520.104b-1.

§ 2510.3-6 Employee.

(a) *Sole proprietor and spouse.* For purposes of Title I of the Act, a sole proprietor of an unincorporated trade or business and his or her spouse are not employees with respect to the unincorporated trade or business.

(b) *Partners.* For purposes of Title I of the Act, a partner in a partnership is not an employee with respect to the partnership.

2. By adding a new Subchapter C and Part 2520 which read as follows:

SUBCHAPTER C—REPORTING AND DISCLOSURE UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

PART 2520—RULES AND REGULATIONS FOR REPORTING AND DISCLOSURE

Subpart A—General Reporting and Disclosure Requirements

Sec.
2520.101-1 Duty of reporting and disclosure.

Subpart B—Contents of Plan Descriptions and Summary Plan Descriptions

2520.102-1 Plan description form.
2520.102-2 Style and format of summary plan description.
2520.102-3 Contents of summary plan description.
2520.102-4 Option for different summary plan descriptions.

Subpart C—Contents of Annual Reports [Reserved]

Subpart D—Provisions Applicable to Both Reporting and Disclosure Requirements

2520.104-1 General.
2520.104-2 Postponing effective date of annual reporting requirements and extending WPPDA reporting requirements.
2520.104-3 Deferral of certain initial reporting and disclosure requirements.
2520.104-4 Alternative method of compliance for certain successor pension plans.
2520.104-20 Limited exemption for certain small welfare plans.
2520.104-21 Limited exemption for certain group insurance arrangements.
2520.104-22 Limited exemption for apprenticeship plans.
2520.104-23 Alternative method of compliance for pension plans for certain selected employees.
2520.104-24 Exemption for welfare plans for certain selected employees.
2520.104-25 Exemption from reporting and disclosure for day care centers.

Subpart E—Reporting Requirements

2520.104a-1 Filing with the Secretary of Labor.
2520.104a-2 Plan description reporting requirements.
2520.104a-3 Summary plan description.
2520.104a-4 Material modifications to the plan and changes in plan description information.

Subpart F—Disclosure Requirements

2520.104b-1 Disclosure.
2520.104b-2 Summary plan description.
2520.104b-3 Summaries of material modifications to the plan and changes in the information required to be included in the summary plan description.
2520.104b-4 Alternative method of compliance for furnishing pension plan documents to retired participants and their beneficiaries.
2520.104b-30 Charges for documents.

AUTHORITY: Secs. 101, 102, 104, 105, 109, 110, 111(b)(2), 111(c), 505, Pub. L. 93-406, 88 Stat. 840-1, 847-52, 894 (29 U.S.C. 1021-2, 1024-5, 1029-31, 1135); Secretary of Labor's Order No. 27-74, Labor-Management Services Administration Order No. 2-6.

Subpart A—General Reporting and Disclosure Requirements

§ 2520.101-1 Duty of reporting and disclosure.

The procedures for implementing the plan administrator's duty of reporting to the Secretary of Labor and disclosing information to participants and beneficiaries are located in Subparts D, E and F of this part.

Subpart B—Contents of Plan Descriptions and Summary Plan Descriptions

§ 2520.102-1 Plan description form.

The plan description required by section 102 of the Act shall consist of Department of Labor Form EBS-1, "Plan Description" completed in accordance with § 2520.104a-1(a) and the instructions to the Form.

§ 2520.102-2 Style and format of summary plan description.

(a) *Method of presentation.* The summary plan description shall be written in a manner calculated to be understood by the average plan participant and shall be sufficiently comprehensive to apprise the plan's participants and beneficiaries of their rights and obligations under the plan. In fulfilling these requirements, the plan administrator shall exercise considered judgment and discretion by taking into account such factors as the level of comprehension and education of typical participants in the plan and the complexity of the terms of the plan. Consideration of these factors will usually require the limitation or elimination of technical jargon and of long, complex sentences, the use of clarifying examples and illustrations, the use of clear cross references, and a table of contents.

(b) *General format.* The format of the summary plan description must not have the effect of misleading, misinforming or failing to inform participants and beneficiaries. For example, a summary plan description which highlights in boldface,

large type the plan terms providing for nonforfeitable benefits and describes the circumstances which may result in denial or loss of benefits in small, hard-to-read type will not satisfy the requirements of section 102(a)(1) of the Act that the summary plan description be "written in a manner calculated to be understood by the average plan participant, and * * * be sufficiently accurate and comprehensive to reasonably apprise * * * participants and beneficiaries of their rights and obligations under the plan."

(c) *Reference to benefit insurance.* The summary plan description for a pension plan described in section 4021(a) of the Act shall prominently display on the first page of the text the sentence "Certain benefits under this pension plan are insured by the Pension Benefit Guaranty Corporation" and provide a reference to the page or pages in the text which give the additional information required by § 2520.102–3(1). The requirement of this subsection shall not apply respecting a summary plan description furnished by a multiemployer plan before January 1, 1978.

(d) *Foreign languages.* In the case either (1) of a plan which covers 500 or more participants who are literate only in a language other than English or (2) of any employer establishment (as that term is used in the Fair Labor Standards Act of 1938, as amended (52 Stat. 1060; 29 U.S.C. 201 et seq.)) in which 50 percent or more of the participants of a plan are literate only in a language other than English, so that a summary plan description in English would fail to inform these participants adequately of their rights and obligations under the plan, the summary plan description for such plan or establishment shall prominently display a notice, in the language best understood by these participants, offering assistance. The assistance provided need not involve written materials, but shall be given in the language best understood by the participants not literate in English and be calculated to give them a reasonable opportunity to become informed as to their rights and obligations under the plan. The notice offering assistance contained in the summary plan description shall clearly set forth the procedures participants must follow in order to obtain such assistance.

§ 2520.102–3 Contents of summary plan description.

Section 102 of the Act specifies information that must be included in the summary plan description. The following information shall be included in the summary plan description:

(a) The name of the plan, and, if different, the name by which the plan is commonly known by its participants and beneficiaries;

(b) The name and address of any employer whose employees are covered by the plan and the name and address of any labor organization the members of which are covered by the plan, or in the case of a plan established or maintained by two or more employers or by one or more employers and one or more employee organizations, the name and address of the association, committee, joint board of trustees, parent or most significant employer of a group of employers all of which contribute to the same plan, or other similar representative of the parties who established or maintained the plan;

(c) The employer identification number (EIN) assigned by the Internal Revenue Service to the plan sponsor and the plan number assigned by the plan sponsor pursuant to instructions of the Internal Revenue Service, if such numbers have been assigned. (For further detailed explanation see the instructions to the plan description Form EBS–1);

(d) The type of pension or welfare plan, e.g., for pension plans—defined benefit, money purchase, profit-sharing, etc. and for welfare plans—hospitalization, disability, pre-paid legal services, etc.;

(e) The type of administration of the plan e.g., contract administration, joint board of trustees, etc.;

(f) The name, business address and business telephone number of the plan administrator as that term is defined in section 3(16) of the Act;

(g) The name of the person designated as agent for service of legal process, and the address at which process may be served on such person;

(h) The name, title and business address of each trustee of the plan;

(i) A list of any collective-bargaining agreements which relate to the plan, specifying the relevant sections. Plans maintained pursuant to more than ten agreements need not list the agreements and sections provided that they (1) state generally the subject matter of the relevant provisions in collective-bargaining agreements which relate to the plan and (2) list organizations that are parties to the collective-bargaining agreements;

(j) The plan's requirements respecting eligibility for participation and benefits. The summary plan description shall describe the plan's provisions relating to eligibility to participate in the plan, such as age or years of service requirements. For employee pension benefit plans, it shall also include a statement describing the plan's normal retirement age as that term is defined in section 3(24) of the Act, and a statement describing any other conditions which must be met before a participant will be eligible to receive benefits. Such plan benefits shall be described. For employee welfare benefit plans the summary plan description shall include a statement of the conditions pertaining to eligibility to receive benefits, and a description of the benefits. In the case of a welfare plan providing extensive schedules of benefits (a medical care plan, for example), only a general description is required if reference is made to detailed schedules of benefits which are available without cost to any participant or beneficiary who so requests;

(k) A statement describing any joint and survivor benefits provided under the plan including any requirement that an election be made as a condition to accept or reject the joint and survivor annuity;

(l) Circumstances which may result in disqualification, ineligibility, or denial, loss, forfeiture or suspension of any benefits. The plan administrator of an employee pension benefit plan shall include a description of any provision of the plan relating to forfeiture of benefits, breaks in service and year of service rules. If an employee pension benefit plan is not insured under Title IV of the Act, this fact shall be clearly stated. Multiemployer plans, however, are not required to state the absence of insurance in summary plan descriptions furnished prior to January 1, 1978. If benefits of a pension plan are insured under Title IV of the Act, this fact shall be stated in the format specified in § 2520.102–2(c). There shall also be a statement that such insurance is limited in some respects and, if these limitations are not set forth, a statement that the plan administrator will provide further information concerning such insurance. The name and address of the Pension Benefit Guaranty Corporation shall also be provided.

(m) A description and explanation, including beginning dates, of the plan provisions establishing 12-month periods for computing years of participation, years in which a specified number of hours of service must be completed to accrue benefits, and years of service used to compute vesting and breaks in service. The description shall state the service required to accrue full benefits and the manner in which accrual of benefits is prorated for employees failing to complete full service for the year.

(n) A statement explaining the conditional status of any provisions set forth pursuant to paragraph (j), (k), (l) and (m) of this section, or any other plan provisions set forth in the summary plan description, which are only conditionally in force for the 1976 plan year. For purposes of this paragraph, a plan provision is conditionally in force for the 1976 plan year if—

(1) Such provision is not in compliance with Title I of the Act, and

(2) It is intended that such provision will be amended to comply with Title I of the Act, and that the amendment, when made, will be retroactive to the first day of the 1976 plan year.

The statement explaining the conditional status of such provisions shall contain the following information: that the provisions are not in compliance with Title I of the Act for the 1976 plan year; that it is intended to amend the provisions, and that the intended amendments would apply retroactively to the first day of the 1976 plan year.

(o) The sources of contributions to the plan—for example, employer, employee organization, employees and the method by which the amount of contribution is calculated;

(p) The identity of any funding medium used for the accumulation of assets through which benefits are provided. The summary plan description shall identify any insurance company, trust fund, or any other institution, organization, or

entity which maintains a fund on behalf of the plan or through which the plan is funded or benefits are provided;

(q) The date of the end of the year for purposes of maintaining the plan's fiscal records;

(r) The procedures to be followed in presenting claims for benefits under the plan and the remedies available under the plan for the redress of claims which are denied in whole or in part (including procedures required under section 503 of Title I of the Act).

(s) In the case of a welfare plan maintained by a union for its members which is funded, wholly or partly, from union members' dues and which may use money designated for the plan, or any portion thereof, for general union purposes, (1) a clear statement that any contributions to the plan may be used for general union purposes, and (2) if any documents governing the plan contain statements that the plan's funds may not be used for general union purposes, when in fact, such funds may be used for general union purposes an affirmation that the statement described in paragraph (s)(1) of this section is correct notwithstanding inconsistent provisions in other plan documents. If statements in plan documents that plan funds may not be used for general union purposes are not deleted or amended within a reasonable period, which in no event shall be later than the next regularly scheduled union convention following distribution of the summary plan description, the summary plan description shall no longer be considered to be in compliance with § 2520.-102-2.

§ 2520.102-4 Option for different summary plan descriptions.

In some cases an employee benefit plan may provide different benefits for various classes of participants and beneficiaries. For example, a plan amendment altering benefits may apply only to those participants who are employees of an employer when the amendment is adopted and to employees who later become participants, but not to participants who no longer are employees when the amendment is adopted. Similarly, a plan may provide for different benefits for participants employed at different plants of the employer, or even for different classes of participants in the same plant. In such cases the plan administrator may fulfill the requirements of furnishing a summary plan description to participants covered under the plan and beneficiaries receiving benefits under the plan by furnishing to each member of each class of participants and beneficiaries a copy of a summary plan description appropriate to that class. Each summary plan description so prepared shall follow the style and format prescribed in § 2520.102-2, and shall contain all information which is required to be contained in the summary plan description under § 2520.-102-3. It may omit information which is not applicable to the class of participants or beneficiaries to which it is furnished. It should also clearly identify on the first page of the text the class of participants and beneficiaries for which it has been prepared and the plan's coverage of other classes. If the plan administrator elects to prepare more than one summary plan description, each such summary plan description shall be filed with the Secretary in the manner provided in § 2520.104a-3(b).

Subpart C—Contents of Annual Reports [Reserved]

Subpart D—Provisions Applicable to Both Reporting and Disclosure Requirements

§ 2520.104-1 General.

The administrator of an employee benefit plan that is covered by Part 1 of Title I of the Act must file reports and additional information with the Secretary of Labor, and disclose reports, statements, and documents to plan participants and to beneficiaries receiving benefits from the plan. The regulations contained in this Subpart are applicable to both the reporting and the disclosure requirements of Part 1 of Title I of the Act. Regulations concerning only a plan administrator's duty of reporting to the Secretary of Labor are set forth in Subpart E of this part, and those applicable only to the duty of disclosure to participants and beneficiaries are set forth in Subpart F of this part.

§ 2520.104-2 Postponing effective date of annual reporting requirements and extending WPPDA reporting requirements.

(a) *Postponing reports under the Act.* The effective date of January 1, 1975, for the annual financial reporting and related disclosure requirements of section 103 of the Act is postponed for any employee benefit plan having a plan year other than a calendar year. These requirements shall become effective as to such plans on the first day of the first plan year beginning after January 1, 1975. Specifically, the administrator of a non-calendar year plan (1) is not required to file with the Secretary an annual financial report under section 104(a)(1)(A) of the Act until the required time (210 days or such other time as the Secretary of Labor sets by regulation) after the end of the first plan year which begins after January 1, 1975, and (2) is not required to furnish participants covered under the plan and beneficiaries receiving benefits under the plan with statements of the plan's assets and liabilities and receipts and disbursements and a summary of the latest annual report, as required by section 104(b)(3) of the Act, until the required time after the end of the first plan year which begins after January 1, 1975. The requirement of section 104(b)(2) of the Act to make copies of the latest annual report available for inspection, and the requirement of section 104(b)(4) of the Act to furnish, upon written request of a participant or beneficiary, a copy of the latest annual report is filed with the Secretary or, if later, the required time after the end of the first plan year which begins after January 1, 1975.

Example. A plan with a plan year beginning on April 1, 1975, files an annual report with the Secretary within the required time after March 31, 1976. The plan also furnishes participants covered under the plan and beneficiaries receiving benefits under the plan with statements of the plan's assets and liabilities and receipts and disbursements, and a summary of the latest annual report, by the same date. A copy of the annual report is made available for inspection by any plan participant or beneficiary in the principal office of the administrator and in such other places as may be necessary to make available all pertinent information to all participants. If a participant or beneficiary requests in writing a copy of the annual report, the plan administrator is not required to honor such request until the first annual report has been filed under the Act with the Secretary of Labor.

(b) *Extending WPPDA reporting.* The repeal of the annual reporting requirements of section 7 and the requirements for disclosure to participants and beneficiaries relating to annual reports of section 8(a)(2) of the Welfare and Pension Plans Disclosure Act (29 U.S.C. 306) are postponed from January 1, 1975 for any employee benefit plan having a plan year other than a calendar year. For non-calendar year plans subject to the WPPDA, the reporting and disclosure provisions of the WPPDA shall remain in force and effect through the last day of any plan year beginning before January 1, 1975, and ending after December 31, 1974.

(c) *Effect on other provisions.* This postponement does not delay the effective date of any other provisions of Part 1 of Title I of the Act.

§ 2520.104-3 Deferral of certain initial reporting and disclosure requirements.

(a) Under the authority of section 104(a)(3) of the Act, certain reporting and disclosure requirements of employee welfare benefit plans are deferred. This deferral is set forth in paragraph (c) of this section and applies to welfare plans subject to Part 1 on or before January 31, 1976. Welfare benefit plans which become subject to Part 1 on or after February 1, 1976 shall meet the general reporting and disclosure provisions set forth in Subparts E and F of this part.

(b) Under the authority of section 110 of the Act, an alternative method of compliance is provided for employee pension benefit plans subject to Part 1 on or before January 31, 1976. This alternative, set forth in paragraphs (c) and (d) of this section permits an administrator of a pension plan to defer compliance with certain reporting and disclosure requirements. Pension benefit plans which become subject to Part 1 on or after February 1, 1976 shall meet the general reporting and disclosure provisions set forth in Subparts E and F of this part.

(c) The administrator of a welfare plan described in paragraph (a) of this section or the administrator of a pension plan using the alternative specified in paragraph (b) of this section:

(1) Shall file a short form plan description, consisting of the first two pages of Department of Labor Form EBS-1 and the signature page (item 38 only), on or before the later of—

(i) August 31, 1975, or

(ii) The 120th day after the plan becomes subject to Part 1;

(2) May defer compliance with the following provisions of Part 1 of Title I of the Act until May 30, 1976—

(i) Subsections (a)(1)(C) and (b)(1) of section 104 of the Act, which require plan administrators to file with the Secretary, and furnish to plan participants and beneficiaries, copies of a summary plan description, and

(ii) Section 104(a)(1)(B) of the Act, which requires plan administrators to file a plan description with the Secretary; and

(3) Shall not be required to comply with the provisions of sections 104(a)(1)(D) and 104(b)(1) of the Act, relating to filing with the Secretary of Labor, and furnishing to plan participants and beneficiaries summaries of material modifications to the plan and changes in information required to be included in the plan description or summary plan description, as the case may be, which—

(i) Are adopted or occurred prior to May 30, 1976,

(ii) Are effective on May 30, 1976, and

(iii) Are incorporated in the initial plan description and summary plan description.

(d) The administrator of a pension plan using the alternative method of compliance specified in paragraph (b) shall furnish participants covered under the plan and beneficiaries receiving benefits under the plan with a summary of those material modifications to the plan made to bring the plan into compliance with Title I of the Act within 120 days of:

(1) For plans which are amended to comply with the provisions of Title I after the first day of the plan year beginning in 1976 and such amendments are made retroactive to the first day of the 1976 plan year, the date that the amendments are made; or

(2) For plans which are amended to comply with the provisions of Title I, but such amendments are conditioned upon a determination by the Internal Revenue Service that the plan, as amended, is a tax qualified plan, the date that notice of the determination is received.

§ 2520.104–4 Alternative method of compliance for certain successor pension plans.

(a) Under the authority of section 110 of the Act, this section sets forth an alternative method of compliance for certain successor pension plans in which some participants and beneficiaries not only have the rights set out in the plan, but also retain eligibility for certain benefits under the terms of former plan(s) which have been merged into the successor. Under the alternative method, the plan administrator is not required to describe relevant provisions of old plans in summary plan descriptions furnished after the merger to that class of participants and beneficiaries still affected by the terms of old plans. Also, the plan administrator is not required to file with the Secretary of Labor a copy of the summary plan description of any old plan.

(b) This alternative is available only if:

(1) At the time of the merger, the plan administrator furnishes descriptions of the new plan, the merger agreement, and any transitional provisions affecting benefits, and makes available on request, without charge, a copy of the old plan description, to each participant covered under the plan, each beneficiary receiving benefits under the plan and any former employee who terminated employment with a right to a deferred vested benefit, and

(2) After the merger, all subsequent summary plan descriptions furnished in accordance with this alternative method of compliance must

(i) Clearly and conspicuously identify on the first page of text the class of participants and beneficiaries affected by the provisions of the old plan(s), and

(ii) State that a copy of the summary plan description of the old plan(s) will be furnished to any participant or beneficiary upon request.

§ 2520.104–20 Limited exemption for certain small welfare plans.

(a) *Scope.* Under the authority of section 104(a)(3) of the Act, the administrator of any employee welfare benefit plan which covers fewer than 100 participants at all times during a plan year and which meets the requirements of paragraph (b) of this section is exempted from certain reporting and disclosure provisions of the Act. Specifically, the administrator of such plan is not required to file with the Secretary any of the following documents: Plan description, copy of the summary plan description, description of a material modification in the terms of a plan or change in the information required to be included in the plan description, annual report and terminal report. In addition, the administrator of a plan exempted under this section—

(1) Is not required to furnish participants covered under the plan and beneficiaries receiving benefits under the plan with statements of the plan's assets and liabilities and receipts and disbursements and a summary of the annual report as required by section 104(b)(3) of the Act;

(2) Is not required to furnish upon written request of any participant or beneficiary a copy of the plan description, annual report, and any terminal report, as required by section 104(b)(4) of the Act; and

(3) Is not required to make copies of the plan description and annual report available for examination by any participant or beneficiary in the principal office of the administrator and such other places as may be necessary, as required by section 104(b)(2) of the Act.

(b) *Application.* This exemption applies only to welfare benefit plans having fewer than 100 participants at all times during a plan year and (1) for which benefits are paid as needed solely from the general assets of the employer or employee organization maintaining the plan or (2) the benefits of which are provided exclusively through insurance contracts or policies, the premiums for which are paid directly by the employer or employee organization from its general assets, issued by an insurance company or similar organization which is qualified to do business in any State or (3) both.

(c) *Limitations.* This exemption does not exempt the administrator of an employee benefit plan from any other requirement of Title I of the Act, including the provisions which require that plan administrators furnish copies of the summary plan description to participants and beneficiaries (section 104(b)(1)) certain documents to the Secretary of Labor upon request (section 104(a)(1)) and authorize the Secretary of Labor to collect information and data from employee benefit plans for research and analysis (section 513).

§ 2520.104–21 Limited exemption for certain group insurance arrangements.

(a) *Scope.* Under the authority of section 104(a)(3) of the Act, the administrator of any employee welfare benefit plan which covers fewer than 100 participants at all times during a plan year and which meets the requirements of paragraph (b) of this section is exempted from certain reporting and disclosure provisions of the Act. Specifically, the administrator of such plan is not required to file with the Secretary any of the following documents: Plan description of a material modification in the terms of a plan or change in the information required to be included in the plan description and terminal report. In addition, the administrator of a plan exempted under this section—

(1) Is not required to furnish upon written request of any participant or beneficiary a copy of the plan description and any terminal report, as required by section 104(b)(4) of the Act; and

(2) Is not required to make copies of the plan description available for examination by any participant or beneficiary in the principal office of the administrator and such other places as may be necessary, as required by section 104(b)(2) of the Act.

(b) *Application.* This exemption applies only to welfare plans, each of which has fewer than 100 participants, which are part of a group insurance arrangement if such arrangement:

(1) Provides benefits to the employees of two or more unaffiliated employers, but not in connection with a multiemployer plan as defined in section 3(37) of the Act and any regulations prescribed under the Act concerning section 3(37), including § 2510.3–37.

(2) Fully insures one or more welfare plans of each participating employer through insurance contracts purchased solely by the employers, with all benefit payments made by the insurance company;

(3) Uses a trust (or other entity such as a trade association) as the legal owner of the insurance contracts and the con-

duit for payment of premiums to the insurance company.

(c) *Limitations.* This exemption does not exempt the administrator of an employee benefit plan from any other requirement of Title I of the Act, including the provisions which require that plan administrators furnish copies of the summary plan description to participants and beneficiaries (section 104(b)(1)), file an annual report with the Secretary of Labor (section 104(a)(1)(A)) and furnish certain documents to the Secretary of Labor upon request (section 104(a)(1)), and authorize the Secretary of Labor to collect information and data from employee benefit plans for research and analysis (section 513).

§ 2520.104–22 Limited exemption for apprenticeship plans.

(a) *Scope.* Under the authority of section 104(a)(3) of the Act, an employee welfare benefit plan which provides apprenticeship training benefits is exempted from certain reporting and disclosure requirements of the Act. Specifically, the administrator of such plan is exempted from all the provisions of Part 1 except the requirement to—

(1) File, in the case of a plan which becomes subject to Part 1 on or before January 31, 1976, a short form plan description, as required by § 2520.104–3;

(2) File an initial plan description in the manner specified in § 2520.104a–2; and

(3) File an annual report for the plan year beginning in 1975 if the plan becomes subject to Part 1 in 1975.

(b) *Application.* This exemption applies only to employee welfare benefit plans which provide solely apprenticeship training benefits.

(c) *Limitations.* This exemption does not exempt the administrator of an apprenticeship plan from any other requirement of Title I of the Act, including the provision which authorizes the Secretary of Labor to collect information and data from employee benefit plans for research and analysis (section 513).

§ 2520.104–23 Alternative method of compliance for pension plans for certain selected employees.

(a) *Scope.* Under the authority of section 110 of the Act, an alternative form of compliance with the reporting and disclosure requirements of Part 1 of Title I of the Act is provided for certain pension plans for a select group of management or highly compensated employees, the administrator of a pension plan described in paragraph (b) shall be deemed to satisfy the reporting and disclosure provisions of Part 1, Title I of the Act by (1) filing a statement with the Secretary of Labor that includes the name and address of the employer, the employer identification number (EIN) assigned by the Internal Revenue Service, a declaration that the employer maintains a plan or plans primarily for the purpose of providing deferred compensation for a select group of management or highly compensated employees, and a statement of the number of such plans and the number of employees in each, and (2) providing plan documents, if any, to the Secretary upon request as required by section 104(a)(1) of the Act. Only one statement need be filed for each employer maintaining one or more of the plans described in paragraph (b). For plans in existence on May 4, 1975, the statement shall be filed on or before August 31, 1975. For a plan to which Part 1 of Title I of the Act becomes applicable after May 4, 1975, the statement shall be filed within 120 days after the plan becomes subject to Part 1. Statements may be filed by mailing them by first class mail, addressed to Office of Employee Benefits Security, Labor-Management Services Administration, U.S. Department of Labor, Washington, D.C. 20216 or delivered during normal working hours to Room N–4633, Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. For example, an employer that maintains several pension plans described in paragraph (b), and also serves as the administrator of each plan, need file only one statement on August 31, 1975, setting forth the information described in this paragraph (a).

(b) *Application.* This alternative form of compliance is available only to employee pension benefit plans;

(1) Which are maintained by an employer primarily for the purpose of providing deferred compensation for a select group of management or highly compensated employees, and

(2) For which benefits (i) are paid as needed solely from the general assets of the employer, (ii) are provided exclusively through insurance contracts or policies, the premiums for which are paid directly by the employer from its general assets, issued by an insurance company or similar organization which is qualified to do business in any State, or (iii) both.

§ 2520.104–24 Exemption for welfare plans for certain selected employees.

(a) *Scope.* Under the authority of section 104(a)(3) of the Act, each employee welfare benefit plan described in paragraph (b) of this section is exempted from the reporting and disclosure provisions of Part 1 of Title I of the Act, except for providing plan documents to the Secretary upon request as required by section 104(a)(1).

(b) *Application.* This exemption is available only to employee welfare benefit plans:

(1) Which are maintained by an employer primarily for the purpose of providing benefits for a select group of management or highly compensated employees.

(2) For which benefits (i) are paid as needed solely from the general assets of the employer, (ii) are provided exclusively through insurance contracts or policies, the premiums for which are paid directly by the employer from its general assets, issued by an insurance company or similar organization which is qualified to do business in any State, or (iii) both.

§ 2520.104–25 Exemption from reporting and disclosure for day care centers.

Under the authority of section 104(a)(3) of the Act, day care centers are exempted from the reporting and disclosure provisions of Part 1 of Title I of the Act, except for providing plan documents to the Secretary upon request as required under section 104(a)(1) of the Act.

Subpart E—Reporting Requirements

§ 2520.104a–1 Filing with the Secretary of Labor.

(a) *General reporting requirements.* Part 1 of Title I of the Act requires that the administrator of an employee benefit plan subject to the provisions of Part 1 file with the Secretary of Labor certain reports and additional documents. Each report filed shall accurately and comprehensively detail the information required. Where a form is prescribed, the reports shall be filed on that form The Secretary may reject any incomplete filing. Reports and documents shall be filed as specified in this part.

(b) *Exemption for certain welfare plans.* See §§ 2520.104–20, 2520.104–21, 2520.104–22, 2520.104–24, and 2520.104–25.

(c) *Alternative method of compliance for pension plans for certain selected employees.* See § 2520.104–23.

§ 2520.104a–2 Plan description reporting requirements.

(a) *Filing obligation.* The administrator of an employee benefit plan which becomes subject to the provisions of Part 1 of Title I of the Act after January 31, 1976, shall file a plan description with the Secretary of Labor within 120 days after the plan becomes subject to Part 1. For example, a plan is established (and becomes subject to the provisions of Part 1) on January 1, 1977. The plan administrator files a plan description by April 30, 1977. For plans subject to Part 1 on or before January 31, 1976, see § 2520.104–3.

(b) *Filing address.* The plan description shall be filed with the Secretary of Labor by mailing it to EBS–1, Office of Employee Benefits Security, Labor-Management Services Administration, U.S. Department of Labor, Washington, D.C. 20216 or by delivering it during normal working hours to Room N–4633, Department of Labor, 200 Constitution Avenue, NW., Washington, D.C.

(c) *Special rules for plans subject to deferred initial reporting requirements.* See § 2520.104–3.

(d) *Contents of the plan description.* See § 2520.102–1.

§ 2520.104a–3 Summary plan description.

(a) *Filing obligation.* The administrator of a plan subject to the provisions of Part 1 of Title I of the Act shall file with the Secretary of Labor a copy of the summary plan description which is required to be furnished, as prescribed in § 2520.104b–2(a), to participants cov-

ered under the plan and beneficiaries receiving benefits under the plan. This copy of the summary plan description shall be filed on or before the last date on which a summary plan description may be furnished to plan participants and beneficiaries under section 104(b)(1)(B) of the Act and either § 2520.104b-2(a)(1)(i) or § 2520.104(b)-2(a)(2)(i). If both the plan description and a copy of the summary plan description are filed at the same time, they shall be filed together. For example, the administrator of a plan that became subject to the provisions of Part 1 of Title I on January 1, 1975, files on May 15, 1976, in one package, the plan description and a copy of the summary plan description.

(b) *Filing of multiple summary plan descriptions.* In the case of a plan for which the plan administrator has chosen under § 2520.102–4 to prepare more than one summary plan description, the plan administrator shall file with the Secretary a copy of each such summary plan description and a list identifying each such summary plan description. The name of the employer and the employer identification number (EIN) assigned by the Internal Revenue Service shall appear on the cover page of each summary plan description filed and also on the list of such summary plan descriptions.

(c) *Filing address.* The copy of the summary plan description shall be filed with the Secretary of Labor at the address stated in § 2520.104a–2(b).

(d) *Use of form EBS–1 as summary plan description.* The plan administrator of an employee benefit plan shall be deemed to have satisfied the requirements of sections 104(a)(1)(C) and 104(b)(1) of the Act and §§ 2520.104a–3 and 2520.104b–2 if, pursuant to § 2520.104–3 as issued on April 30, 1975, (40 FR 19469; see also 40 FR 20628, May 12, 1975), proposed §§ 2522.40 and 2523.30 as published on December 4, 1974 (39 FR 42241) and the instructions on Form EBS–1, the plan administrator has—

(1) Filed a copy of a complete Form EBS–1 with the Secretary on or before June 16, 1975, to satisfy the requirement of section 104(a)(1)(C) of the Act, and

(2) Furnished copies of such complete Form EBS–1 to participants covered under the plan and beneficiaries receiving benefits under the plan.

(e) *Special rules for plans subject to deferred initial reporting and disclosure requirements.* See § 2520.104–3.

§ 2520.104a–4 Material modifications to the plan and changes in plan description information.

(a) *Filing obligation.* The administrator of an employee benefit plan subject to the provisions of Part 1 of Title I of the Act shall file with the Secretary of Labor any material modification in the terms of the plan and any change in the information required by section 102(b) of the Act to be included in the plan description, within 60 days after the modification or change is adopted or occurs. This filing date is not affected by retroactive application of an amendment to a prior plan year; a modification "occurs" on the date it is adopted. A plan administrator is not required to file any material modification to the plan or change in information required to be included in the plan description that is (i) incorporated in the initial plan description furnished pursuant to section 104(a)(1)(B) of the Act and § 2520.104a–2 (or, for plans which become subject to Part 1 of Title I on or before January 31, 1976, pursuant to § 2520.104–3) or (ii) incorporated within 60 days in an updated plan description furnished pursuant to section 104(a)(1)(D) of the Act. For example: (1) A plan is established and subject to Part 1 on January 1, 1977. The plan is modified on February 1, 1977 and the modification is incorporated in the plan description required to be filed on April 30, 1977. No separate filing is made with the Secretary.

(2) The same plan makes another material modification on September 17, 1976. The modification is filed with the Secretary on or before November 15, 1976.

(b) *Reporting form.* Material modification to plan terms and changes in the information required to be included in the plan description shall be reported on Department of Labor Form EBS–1, "Plan Description," (see § 2520.102–1) in accordance with § 2520.104a–1(a) and the instructions to the Form.

(c) *Filing address.* Material modifications to the plan and changes in the information required to be in the plan description shall be filed with the Secretary of Labor at the address stated in § 2520.104a–2(b).

(d) *Special rules for plans subject to deferred initial reporting requirements.* See § 2520.104–3.

Subpart F—Disclosure Requirements

§ 2520.104b–1 Disclosure.

(a) *General disclosure requirements.* The administrator of an employee benefit plan covered by Part 1 of Title I of the Act must disclose certain material, including reports, statements and documents, to participants and beneficiaries. Disclosure under Part 1 takes three forms. First, the plan administrator must by direct operation of law, furnish certain material at stated times to all participants covered under the plan and beneficiaries receiving benefits under the plan. Second, the plan administrator must furnish certain material to individual participants and beneficiaries (1) upon their request or (2) without request, if certain events occur. Third, the plan administrator must make certain material available to participants and beneficiaries for inspection at reasonable times and places.

(b) *Fulfilling the disclosure obligation.* (1) Where certain material, including reports, statements and documents, is required under Part 1 of the Act and this part to be furnished either by direct operation of law or on individual request the plan administrator shall use measures reasonably calculated to ensure actual receipt by plan participants and beneficiaries of the material. Material which is required to be furnished to all participants covered under the plan and beneficiaries receiving benefits under the plan must be sent by first-class mail, unless another method of delivery is likely to result in full distribution. For example, personal delivery to employees at their worksite might be acceptable in some circumstances. It may also be acceptable to furnish such material as a special insert in a periodical such as a union newspaper if the mailing list for the periodical is comprehensive and up-to-date, the periodical containing such material is sent by first-class mail, and a prominent notice on the front page of the periodical advises readers that the issue contains an insert with important information about rights under the plan and the Act which should be read and retained for future reference. In no case will it be acceptable merely to place copies of the material in locations frequented by participants. Materials furnished upon written request by a participant or beneficiary shall be mailed to a stated address or personally delivered to the participant or beneficiary. Material mailed to participants and beneficiaries upon their written request need not be sent by first-class mail, but whatever class of mail is chosen must be reasonably calculated to ensure actual receipt by the participant or beneficiary requesting the material.

(2)(i) Where certain documents are required to be made available for examination by participants and beneficiaries in the principal office of the plan administrator and in such other places as may be necessary to make available all pertinent information to all participants, disclosure shall be made pursuant to the provisions of this paragraph. Such documents must be current, readily accessible and clearly identified, and copies must be available in sufficient number to accommodate the expected volume of inquiries.

(ii) Documents shall be made available for examination in each employer establishment in which at least 50 participants covered under a plan are customarily working. "Establishment" means a single physical location where business is conducted or where services or industrial operations are performed. Where employees are engaged in activities which are physically dispersed, such as agriculture, construction, transportation and communications, the "establishment" shall be the place to which employees report each day. When employees do not usually work at, or report to, a single establishment—for example, longshoremen, traveling salesmen, technicians, and engineers—the establishment shall be the location from which the emlpoyees customarily carry out their activities—for example a longshoremen's hiring hall or the field office of an engineering firm servicing at least 50 participants covered under the plan.

(iii) In the case of a plan maintained by an employee organization, documents shall be made available for examination at the union's local meeting hall.

(iv) Plan documents are not required to be physically maintained at each employer establishment or union meeting

hall as described in paragraphs (b)(2)(ii) and (iii) of this section: *Provided*, That these documents may be made available at such locations within three working days following receipt of a request for disclosure.

(c) *Participation for disclosure purposes.* (1) For purposes of sections 101(a) and 104(b)(1) of the Act and Subpart F of this part, an individual shall be deemed to become a participant covered under an employee welfare benefit plan on the earlier of—

(i) The date designated by the plan as the date on which the individual begins participation in the plan;

(ii) The date on which the individual receives benefits under the plan;

(iii) The date on which the individual becomes eligible under the plan for a benefit subject only to occurrence of the contingency for which the benefit is provided; or

(iv) The date on which the individual makes a contribution to the plan, whether voluntary or mandatory.

(2) For purposes of sections 101(a) and 104(b)(1) of the Act and Subpart F of this part, an individual shall be deemed to become a participant covered under an employee pension plan—

(i) In the case of a plan which provides for employee contributions or defines participation to include employees who have not yet retired, on the earlier of—

(A) The date on which the individual makes a contribution, whether voluntary or mandatory, or

(B) The date designated by the plan as the date on which the individual has satisfied the plan's age and service requirements for participation, and

(ii) In the case of a plan which does not provide for employee contributions and does not define participation to include employees who have not yet retired, the date on which the individual completes the first year of employment which may be taken into account in determining (A) whether the individual is entitled to benefits under the plan, or (B) the amount of benefits to which the individual is entitled, whichever results in earlier participation.

(d) *Termination of participant and beneficiary status for disclosure purposes.* (1) For purposes of section 101(a) and 104(b)(1) of the Act and Subpart F of this part, an individual is not a participant covered under an employee welfare plan on the earliest date on which the individual—

(i) Is ineligible to receive any benefit under the plan even if the contingency for which such benefit is provided should occur, and

(ii) Is not designated by the plan as a participant.

(2) For purposes of section 101(a) and 104(b)(1) of the Act and Subpart F of this part, an individual is not a participant covered under an employee pension plan or a beneficiary receiving benefits under an employee pension plan if—

(i) The entire benefit rights of the individual—

(A) Are fully guaranteed by an insurance company, insurance service or insurance organization licensed to do business in a State, and are legally enforceable by the sole choice of the individual against the insurance company, insurance service or insurance organization; and

(B) A contract, policy or certificate describing the benefits to which the individual is entitled under the plan has been issued to the individual; or

(ii) The individual has received from the plan a lump-sum distribution or a series of distributions of cash or other property which represents the balance of his or her credit under the plan.

(e) *Break in service for disclosure purposes.* (1) For purposes of section 101(a) and 104(b)(1) of the Act and Subpart F of this part, in the case of an employee pension benefit plan, an individual who has incurred a one-year break in service after having become a participant covered under the plan and who has acquired no vested right to a benefit before such break in service is not a participant covered under the plan until the individual has completed a year of service after returning to employment covered by the plan.

(2) For purposes of paragraph (e)(1) of this section, in the case of an employee pension benefit plan which is subject to section 203 of the Act the term "year of service" shall have the same meaning as in section 203(b)(2)(A) of the Act and any regulations issued under the Act and the term "one-year break in service" shall have the same meaning as in section 203(b)(3)(A) of the Act and any regulations issued under the Act.

§ 2520.104b-2 Summary plan description.

(a) *Obligation to furnish.* (1) The plan administrator of an employee benefit plan subject to the provisions of Part 1 of Title I of the Act on or before January 31, 1976 shall furnish a copy of the summary plan description—

(i) On or before May 30, 1976—

(A) To each person who is a participant covered under the plan as of March 2, 1976, and

(B) To each person who is a beneficiary receiving benefits under the plan (other than a beneficiary under a welfare plan) as of March 2, 1976; and

(ii)(A) To each person who, after March 2, 1976, becomes a participant covered under the plan, and

(B) To each person, who after March 2, 1976, becomes a beneficiary receiving benefits under the plan (other than a beneficiary under a welfare plan), on or before the 90th day after such a person becomes a participant covered under the plan or a beneficiary receiving benefits under the plan.

(2) The plan administrator of an employee benefit plan which becomes subject to the provisions of Part 1 of Title I of the Act after January 31, 1976 shall furnish a copy of the summary plan description—

(i) On or before the 120th day after the plan becomes subject to Part 1 of Title I of the Act—

(A) To each person who is a participant covered under the plan as of the 30th day after the plan becomes subject to Part 1 of Title I of the Act, and

(B) To each person who is a beneficiary receiving benefits under the plan (other than a beneficiary under a welfare plan) as of the 30th day after the plan becomes subject to Part 1 of Title I of the Act; and

(ii) (A) To each person who more than 30 days after the plan becomes subject Part 1 of Title I of the Act, becomes a participant covered under the plan, and

(B) To each person who, more than 30 days after the plan becomes subject to Part 1 of Title I of the Act, becomes a beneficiary receiving benefits under the plan (other than a beneficiary under a welfare plan), on or before the 90th day after such person becomes a participant covered under the plan or a beneficiary receiving benefits under the plan.

(3) The plan administrator of an employee welfare benefit plan shall furnish a copy of the summary plan description without charge upon request to any beneficiary receiving benefits under a welfare plan to whom a copy of the summary plan description has not already been furnished.

(b) *Obligation to furnish for certain multiemployer plans.* In the case of a multiemployer plan which was in existence on January 1, 1974, and which does not, as of May 30, 1976, maintain complete records of participants covered under the plan, the Secretary will consider that the plan administrator has used methods reasonably calculated to ensure timely receipt of the initial summary plan description by participants covered under the plan if the plan administrator takes the following measures for compliance:

(1) No later than May 30, 1976, the plan administrator shall furnish a copy of the summary plan description to all participants covered under the plan who, as of March 2, 1976, are receiving benefits under the plan.

(2) No later than May 30, 1976, the plan administrator shall take measures to distribute copies of the summary plan description to substantially all individuals who, as of March 2, 1976, are participants covered under the plan and who can be identified. These measures may include the following:

(i) The plan administrator may deliver copies of the summary plan description to employers whose employees are participants covered under the plan, or employee organizations whose members are participants covered under the plan, or to both, in sufficient quantity and sufficiently in advance of May 30, 1976, to enable such employers or employee organizations to furnish them to employees or members who are participants covered under the plan by that date.

(ii) The administrator may publish the summary plan description before May 31, 1976, in a periodical or periodicals, the circulation of which includes participants covered under the plan.

(3) The plan administrator shall take measures to ensure that all individuals who become participants covered under

the plan after March 2, 1976, receive copies of the summary description within 90 days after becoming such participants. These measures may include the following:

(i) The plan administrator may deliver copies of the summary plan description to employers whose employees are participants covered under the plan, to employee organizations whose members are participants covered under the plan, or to both, in sufficient quantity and with sufficient frequency to enable such employers or employee organizations to furnish them to participants within 90 days after they become participants covered under the plan.

(ii) The plan administrator may publish the summary plan description in a periodical or periodicals, the circulation of which includes participants covered under the plan, at regular intervals after May 30, 1976, until the plan administrator develops a complete record of substantially all participants covered under the plan.

(4) The plan administrator shall take measures to provide notification to all participants covered under the plan of their right under the Act to be furnished a copy of the summary plan description. Such notification shall include the following information: That an individual who is a participant under the plan as of March 2, 1976, is entitled to receive a copy of the plan summary description by May 30, 1976; that an individual who becomes a participant covered under the plan after March 2, 1976, is entitled to receive a copy of the summary plan description within 90 days after becoming such a participant; that the plan administrator will furnish a copy of the summary plan description without charge upon request to any participant covered under the plan who has not received a copy within the prescribed time; the manner in which such a copy may be obtained; and the plan's requirements for becoming a participant covered under the plan. Measures to provide such notification may include the following:

(i) The plan administrator may deliver notices containing the required information to employers whose employees are participants covered under the plan, or to employee organizations whose members are participants covered under the plan, or to both. These notices should be conspicuously posted on the premises of such employers and employee organizations in places calculated to attract the attention of substantially all employees or members who may be participants covered under the plan, and should remain posted until the plan administrator develops a complete record of all participants covered under the plan.

(ii) The plan administrator may publish a notice containing the required information in a periodical or periodicals, the circulation of which includes participants covered under the plan, at regular intervals after May 30, 1976, until the plan administrator develops a complete record of all participants covered under the plan.

(5) The plan administrator shall furnish a copy of the summary plan description, without charge, upon request, to any participant covered under the plan to whom no copy of the summary plan description has been furnished within the prescribed time.

(6) The plan administrator shall take measures to develop a complete record of all participants covered under the plan, including their current mailing addresses, and shall develop procedures for obtaining this information expeditiously with respect to new participants covered under the plan. The methods of distribution set forth in this paragraph (b) apply only with respect to the initial distribution of the summary plan description. The updated summary plan description—to be published within a five (or ten) year period after the initial publication—shall be distributed to participants in the manner prescribed in paragraph (a) of this section.

(7) In instances where the plan administrator relies on employers or employee organizations to perform duties relating to the distribution of the summary plan description to participants covered under the plan, the plan administrator should take whatever steps are necessary and feasible under the circumstances to ensure that employers or employee organizations actually perform those duties. For example, after a prompt meeting of the Board of Trustees of a multiemployer plan, a plan administrator secures written commitments from appropriate employers and employee organizations that they will distribute copies of the summary plan description to identifiable participants covered under the plan who are in their workforce or membership. The employers and employee organizations agree to distribute the documents in accordance with paragraphs (b)(2)(i) and (b)(3)(i) of this section, and to post and maintain notices in accordance with paragraph (b)(4)(i) of this section. As soon as is practicable, the plan administrator seeks to incorporate these commitments in collective bargaining agreements. The administrator has demonstrated appropriate diligence, and consequently is in compliance with the disclosure requirements.

(c) *Subsequent updated summary plan description.* (1) Section 104(b)(1) of the Act requires that subsequent updated summary plan descriptions be furnished within succeeding five or ten year periods. Each time a summary plan description is furnished, the measuring period for the next disclosure begins. Plans which furnish a summary plan description by May 30, 1976, shall furnish an updated summary plan description to participate within five years (or ten years if there have been no amendments within five years). For example, a plan which furnishes a summary plan description to participants and beneficiaries on May 30, 1976, shall furnish a new summary plan description integrating all plan amendments as required by section 104(b)(1) of the Act on or before May 30, 1981.

(2) Any plan may furnish the updated summary plan description referred to in paragraph (c)(1) of this section on any date within the five (or ten) year period described in subparagraph (1) of this paragraph. For example, the plan described in subparagraph (1) of this paragraph may furnish an updated summary plan description which meets the requirements of section 104(b)(1) of the Act on or before May 30, 1979 (three years after the May 30, 1976, publication). This plan shall furnish another updated summary plan description no later than May 30, 1984 (or May 30, 1989).

(d) *Special rules for plans subject to deferred initial reporting requirements.* See § 2520.104–3.

(e) *Style and format of the summary plan description.* See § 2520.102–2.

(f) *Contents of the summary plan description.* See § 2520.102–3.

(g) *Option for different summary plan description.* See § 2520.102–4.

(h) *Use of form EBS–1 as summary plan description.* See § 2520.104a–3(d).

§ 2520.104b–3. Summary of material modifications to the plan and changes in the information required to be included in the summary plan description.

(a) The administrator of an employee benefit plan subject to the provisions of Part 1 of Title I of the Act shall, in accordance with § 2520.104b–1(b), furnish without charge on request to each participant covered under the plan and each beneficiary who is receiving benefits under a pension plan, a summary description of any material modification to the plan and any change in the information required by section 102(b) of the Act to be included in the summary plan description. The plan administrator shall furnish this summary, written in a manner calculated to be understood by the average plan participant, not later than 210 days after the close of the plan year in which the modification or change was adopted or occurred. This disclosure date is not affected by retroactive application to a prior plan year of an amendment which makes a material modification to the plan; a modification does not "occur" before it is adopted. For example, a calendar year plan adopts a modification in April, 1978. The modification, by its terms, applies retroactively to 1977. A summary description of the modification is furnished on or before July 29, 1979.

(b) The summary of the material modifications to the plan or changes in information required to be included in the summary plan description need not be submitted separately if the changes or modifications are described in a timely summary plan description. For example, a calendar year plan adopts a material modification on June 3, 1975. The modification is incorporated in a summary plan description furnished on May 30, 1976. No separate summary of the material modification is furnished. The plan adopts another material modification September 15, 1976. A separate summary of the modification is furnished on or before July 29, 1977.

(c) *Special rules for plans subject to deferred disclosure requirements:* See § 2520.104–3.

§ 2520.104b–4 Alternative method of compliance for furnishing pension plan documents to retired participants and their beneficiaries.

Under the authority of section 110 of the Act, in the case of an employee pension benefit plan—

(a) A copy of the summary plan description or updated summary plan description need not be furnished to a retired participant or a beneficiary of a retired plan participant within the time prescribed in section 104(b)(1) of the Act and § 2520.104b–2(a) for furnishing the summary plan description, and within the five or ten year periods prescribed for furnishing updated summary plan descriptions in section 104(b)(1) of the Act and § 2520.104b–2(c), if—

(1) At or after retirement, the retired participant or beneficiary was furnished with a copy of a document which satisfies the requirements of section 102(a)(1) of the Act and § 2520.102–2 (relating to the style and format of the summary plan description) and section 102(b) of the Act and § 2520.102–3 (relating to the content of the summary plan description);

(2) No later than the time prescribed in section 104(b)(1) of the Act and § 2520.104b–2(a) for furnishing the summary plan description, and within the five or ten year periods prescribed by section 104(b)(1) of the Act and § 2520.104b–2(c) for furnishing the updated summary plan description, the retired participant or beneficiary is furnished a notice containing the following information:

(i) A statement that the retired participant or beneficiary may obtain a copy of the summary plan description or updated summary plan description without charge, upon request, from the plan administrator,

(ii) A statement that the benefit rights of the retired participant or beneficiary are set forth in the earlier summary plan description described in paragraph (a)(1) of this section, and

(iii) Information about the rights of participants and beneficiaries under the Act (if such information has not been furnished in an earlier document); and

(3) The plan administrator furnishes a copy of the summary plan description or updated summary plan description to the retired participant or beneficiary, without charge, upon request;

(b) A summary description of a material modification to the plan or a change in the information required by section 102(b) of the Act to be included in the summary plan description need not be furnished to a retired participant or a beneficiary of a retired or deceased participant receiving benefits under the plan within the time prescribed in section 104(b)(1) of the Act and § 2520.104b–3 for furnishing summary descriptions of such modifications and changes if the material modification or change in no way affects the retired participant's or beneficiary's rights under the plan. A change in trustees, for example, is information which the retiree or beneficiary may need to know in order to make inquiries about his or her rights expeditiously, and hence must be reported. On the other hand, a modification in benefits under the plan to which the retired participant or beneficiary had not at any time been entitled would not affect his or her rights and hence need not be furnished. If a retired participant or beneficiary requests a copy of a summary description of a material modification or a change which was not furnished, the plan administrator shall furnish the copy, without charge.

§ 2520.104b–30 Charges for documents.

(a) *Application.* The plan administrator of an employee benefit plan may impose a reasonable charge to cover the cost of furnishing copies of the following information, statements or documents to participants and beneficiaries upon their written request as required under section 104(b)(4) of the Act: The latest updated summary plan description, plan description, and the latest annual report, any terminal report, the bargaining agreement, trust agreement, contract, or other instruments under which the plan is established or operated. No charge may be assessed for furnishing information, statements or documents as required by other provisions of the Act, which include, in Part 1 of Title I, sections 104(b)(1), (2), (3) and (c) and 105(a) and (c).

(b) *Reasonableness.* The charge assessed by the plan administrator to cover the costs of furnishing documents is reasonable if it is equal to the actual cost per page to the plan for the least expensive means of acceptable reproduction, but in no event may such charge exceed 10 cents per page. For example, if a plan printed a large number of pamphlets at $1.00 per 50-page pamphlet, the actual cost of reproduction for the entire pamphlet ($1.00) would be equal to 2 cents per page. If only one page of such a pamphlet were requested, the actual cost of providing that page from a printed copy would be, potentially, $1.00, since the copy would no longer be complete. In such a case, the least expensive means of acceptable reproduction would be individually reproducing the page requested, at a charge of no more than 10 cents. No other charges for furnishing documents, such as handling or postage charges, will be deemed reasonable.

Issued in Washington, D.C. this 3rd day of June 1975.

JAMES D. HUTCHINSON,
Acting Administrator for Pension and Welfare Benefits Programs.

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PART III

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

■

AIRWORTHINESS REVIEW PROGRAM

Flight Proposal

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR PARTS 1, 21, 23, 25, 27, 29, 91 & 121]

[Docket No. 14684; Notice No. 75–25]

AIRWORTHINESS REVIEW PROGRAM

Notice No. 6: Flight Proposals

The Federal Aviation Administration is considering amending Parts 1, 21, 23, 25, 27, 29, 91, and 121 of the Federal Aviation Regulations to update and improve (1) the airworthiness standards applicable to aircraft performance, flight characteristics, flight manuals and operating limitations and information; (2) the operating regulations containing related airworthiness standards; and (3) rules governing holders of type certificates.

This is the sixth of a series of Notices of Proposed Rule Making issued, or to be issued, as a part of the First Biennial Airworthiness Review Program. Notice No. 74–33 (39 FR 36595; October 11, 1974) was the first. Amendments 21–43, 23–16, and 25–37, issued on December 31, 1974 (40 FR 2576; January 14, 1975) pursuant to that notice, incorporated certain form number and clarifying revisions into the Federal Aviation Regulations.

In addition to Notice No. 74–33, the following Airworthiness Review Program notices of proposed rule making have also been issued:

Airworthiness Review Program Notice No.	Notice No.	FR citation
2	75–10	(40 FR 10802; Mar. 7, 1975.)
3	75–19	(40 FR 21866; May 19, 1975.)
4	75–20	(40 FR 22110; May 20, 1975.)
5	75–23	(40 FR 23047; May 27, 1975.)

Interested persons, including the general public, manufacturers and users of aircraft and their components, both foreign and domestic, and foreign airworthiness authorities, are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments relating to any significant environmental or economic impact that might result because of the adoption of the proposals contained herein may also be submitted. Comments should identify this regulatory docket or notice number (Docket No. 14684; Notice No. 75–25) and be submitted in duplicate to: Federal Aviation Administration, Office of Chief Counsel, Attention: Rules Docket, AGC–24, 800 Independence Avenue, SW, Washington, D.C. 20591. All communications received on or before September 8, 1975, will be considered by the Administrator before taking action on the proposed rules. However, interested persons are urged to submit their comments as early as possible to facilitate rapid resolution of any issues raised. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available in the rules docket for examination by interested persons.

On February 12, 1974, the FAA issued an invitation to all interested persons to submit proposals for consideration during the First Biennial Airworthiness Regulations Review (see Notice 74–5, 39 FR 5785, February 15, 1974). In that notice, the FAA announced that it would make available for comment by interested persons a compilation of proposals that were to be given further consideration as possible agenda items for the First Biennial Airworthiness Review Conference. On May 22, 1974, the FAA issued an announcement of the availability of the Compilation of Proposals containing over 1000 submissions by the FAA and interested persons, and invited all interested persons to submit comments on the proposals it contained (see Notice 74–5A, 39 FR 18662, May 29, 1974).

In response to that invitation for comments, the FAA received over 4900 individual comments contained in 74 submissions. Based on those comments and on the Compilation of Proposals, the FAA prepared a number of working documents for the Airworthiness Review Conference held in Washington, D.C., on December 2–11, 1974. The FAA distributed those documents to all persons who had participated in the Airworthiness Review Program and to all other interested persons who requested them (see Notice 74–5B, 39 FR 36594, October 11, 1974).

For reasons given in Notice 74–5B, not all of the proposals contained in the Compilation were included in the Agenda for the conference. However, the proposals not included in the agenda were listed in a conference workbook titled "Proposals Not in Agenda." In general, Notice 75–10 deals with the proposals identified as "Items for Notice" in that workbook.

On November 25, 1974, the FAA issued a Notice of Conference that set forth the schedule for the conference and invited all interested persons to attend the conference (see Notice 74–5C, 39 FR 41319, November 26, 1974).

The Airworthiness Review Conference was attended by over 586 individuals representing 22 foreign airworthiness authorities as well as aircraft manufacturers and users. Except for the opening and closing plenary sessions of the conference, one or more committees discussed agenda items during conference working hours. Summaries were given by the FAA Committee Chairmen at the close of discussions on each agenda item. Persons present were given an opportunity to correct those oral summaries. Transcripts of those summaries (with editorial revisions) were combined with an attendee list for the conference as well as with transcripts of certain plenary session speeches and were distributed in accordance with a notice of availability issued February 4, 1975 (see Notice 74–5D; 40 FR 5810; February 7, 1975).

In general this notice deals with the proposals that were contained in the Committee workbook titled "Committee II—Flight." That workbook contained the proposals discussed by the Flight Committee at the Airworthiness Review Conference as well as written comments that were received for those proposals in response to Notice 74–5A. Another conference working document used was the Agenda for the Airworthiness Review Conference. That document, in addition to providing general information relating to the conference, included details on how the proposals were grouped into agenda items, and the scheduling of those items for discussion. Both the workbooks and the agenda were updated and corrected by a supplemental working document distributed prior to and at the conference to participating individuals as well as to other interested persons. These workbooks along with the committee discussions and written information submitted by conference attendees has provided the basis upon which the FAA has developed this notice.

A number of proposals contained in this notice were not included in the Committee II workbook. They are directly related to the proposals in the workbook and are included for the sake of clarity, consistency, and comprehensiveness. In addition, there are several proposals dealt with in this notice which appeared as "Items for Notice" in the "Proposals Not in Agenda" workbook but were withheld from consideration pending the completion of the Airworthiness Review Conference (see Appendix I to Notice 75–10 for a list of those proposals).

A number of proposals contained in the Committee II workbook are not included in this notice. These proposals (listed in Appendices I, II, and III) fall into three categories as follows:

Appendix I—those proposals which are being deferred to a later notice or to the next Airworthiness or Operations Review.

Appendix II—those proposals which were withdrawn by their proponent.

Appendix III—those proposals which were removed from consideration during this Airworthiness Review.

The FAA believes that, in general, the proposals in Appendix I Group 1 have sufficient merit to warrant further consideration and will be dealt with in the next Airworthiness or Operations Review, unless withdrawn by their proponent. But, because of the complexity of the proposal, the need for additional data, or the operational character of the proposal, further consideration within this Airworthiness Review is not feasible. The proposals in Appendix I Group 2 will be dealt with in a later notice as a part of this Airworthiness Review Program. The proposals in Appendix III have been removed from consideration for the reasons stated in that appendix.

The FAA believes that the airworthiness standards should, to the extent practical, be consistent throughout the airplane and rotorcraft certification parts (Parts 23, 25, 27, and 29). Therefore, the FAA has attempted within the time frame of this Airworthiness Review Program, to make consistent and parallel proposals, where appropriate, for each of these certification parts.

To avoid unnecessary repetition, in a number of instances the proposals developed for purposes of consistency are not set forth in their entirety if those proposals are substantively identical to another proposal in this notice. A short-form proposal referring to a proposal that is expressly set forth in this notice is used. Where a short-form proposal is used, however, there may be a need, if the proposal is to be adopted as a final rule, to change paragraph designations, cross references, or aircraft terminology (e.g. "airplane" to "rotorcraft", or vice versa) from that used in the referenced express proposal.

The FAA recognizes that there may exist additional instances in which a proposed rule change prescribed in this notice as expressly applying only to certain parts of the Federal Aviation Regulations should more appropriately apply to additional parts as well. Therefore, with respect to each proposal in this notice relating to Parts 23, 25, 27, or 29 of the Federal Aviation Regulations for which similar proposals do not exist for all of those parts, comments are solicited from all interested persons with respect to the applicability of that proposal (and its stated explanation) to those parts for which the proposal has not been expressly presented. Such comments received in response to this notice will either be dealt with as a part of the 1974–1975 Airworthiness Review Program or be considered as a part of the next Biennial Airworthiness Review.

For convenience, each proposal in this notice is numbered separately. The FAA requests that interested persons, when submitting comments, refer to proposals by these numbers, or by the section to which they relate. Each proposal contains, or references a proposal that contains, a reference to the Airworthiness Review Program proposal number, section, and agenda item to which that proposal relates. Comment on this notice should not refer to the Airworthiness Review Program proposal numbers or section numbers without also referring to the corresponding proposal numbers as set forth in this notice. Each proposal in this notice is provided with an explanation. In addition, to avoid confusion several of the proposals in this notice reference proposals in Notice 75–10 that deal with the same regulatory provisions. Several explanations deal with comments received in response to Notice 74–5A; however, all comments submitted in response to Notice 74–5A or submitted for the Airworthiness Review Conference, dealing with proposals contained in this notice, should be resubmitted if it is desired that they be considered as a part of this rulemaking action.

This amendment is proposed under the authority of sections 313(a), 601, 603, 604 and 605 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423, 1424, and 1425) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend Parts 1, 21, 23, 25, 27, 29, 91, and 121 of the Federal Aviation Regulations as follows:

PART 1—DEFINITIONS AND ABBREVIATIONS

§ 1.1 [Amended]

6–1. By amending § 1.1 by deleting the term "Accelerate-stop distance" and its definition.

Explanation. See the proposal for § 25.107(a).

Ref. Proposal Nos. 10, 158, 159, 1025, 1026; §§ 1.1, 25.107, 25.109; Agenda Item F–33.

§ 1.2 [Amended]

6–2. By amending § 1.2 by revising the definition of V_1 to read as follows:

V_1 means takeoff decision speed (formerly denoted as critical engine failure speed).

Explanation. See the proposal for § 25.107(a).

Ref. Proposal Nos. 15, 158, 159, 1025, 1026, 1028; §§ 1.2, 25.107, 25.109, 25.111; Agenda Item F–33.

PART 21—CERTIFICATION PROCEDURES FOR PRODUCTS AND PARTS

6–3. By adding a new § 21.5 to read as follows:

§ 21.5 Airplane or Rotorcraft Flight Manual.

(a) With each airplane or rotorcraft that was not type certificated with an airplane or Rotorcraft Flight Manual and that has had no flight time prior to [one year after the effective date of this amendment], the holder of a Type Certificate (including a Supplemental Type Certificate) or the licensee of a Type Certificate shall make available to the owner at the time of delivery of the aircraft a current approved Airplane or Rotorcraft Flight Manual.

(b) The Airplane or Rotorcraft Flight Manual required by paragraph (a) of this section must contain the following information:

(1) The operating limitations and information required to be furnished in an Airplane or Rotorcraft Flight Manual or in manual material, markings, and placards, by the applicable regulations under which the airplane or rotorcraft was type certificated.

(2) The maximum anticipated air temperature for which engine cooling was demonstrated must be stated in the performance information section of the Flight Manual, if the applicable regulations under which the airplane was type certificated do not require ambient temperature or engine cooling operating limitations in the Flight Manual.

Explanation. Present regulations require an Airplane or Rotorcraft Flight Manual for type certification of transport category airplanes, transport category rotorcraft, and airplanes certificated under Part 23 that have a maximum weight greater than 6,000 pounds. However, for airplanes of lesser weight and for helicopters certificated under Part 27, the required operating limitations and information may be furnished in any combination of manuals, markings, and placards.

The FAA believes that providing necessary safety information in "any combination of manuals, markings, and placards", may be confusing to pilots, especially since most pilots take their initial flight training in small single engine airplanes or helicopters. An approved Airplane or Rotorcraft Flight Manual would provide the aircraft operator with essential information in a consolidated, organized form suitable for study and reference.

The proposal for § 21.5(a) would require the holder or licensee of a Type Certificate or Supplemental Type Certificate to make available an approved Airplane or Rotorcraft Flight Manual with each "new" airplane that has had no flight time prior to a date one year after the effective date of the proposed amendment. The proposal would not require Flight Manuals for aircraft which are no longer being manufactured. With Flight Manuals available for all newly manufactured airplanes and rotorcraft, the FAA believes the objective of providing accurate information in the most useful form to the largest number of operators can be reasonably obtained.

The proposals for §§ 23.1581 and 27.1581 would require Flight Manuals for all small airplanes and rotorcraft type certificated in the future.

The proposal for § 21.5(b) lists the information that must be furnished in the Airplane or Rotorcraft Flight Manual, beginning with information prescribed in the applicable regulations under which the aircraft was type certificated. For example, for an airplane of 6,000 pounds or less maximum weight type certificated under Part 23, § 23.1581(a) requires that the applicable information in §§ 23.1583 through 23.1589 must be furnished in an Airplane Flight Manual or in any combination of manuals, markings, or placards. Under the proposal for § 21.5(b)(1), the required information would be furnished in a Flight Manual. However, this proposal would not delete any placards required under the type certificate.

In the past, Parts 23 and 27 have not required the Manual or other operating information to include the maximum air temperature for which compliance was shown with the engine cooling requirements. The proposal for § 21.5(b)(2) would correct this omission. Proposals for §§ 23.1521(e), 23.1583(b), 27.1521(f), and 27.1583(b) would correct the omission for aircraft type certificated under these parts in the future.

To ensure that the Airplane or Rotorcraft Flight Manual furnished with the aircraft by the holder of the type certificate under proposed § 21.5(a) is kept available in the aircraft for use during operations, a proposal to this effect is made for § 91.31(b).

Ref. Proposal Nos. 582, 1008; §§ 21.183, 91.31; Agenda Items D–20, D–22.

PART 23—AIRWORTHINESS STANDARDS: NORMAL, UTILITY, AND ACROBATIC CATEGORY AIRPLANES

§ 23.25 [Amended]

6–4. By adding at the end of § 23.25(b)(2) the word "and" and by deleting § 23.25(b)(3) and by redesignating § 23.25(b)(4) as § 23.25(b)(3).

Explanation. Under the proposal for § 23.29, the weight of the oil and other operating fluids would be included in the weight empty of the airplane. If that proposal is adopted, the weight of the oil should not be included again in the minimum weight established under § 23.25(b). It is therefore proposed that § 23.25(b)(3) be deleted.

Ref. Proposal Nos. 61, 152; §§ 23.29(a)(3), 25.29(a)(3); Agenda Items A–1, E–30.

6–5. By amending § 23.29 by deleting paragraphs (a)(4) and (a)(5) and by revising paragraph (a)(3) to read as follows:

§ 23.29 Empty weight and corresponding center of gravity.

(a) * * *

(3) Full operating fluids, including—

(i) Oil;

(ii) Hydraulic fluid; and

(iii) Other fluids required for normal operation of airplane systems, except water intended for water injection in the engines.

* * * * *

Explanation. This proposal would simplify weight and balance procedures by permitting a "weight empty" to be established with tanks full of the operating fluids that are normally carried on all flights. This proposal is also made for §§ 25.29, 27.29 and 29.29.

Ref. Proposal No. 61; § 23.29(a)(3); Agenda Item A–1.

6–6. By revising § 23.45 to read as follows:

§ 23.45 General.

(a) Unless otherwise prescribed, the performance requirements of this subpart must be met for still air and a standard atmosphere.

(b) The performance must correspond to the propulsive thrust available under the particular ambient atmospheric conditions, the particular flight condition, and the relative humidity specified in paragraphs (d) or (e) of this section, as appropriate.

(c) The available propulsive thrust must correspond to engine power or thrust, not exceeding the approved power or thrust, less—

(1) Installation losses; and

(2) The power or equivalent thrust absorbed by the accessories and services appropriate to the particular ambient atmospheric conditions and the particular flight condition.

(d) For reciprocating engine powered airplanes, the performance, as affected by engine power, must be based on a relative humidity of 80 percent in a standard atmosphere.

(e) For turbine engine powered airplanes, the performance, as affected by engine power or thrust, must be based on a relative humidity of—

(1) 80 percent, at and below standard temperature; and

(2) 34 percent, at and above standard temperature plus 50 degrees F.

Between these two temperatures, the relative humidity must vary linearly.

Explanation. Performance requirements for this subpart must be shown for still air with a standard atmosphere, as set forth in the present § 23.45. This proposal would require consideration of power losses due to the installation and power absorbed by the accessories and services, as well as, consideration of specified humidity conditions. These considerations should increase the accuracy of the airplane performance data.

Ref. Proposal No. 588; § 23.45; Agenda Item B–3.

6–7. By revising § 23.49 (a)(1) and (c)(1), and by adding a new § 23.49(e) to read as follows:

§ 23.49 Stalling speed.

(a) V_{S_0} is the stalling speed, if obtainable, or the minimum steady speed, in knots (CAS), at which the airplane is controllable, with the—

(1) Applicable power or thrust condition set forth in paragraph (e) of this section;

* * * * *

(c) V_{S_1} is the calibrated stalling speed, if obtainable, or the minimum steady speed, in knots, at which the airplane is controllable with the—

(1) Applicable power or thrust condition set forth in paragraph (e) of this section;

* * * * *

(e) The following power or thrust conditions must be used to meet the requirements of this section:

(1) For reciprocating engine powered airplanes, engines idling, throttles closed or at not more than the power necessary for zero thrust at a speed not more than 110 percent of the stalling speed.

(2) For turbine engine powered airplanes, the propulsive thrust must not be greater than zero at the stalling speed, or, if the resultant thrust has no appreciable effect on the stalling speed, with engines idling and throttles closed.

Explanation. The present requirement in § 23.49 (a)(1) and (c)(1) allows stalling speed or minimum steady speed to be established with engines idling, throttles closed. Flight test experience has shown that some turbopropeller powered airplanes may demonstrate a relatively high positive propeller thrust at the stall speed. This thrust condition may yield an unconservative stalling speed. This proposal would establish a new requirement for all turbine engine powered airplanes to be certificated under Part 23 and would transfer the present requirements in paragraph (a)(1) and (c)(1) to a new paragraph (e)(1). The new requirement in paragraph (e)(2) would limit turbine engine powered airplanes to not greater than a zero propulsive thrust condition at the demonstrated stalling speed unless it is shown that a greater thrust (corresponding with engines idling, throttles closed) has no appreciable effect on the stalling speed.

Ref. Proposal No. 589; § 23.49(a)(1); Agenda Item B–4.

6–8. By revising § 23.51 to read as follows:

§ 23.51 Takeoff.

(a) For each airplane (except a skiplane for which landplane takeoff data has been determined under this paragraph and furnished in the Airplane Flight Manual) the distance required to takeoff and climb over a 50-foot obstacle must be determined with—

(1) The engines operating within approved operating limitations; and

(2) The cowl flaps in the normal takeoff position.

(b) For multiengine airplanes, the lift-off speed, V_{LOF}, may not be less than V_{MC} determined in accordance with § 23.149.

(c) Upon reaching a height of 50 feet above the takeoff surface level, the airplane must have reached a speed of not less than the following:

(1) For multiengine airplanes, the higher of—

(i) 1.1 V_{MC}; or

(ii) 1.3 V_{S_1}, or any lesser speed, not less than Vx plus 4 knots, that is shown to be safe under all conditions, including turbulence and complete engine failure.

(2) For single engine airplanes—

(i) 1.3 V_{S_1}; or

(ii) Any lesser speed, not less than Vx plus 4 knots, that is shown to be safe under all conditions, including turbulence and complete engine failure.

(d) The starting point for measuring seaplane and amphibian takeoff distance may be the point at which a speed of not more than three knots is reached.

(e) Takeoffs made to determine the data required by this section may not require exceptional piloting skill or exceptionally favorable conditions.

Explanation. This is one of a series of proposals that would change certain performance and Airplane Flight Manual distinctions which have been established in Part 23 for airplanes that have a maximum weight of 6,000 pounds or less. This series includes proposals for §§ 23.51, 23.65, 23.67, 23.75, 23.77, 23.161, 23.1047, 23.1541, 23.1559, 23.1581, 23.1585, and 23.1587. The proposals would require that approved operating limitations, operating procedures, and performance information be included in an Airplane Flight Manual in all airplanes that are type certificated under Part 23 in the future.

The proposals would make the Flight Manual a part of the airplane's type certification for airplanes that have a maximum weight of less than 6,000 pounds. This is the same requirement that is applicable to airplanes certificated under present Part 23 that have a maximum weight greater than 6,000 pounds. Also, see the proposal for § 21.5,

which would require the type certificate holder or licensee of the type certificate to make approved Flight Manuals available for all airplanes and rotorcraft newly manufactured after a prescribed date. The FAA believes the Flight Manual would provide the airplane and rotorcraft operator with essential information in a consolidated and organized form, suitable for study and reference.

The proposal for § 23.51 would require that takeoff distance data be determined for all airplanes. For multiengine airplanes the proposal would add requirements that the lift off speed be not less than the minimum control speed, V_{MC} with one engine inoperative, and the speed at the 50 foot height point not less than 1.1 V_{MC}. The proposal for multiengine airplanes is made to ensure that the takeoff performance data will be based on speeds which are adequate for maintaining control of the airplane in the event of failure of the critical engine during takeoff.

The proposal for § 23.75 would require the determination of landing distance data for all airplanes.

The proposals for §§ 23.65(a) and 23.77 (a) would apply the same takeoff and balked landing climb requirements to all airplanes, in view of the proposals for §§ 23.51 and 23.75 to require takeoff and landing distance data for all airplanes.

Under the proposals for §§ 23.1581(a) and 23.1587, an Airplane Flight Manual, including takeoff and landing performance data would be required for all new type certificates for which the proposed amendments would be made applicable under § 21.17. The Airplane Flight Manual would also contain one-engine-inoperative performance data for all multiengine airplanes. (See the proposal for § 23.67).

The proposals for §§ 23.161 (trim), 23.1047(b)(1) (cooling), 23.1541 (placards), 23.1559 (placards), and 23.1585 (operating procedures) are being made for consistency with the other proposals that would make Part 23 requirements the same for airplanes above and below 6,000 pounds maximum weight.

Ref. Proposal Nos. 591, 67; §§ 23.51, 23.51(c); Agenda Items B–5, B–6.

6–9. By revising § 23.65 to read as follows:

§ 23.65 Climb: all engines operating.

(a) Each airplane must have a steady rate of climb at sea level of at least 300 feet per minute and a steady angle of climb of at least 1:12 for landplanes or 1:15 for seaplanes and amphibians with—

(1) Not more than maximum continuous power on each engine;

(2) The landing gear retracted;

(3) The wing flaps in the takeoff position; and

(4) The cowl flaps in the position used in the cooling tests required by §§ 23.1041 through 23.1047.

(b) Each airplane with engines for which the takeoff and maximum continuous power ratings are identical and that has fixed-pitch, two-position, or similar propellers, may use a lower propeller pitch setting than that allowed by § 23.33 to obtain rated engine r.p.m. at V_X, if—

(1) The airplane shows marginal performance (such as when it can meet the rate of climb requirements of paragraph (a) of this section but has difficulty in meeting the angle of climb requirements of paragraph (a) of this section or of § 23.77); and

(2) Acceptable engine cooling is shown at the lower speed associated with the best angle of climb.

(c) Each turbine engine powered airplane must be able to maintain a steady gradient of at least 4 percent at a pressure altitude of 5,000 feet and a temperature of 81° F (standard temperature plus 40° F).

Explanation. See the proposal for § 23.51 concerning airplanes of 6,000 pounds or less maximum weight.

In addition this proposal would add an additional performance requirement for Part 23 turbine engine powered airplanes. Since temperature affects the performance of a turbine engine to a greater degree than if affects a reciprocating engine, this proposal would require consideration of the power reduction due to higher than normal temperature. This temperature would be standard temperature plus 40° F at 5,000 feet pressure altitude.

The FAA will give further study to the question of converting the Part 23 climb requirements from a rate of climb to a gradient of climb basis.

Ref. Proposal Nos. 593, 68, 594; §§ 23.-65, 23.65(a)(3); Agenda Items B–5, B–7.

6–10. By amending § 23.67 as follows:

1. By inserting the words "reciprocating engine powered" after the first word "Each" in the lead-in sentence of § 23.67(a).

2. By inserting the words "reciprocating engine powered" after the first word "For" in the lead-in sentence of § 23.67 (b).

3. By adding new paragraphs § 23.67 (c) and (d) to read as follows:

§ 23.67 Climb: one engine inoperative.

* * * * *

(c) For turbine-powered multiengine airplanes the following apply:

(1) The steady gradient of climb must be determined at each weight, altitude, and ambient temperature within the operational limits established by the applicant, with the—

(i) Critical engine inoperative, and its propeller in the minimum drag position;

(ii) Remaining engines at not more than maximum continuous power or thrust;

(iii) Landing gear retracted;

(iv) Wing flaps in the most favorable position; and

(v) The means for controlling the engine-cooling air supply in the position used in the engine cooling tests required by §§ 23.1041 through 23.1047.

(2) Each airplane must be able to maintain the following climb gradients with the airplane in the configuration prescribed in paragraph (c)(1) of this section:

(i) 1.2 percent (or, if greater, a gradient equivalent to a rate of climb of 0.027 V_{ss}^2) at a pressure altitude of 5,000 feet and standard temperature (41° F).

(ii) 0.6 percent (or, if greater, a gradient equivalent to a rate of climb of 0.014 V_{ss}^2) at a pressure altitude of 5,000 feet and 81° F (standard temperature plus 40° F).

(3) The minimum climb gradient specified in paragraphs (c)(2) (i) and (ii) of this section must vary linearly between 41° F and 81° F and must change at the same rate up to the maximum operating temperature approved for the airplane.

(4) In paragraphs (c)(2) (i) and (ii) of this section, rate of climb is expressed in feet per minute and V_{ss} is expressed in knots.

(d) For all multiengine airplanes, the speed for best rate of climb with one engine inoperative must be determined.

Explanation. Under present §§ 23.67 (a) and (b)(1) multiengine airplanes of more than 6,000 pounds maximum weight or with a stalling speed of more than 61 knots are required to have a prescribed positive rate of climb at 5,000 feet altitude with one engine inoperative. Multiengine airplanes of lesser weight and stalling speed are not required to have a positive rate of climb with one engine inoperative, but their performance must be determined under § 23.67 (b)(2) and made available to the airplane operator under § 23.1587(c).

Proposal No. 596 for § 23.67, discussed in Committee II (Flight) under Agenda Items B–5 and B–8 would make the requirement for a positive one-engine-inoperative climb at 5,000 feet (specified in § 23.67(a)) applicable to all multiengine airplanes certificated under Part 23 regardless of weight, and a related Proposal No. 590 would delete the stalling speed limit for multiengine airplanes. Comments were made to the Committee that it would not be feasible to build economical multiengine airplanes of 6,000 pounds or less maximum weight if they had to meet the one-engine-inoperative climb requirement at 5,000 feet. The commentors also pointed out that single engine airplanes may be certificated under Part 23 if their stalling speed is 61 knots or less, and that § 23.49 (b) also applies this stalling speed limit to multiengine airplanes that cannot meet the one-engine-inoperative climb requirement of § 23.67(b). The FAA believes that these comments opposing Proposal No. 596 warrant further study, insofar as reciprocating engine powered airplanes are concerned.

Turbine engines generally have a higher power to weight ratio than reciprocating engines, and are therefore capable of providing higher performance or payload. However, if a reciprocating engine were replaced by a turbine engine having the same power at sea level, the power of the turbine engine at 5,000 feet with temperatures above standard could be considerably less than that of the reciprocating engine. Because of these dif-

ferences between reciprocating and turbine engines, the FAA believes that all turbine engine powered airplanes type certificated under Part 23 in the future (in accordance with the applicability provisions of § 21.17) should meet a positive climb requirement at 5,000 feet at a temperature above standard, regardless of the maximum weight.

The proposal herein for § 23.67 would therefore make the present requirements of § 23.67(a) and (b) applicable only to reciprocating engine powered airplanes, and add a new § 23.67(c) for turbine engine powered airplanes, prescribing one-engine-inoperative climb requirements at 5,000 feet at standard temperature and lesser climb requirements at standard temperature plus 40° F. The proposal for § 23.67(c)(1) would also require the determination of climb data throughout the ranges of weight, altitude, and temperature within the operational limits established by the applicant.

The FAA will give further study to the question of converting the climb requirements from a rate of climb to a gradient of climb basis.

Section 23.1047(d)(5) permits engine cooling requirements to be met at a speed greater than the best rate of climb speed, if the climb requirements of § 23.67 (a) or (b)(1) are met at this greater speed and a cylinder head temperature indicator is installed. The proposal for § 23.67(d) would therefore require that the best rate of climb speed also be determined, and the proposal for § 23.1587 would require that both speeds be shown in the Airplane Flight Manual so the pilot could obtain maximum performance from the airplane under various operating conditions.

Ref. Proposal Nos. 595, 596, 597, 717, 69; §§ 23.67(a), 23.67, 23.1587; Agenda Items B–5, B–8.

6–11. By revising § 23.75 to read as follows:

§ 23.75 Landing.

For airplanes (except skiplanes for which landplane landing data have been determined under this section and furnished in the Airplane Flight Manual), the horizontal distance necessary to land and come to a complete stop (or to a speed of approximately 3 knots for water landings of seaplanes and amphibians) from a point 50 feet above the landing surface must be determined as follows:

(a) A steady gliding approach with a calibrated airspeed of at least 1.3 V_{S_1} must be maintained down to the 50 foot height.

(b) The landing may not require exceptional piloting skill or exceptionally favorable conditions.

(c) The landing must be made without excessive vertical acceleration or tendency to bounce, nose over, ground loop, porpoise, or water loop.

(d) It must be shown that a safe transition to the balked landing conditions of § 23.77 can be made from the conditions that exist at the 50 foot height.

(e) The pressures on the wheel braking system may not exceed those specified by the brake manufacturer.

(f) Means other than wheel brakes may be used if that means—

(1) Is safe and reliable;

(2) Is used so that consistent results can be expected in service; and

(3) Is such that exceptional skill is not required to control the airplane.

Explanation. See the proposal for § 23.51 concerning airplanes of 6,000 pounds or less maximum weight.

In addition, this proposal would add a requirement permitting means other than brakes (in addition to brakes) to be used in determining the landing distance, if these means are shown to be safe and reliable and are used so that consistent results can be expected in service.

With respect to brakes, the proposal would limit the brake operating pressures used in the landing performance tests to the maximum pressures specified by the brake manufacturer.

Ref. Proposal Nos. 598, 599; §§ 23.75 (a)(b), 23.75(a)(5); Agenda Items B–5, B–9.

6–12. By revising § 23.77 to read as follows:

§ 23.77 Balked landing

(a) For balked landings, each airplane must be able to maintain a steady angle of climb at sea level of at least 1:30 with—

(1) Takeoff power on each engine;

(2) The landing gear extended; and

(3) The wing flaps in the landing position, except that if the flaps may safely be retracted in two seconds or less without loss of altitude and without sudden changes of angle of attack or exceptional piloting skill, they may be retracted.

(b) Each turbine engine powered airplane must be able to maintain a steady rate of climb of at least zero at a pressure altitude of 5000 feet at 81° F (standard temperature plus 40° F), with the airplane in the configuration prescribed in paragraph (a) of this section.

Explanation. See the proposal for § 23.51 concerning airplanes of 6,000 pounds or less maximum weight.

The proposal would also add an additional requirement to cover the effects of temperature on turbine engine powered airplanes. See the proposal for § 23.65.

The FAA will give further study to the question of converting Part 23 climb requirements from a rate of climb to a gradient of climb basis.

Ref. Proposal Nos. 601, 600, 70; §§ 23.77, 23.77(b); Agenda Items B–5, B–10.

6–13. By revising § 23.149 to read as follows:

§ 23.149 Minimum control speed.

(a) V_{MC} is the calibrated airspeed, at which, when the critical engine is suddenly made inoperative, it is possible to recover control of the airplane with that engine still inoperative, and maintain straight flight either with zero yaw or, at the option of the applicant, with an angle of bank not more than five degrees. The method used to simulate critical engine failure must represent the modes of powerplant failure expected in service.

(b) For reciprocating engine powered airplanes, V_{MC} may not exceed 1.2 V_{S_1} (where V_{S_1} is determined at the maximum takeoff weight) with—

(1) Takeoff or maximum available power on the engines;

(2) The most unfavorable center of gravity;

(3) The airplane trimmed for takeoff;

(4) The maximum sea level takeoff weight (or any lesser weight necessary to show V_{MC});

(5) Flaps in the takeoff position;

(6) Landing gear retracted;

(7) Cowl flaps in the normal takeoff position;

(8) The propeller of the inoperative engine—

(i) Windmilling;

(ii) In the most probable position for the specific design of the propeller control; or

(iii) Feathered, if the airplane has an automatic feathering device; and

(9) The airplane airborne and the ground effect negligible.

(c) For turbine engine powered airplanes, V_{MC} may not exceed 1.2 V_{S_1} (where V_{S_1} is determined at the maximum takeoff weight) with—

(1) Maximum available takeoff power or thrust on the engines;

(2) The most unfavorable center of gravity;

(3) The airplane trimmed for takeoff;

(4) The maximum sea level takeoff weight (or any lesser weight necessary to show V_{MC});

(5) The airplane in the most critical takeoff configuration, except with the landing gear retracted; and

(6) The airplane airborne and the ground effect negligible.

(d) At V_{MC}, the rudder pedal force required to maintain control may not exceed 150 pounds, and it may not be necessary to reduce power or thrust of the operative engines. During recovery, the airplane may not assume any dangerous attitude and it must be possible to prevent a heading change of more than 20°.

Explanation. Section 23.149(a) presently reads "V_{MC} is the minimum calibrated airspeed at which, when any engine is suddenly made inoperative, * * *". For consistency with the definition in § 1.2 the proposal would replace the words "any engine" with "the critical engine."

Because of possible differences in the design features or characteristics of reciprocating engine powered and turbine engine powered airplanes the proposal treats these classes of airplanes in separate paragraphs, § 23.149 (b) and (c). To cover the various possible failure modes of turbopropeller engine installations, the proposal would add a requirement in paragraph (a) stating that the method used to simulate critical engine failure must represent the modes of powerplant failure expected in service.

Section 23.149 presently states that V_{MC} may not exceed 1.2 V_{S_1}. Since the

value of V_{S_1} varies with the airplane weight, the proposal would add in paragraph (b) and (c) the parenthetical statement "(where V_{S_1} is determined at the maximum takeoff weight)" to clarify the rule and simplify showing compliance with the upper limit for V_{MC}. However, since some airplanes may have a V_{MC} lower than the V_{S_1} for maximum takeoff weight, the proposal would require demonstration at any lesser weight necessary to show V_{MC}.

The proposal for § 23.149(d) would replace present § 23.149(b). Also new paragraph (d) would set forth the 150 pound rudder force limit directly instead of referencing § 23.143, and would use terms that are appropriate for turbine as well as reciprocating engine powered airplanes.

In Airworthiness Review Notice Number 2 [Notice 75–10] a proposal was made to revise the second sentence of § 23.149 (b). The change is reproposed in this notice for clarity as the second sentence in new paragraph (d). All comments received in response to the proposal in Notice Number 2 or to this notice will be considered by the FAA before a final rule is adopted.

Ref. Proposal Nos. 606/607, 75; §§ 23.149, 23.149(a)(b); Agenda Item C–12.

6–14. By revising § 23.161(c) to read as follows:

§ 23.161 Trim.

* * * * *

(c) *Longitudinal trim.* The airplane must maintain longitudinal trim under each of the following conditions:

(1) A climb with maximum continuous power at a speed between Vx and 1.4 V_{S_1}, with—

(i) The landing gear and wing flaps retracted; and

(ii) The landing gear retracted and the wing flaps in the takeoff position.

(2) A power approach with a 3° angle of descent, the landing gear extended; and with—

(i) The wing flaps retracted and at a speed of 1.4 V_{S_1};

(ii) The most forward center of gravity approved for the maximum takeoff weight, and at the applicable airspeed and flap position used in showing compliance with § 23.75; and

(iii) The most forward center of gravity approved regardless of weight, at the applicable airspeed and flap position used in showing compliance with § 23.75.

(3) Level flight at any speed from 0.9 V_H to either Vx or 1.4 V_{S_1}, with the landing gear and wing flaps retracted.

* * * * *

Explanation. See the proposal for § 23.51 concerning airplanes of less than 6,000 pounds maximum weight.

Ref. Proposal No. 608; § 23.161(c); Agenda Item B–5.

§ 23.177 [Amended]

6–15. By deleting § 23.177 (a)(4) and (b)(3) and revising the heading of the section to read—"Static directional and lateral stability."

Explanation. This proposal, along with the proposal for § 23.181 is intended to clarify the regulations by transferring the directional and lateral dynamic stability requirements in § 23.177 (a)(4) and (b)(3) to § 23.181, which presently contains the longitudinal dynamic stability requirements.

Ref. Proposal No. 610; § 23.177; Agenda Item C–14.

6–16. By revising § 23.181 and its heading to read as follows:

§ 23.181 Dynamic stability.

(a) *Longitudinal dynamic stability.* Any short period longitudinal oscillation occurring between the stalling speed and the maximum allowable speed appropriate to the configuration of the airplane must be heavily damped with the primary controls—

(1) Free; and

(2) In a fixed position.

(b) *Lateral and directional dynamic stability.* Any short period lateral or directional oscillation occurring between the stalling speed and the maximum allowable speed appropriate to the configuration of the airplane must be damped to 1/10 amplitude in 7 cycles with the primary controls—

(1) Free; and

(2) In a fixed position.

Explanation. This proposal would place the lateral and directional dynamic stability requirements in § 23.181. (See the proposal for § 23.177). In addition, this proposal would change the lateral and directional dynamic stability requirements by replacing the term "heavily damped", by a definite requirement that any short period oscillation must be damped to 1/10 amplitude in 7 cycles. Flight test experience indicates that this would be a satisfactory damping ratio, in lieu of heavily damped, for lateral and directional dynamic stability.

Ref. Proposal No. 610; § 23.177; Agenda Item C–14.

6–17. By adding a new § 23.183 to read as follows:

§ 23.183 Spiral divergence.

With the airplane lateral and directional trim, power, speed and configuration used to demonstrate compliance with § 23.161(b) the following requirement must be met:

(a) The airplane must be established in a coordinated 20° banked turn with the longitudinal trim adjusted to maintain the airspeed used to demonstrate compliance with § 23.161(b).

(b) With the airplane established in the 20° banked turn in paragraph (a) of this section the controls must be released and the bank angle may not increase to more than 40° in less than 12 seconds.

Explanation. Tests have indicated that pilot workload may become excessive when the degree of spiral divergence results in a doubling of bank angle in less than 12 seconds. This proposal would establish a specific standard for demonstration of this characteristic during flight tests. It would require under the conditions set forth that the angle of bank may not go from 20° to 40° in less than 12 seconds.

Ref. Proposal No. 611; § 23.183; Agenda Item C–16.

6–18. By revising § 23.221 (a), (b) and (c) and adding a new § 23.221(e) to read as follows:

§ 23.221 Spinning.

(a) *Normal category.* A single engine normal category airplane must either meet the requirements of paragraph (d) of this section or the following requirements:

(1) The airplane must meet the configuration and spin entry condition requirements of paragraph (e) of this section.

(2) Prior to normal recovery application of the controls, the spin test must proceed for three turns or four seconds, whichever takes longer. However, beyond three seconds, the spin may be discontinued when spiral characteristics appear.

(3) The airplane must recover from any point in the spin in not more than one and one-half additional turns after normal recovery application of the controls.

(4) The applicable airspeed limit and limit load factor may not be exceeded during the spin or recovery.

(5) There may be no back pressure on the primary flight controls during the spin or recovery. This may be shown by a tendency for the controls to return to the trimmed position when released at any point in the spin.

(6) It must be impossible to obtain uncontrollable spins with any use of the primary flight controls.

(b) *Utility category.* A single engine utility category airplane must meet the requirements of paragraphs (a), (c), or (d) of this section.

(c) *Acrobatic category.* An acrobatic category airplane must meet the following requirements:

(1) The requirements set forth in paragraph (a)(1) and paragraphs (a)(3) through (a)(6) of this section.

(2) Except as provided in paragraph (c)(3) of this section, prior to normal recovery application of the controls, the spin test must proceed for six turns or four seconds whichever takes longer. However, beyond three seconds, the spin may be discontinued when spiral characteristics appear.

(3) If a placard is installed prohibiting intentional spins with wing flaps extended, compliance may be shown with paragraph (a)(2) of this section for the flaps extended spin entry configurations, and the flaps may be retracted during recovery after rotation stops.

* * * * *

(e) *Configurations and spin entry conditions.* Except for airplanes meeting the requirements of paragraph (d) of this section, the applicable spin test must be demonstrated in sufficient combinations of the following configurations and spin entry conditions to show compliance for all combinations:

(1) The wing flaps, landing gear, and cowl flaps in each position approved for flight, except that, for normal category airplanes, the wing flaps and landing gear

may be retracted during recovery after rotation stops.

(2) The airplane in straight flight and in 60 degree banked turns.

(3) The engine at idle and at 75 percent maximum continuous power or thrust; except the power or thrust may be reduced to idle after one full turn or three seconds whichever takes longer.

Explanation. Under the requirements of §§ 23.1567(a) and 23.1583(e)(1), spins are not authorized for normal category airplanes, and a placard must be displayed in view of the pilot stating "No acrobatic maneuvers, including spins, approved." There is no intent to change this prohibition. However, nearly all pilots take their initial flight training and solo practice flights in single engine airplanes, and sometimes enter a spin inadvertently while practicing other maneuvers. Some pilots may spin intentionally, in spite of the placard statement.

Section 23.221(a) presently requires that a single engine normal category airplane be able to recover from a one-turn spin or a 3-second spin, whichever takes longer, in not more than one additional turn, with the controls used in the normal manner for recovery. Flight tests have indicated that for some airplanes, the spin characteristics change when the spin is continued beyond one turn, making recovery extremely difficult or impossible. The spin characteristics may also be affected adversely if the entry is made with power on, or from an accelerated maneuver, or by abnormal use of the controls in entry or recovery.

The proposal for § 23.221 would therefore require that single engine normal category airplanes be required to recover from a spin of three turns or four seconds, whichever takes longer, and that spin entries be made with power up to 75 percent maximum continuous power or thrust from straight flight and 60 degree banked turns. The present requirement that it must be impossible to obtain uncontrollable spins with any use of the controls would apply to the proposed three turn spin requirement, but would be limited to the primary flight controls, since power controls would be covered in a separate paragraph.

At present § 23.221 states that there may be no excessive back pressure (on the controls) during spin or recovery. The word "excessive" is open to different interpretations, for example from the pilot strength or spin characteristics viewpoints. Flight tests indicate that back pressure may be an unfavorable spin characteristic. The proposal would therefore permit no back pressure, and compliance could be shown by a tendency of the controls to return to the trimmed position. However, normal recovery application of the controls would still be permitted to meet the spin recovery requirement.

For clarity, the proposal would list the various spin entry configurations and conditions in a separate new paragraph, § 23.221(e). The introductory sentence would require that a sufficient number of the possible combinations be tested to show that the airplane meets the spin requirements in all combinations; thus the test program could be adjusted to arrive at the critical combinations.

For utility category airplanes, § 23.221(b) presently requires compliance with either the normal category or the acrobatic category spin requirements. However, § 23.221(d) provides for a class of airplanes that are characteristically incapable of spinning, and the proposal for § 23.221(b) would make this option available for utility category airplanes.

A proposal for § 23.1567(b) is made to ensure there is no misunderstanding concerning the present spin prohibition for utility category airplanes that do not comply with the acrobatic category spin requirements.

For acrobatic category airplanes, the proposal for § 23.221(c) would include the changes proposed for the normal category spin requirement; however, the six turn spin requirement would be retained because intentional spins are permitted for acrobatic category airplanes.

Ref. Proposal Nos. 613, 80; § 23.221; Agenda Item C–18.

§ 23.729 [Amended]

6–19. By amending § 23.729(f)(1) by deleting the last sentence and substituting the following:

If there is a manual shutoff for the warning device prescribed in this paragraph, the warning system must be designed so that, when the warning has been suspended after one or more throttle are closed, subsequent retardation of any throttle to or beyond the position for normal landing approach will activate the aural warning.

Explanation. See the proposal for § 25.729.

Ref. Proposal No. 89; §§ 23.729, 25.729; Agenda Items A–2, E–23.

6–20. By revising § 23.1043(b) to read as follows:

§ 23.1043 Cooling tests.

* * * * *

(b) *Maximum ambient atmospheric temperature.* A maximum ambient atmospheric temperature corresponding to sea level conditions of at least 100° F must be established as a limitation on the operation of the airplane. The assumed temperature lapse rate is 3.6° F per thousand feet of altitude above sea level until a temperature of −69.7° F is reached, above which altitude the temperature is considered constant at −69.7° F. However, for winterization installations, the applicant may select a maximum ambient atmospheric temperature corresponding to sea level conditions of less than 100° F.

* * * * *

Explanation. See the proposal for § 23.1521(e).

Ref. Proposal No. 714; § 23.1583(m); Agenda Item D–20.

§ 23.1047 [Amended]

6–21. By amending § 23.1047 by striking the term "§ 23.65(a)(1)" in § 23.1047(b)(1) and by inserting "§ 23.65" in place thereof.

Explanation. See the proposal for § 23.51 concerning airplanes of less than 6,000 pounds maximum weight.

Ref. Proposal No. 654; § 23.1047; Agenda Items B–5 (Committee II), H–41 (Committee IV).

6–22. By revising § 23.1501 to read as follows:

§ 23.1501 General.

(a) Each operating limitation specified in §§ 23.1505 through 23.1527 and other limitations and information necessary for safe operation must be established.

(b) The operating limitations and other information necessary for safe operation must be made available to the crewmembers as prescribed in §§ 23.1541 through 23.1589.

Explanation. See the proposal for § 25.1501.

Ref. Proposal Nos. 706, 877, 962; §§ 25.1501, 27.1501, 29.1501; Agenda Items H–58, L–73, L–74.

6–23. By adding a new § 23.1521(e) to read as follows:

§ 23.1521 Powerplant limitations.

* * * * *

(e) *Ambient temperature.* Ambient temperature limitations (including limitations for winterization installations if applicable) must be established as the maximum atmospheric temperature at which compliance with the cooling provisions of §§ 23.1041 through 23.1047 is shown.

Explanation. The cooling tests requirements in present Parts 23, 25, 27, and 29 use different terminology. The term "maximum anticipated air temperature" is presently used in §§ 23.1043(b)(1), 27.1043(b), and 29.1043(b), and this temperature is defined as 100° F at sea level, decreasing at altitude. For turbine engine installations, § 23.1043(b)(2) uses the term "corrected hot day temperature" which is also 100° F at sea level. In Part 25, § 25.1043(b) uses the term "maximum ambient atmospheric temperature." This Part 25 section does not prescribe a definite temperature, but requires that a temperature (which would be selected by the applicant) must be established as a limitation on the operation of the airplane. In practice, applicants usually select a temperature of 100° F or higher to enable operation of the airplane in hot climates. Section 23.1043(b)(1) presently permits cooling to be shown for less than 100° F when the airplane is equipped with a winterization installation. Sections 25.1521(e) and 29.1521(e) presently establish ambient temperature operating limitations, but Parts 23 and 27 do not require such limitations.

The FAA believes that maximum ambient atmospheric temperature limitations should be treated uniformly in the various airplane and rotorcraft certification Parts.

The proposals for §§ 23.1043(b), 25.1043(b), 27.1043(b), and 29.1043(b) would establish 100° F at sea level as a lower limit for cooling tests but would permit the applicant to establish higher

temperatures. The exception for winterization installations would be included in all Parts.

The proposals for §§ 23.1521(e), 25.1521(e), 27.1521(f), 29.1521(e), 23.1583(b), 25.1583(b), 27.1583(b) and 29.1583(b) would make the airplane and rotorcraft certification Parts consistent with respect to ambient temperature limitations.

Ref. Proposal No. 714; § 23.1583(m); Agenda Item D–20.

6–24. By revising § 23.1523 to read as follows:

§ 23.1523 Minimum flight crew.

The minimum flight crew must be established so that it is sufficient for safe operation considering—

(a) The workload on individual crewmembers;

(b) The accessibility and ease of operation of necessary controls by the appropriate crewmember; and

(c) The kinds of operations authorized under § 23.1525.

Explanation. The proposal would update the minimum flight crew requirements of § 23.1523 to require consideration of the additional crew duties that may arise when IFR operations are authorized.

This section, as revised, would be consistent with present §§ 25.1523, 27.1523, 29.1523.

Ref. Proposal No. 707; § 23.1523(a), (b), (c); Agenda Item D–19.

6–25. By striking § 23.1541(d) and by revising § 23.1541(c) to read as follows:

§ 23.1541 General.

* * * * *

(c) For airplanes which are to be certificated in more than one category—

(1) The applicant must select one category upon which the placards and markings are to be based; and

(2) The placards and marking information for all categories in which the airplane is to be certificated must be furnished in the Airplane Flight Manual.

Explanation. See the proposal for § 23.51 concerning airplanes of less than 6,000 pounds maximum weight.

Ref. Proposal No. 711; § 23.1581; Agenda Item B–5.

6–26. By deleting § 23.1559(a)(3), by striking the words "of more than 6,000 pounds maximum weight" from the first sentence of § 23.1559(a)(2), and by revising § 23.1559(a)(1) to read as follows:

§ 23.1559 Operations limitations placard.

(a) * * *

(1) For airplanes certificated in one category: The markings and placards installed in this airplane contain operating limitations which must be complied with when operating this airplane in the _____ category. (Insert category.) Other operating limitations which must be complied with when operating this airplane in this category are contained in the Airplane Flight Manual.

* * * * *

Explanation. See the proposal for § 23.51 concerning airplanes of less than 6,000 pounds maximum weight.

Ref. Proposal No. 710; § 23.1559; Agenda Item B–5.

6–27. By revising § 23.1567(b) to read as follows:

§ 23.1567 Flight maneuver placard.

* * * * *

(b) For utility category airplanes, there must be—

(1) A placard in clear view of the pilot stating: "Acrobatic maneuvers are limited to the following _____" (list approved maneuvers and the recommended entry speed for each); and

(2) For those airplanes that do not meet the spin requirements for acrobatic category airplanes, an additional placard in clear view of the pilot stating: "Spins Prohibited."

* * * * *

Explanation. Although spins are not approved under the present rule for utility category airplanes that do not meet the acrobatic category airplane spin requirements, the FAA wants this prohibition to be clear and therefore believes an additional placard should be required. Also, see the proposal for § 23.221.

Ref. Proposal Nos. 613, 80; § 23.221; Agenda Item C–18.

6–28. By deleting § 23.1581(c) and marking it "[Reserved]", and by revising § 23.1581(a) to read as follows:

§ 23.1581 General.

(a) *Furnishing information.* An Airplane Flight Manual must be furnished with each airplane, and it must contain the following:

(1) Information required by §§ 23.1583 through 23.1589.

(2) Other information necessary for safe operation.

* * * * *

Explanation. See the proposal for § 23.51 concerning airplanes of less than 6,000 pounds maximum weight. See the proposal for § 21.5 with respect to furnishing Airplane Flight Manuals for all newly manufactured Part 23 airplanes.

Also see the proposal for § 25.1581 for explanation concerning the deletion of § 23.1581(c).

A proposed change is also made for § 23.158(b) and (d) in Airworthiness Review Notice No. 2 (Notice 75–10).

Ref. Proposal Nos. 711, 827; §§ 23.1581(a), 25.1581(c); Agenda Items B–5, H–59.

6–29. By revising § 23.1583(b) to read as follows:

§ 23.1583 Operating limitations.

* * * * *

(b) *Powerplant Limitations.* The following information must be furnished:

(1) Limitations required by § 23.1521.

(2) Explanation of the limitations.

(3) Information necessary for marking the instruments required by §§ 23.1549 through 23.1553.

* * * * *

Explanation. This proposal is made to clarify § 23.1583(b). This same information has been required under the present rule, but this clarification should end the need for further interpretations. Also, see the Proposal for § 23.1521(e).

Ref. Proposal No. 714; § 23.1583(m); Agenda Item D–20.

6–30. By deleting § 23.1585(b) and marking it "[Reserved]"; and by revising § 23.1585(a) and adding a new § 23.1585(c)(4) to read as follows:

§ 23.1585 Operating procedures.

(a) For each airplane, information concerning normal and emergency procedures and other pertinent information necessary to safe operation must be furnished, including—

(1) The demonstrated crosswind velocity and procedures and information pertinent to operation of the airplane in crosswinds; and

(2) The airspeeds, procedures, and information pertinent to the use of the following airspeeds:

(i) The recommended climb speed and any variation with altitude.

(ii) V_r and any variation with altitude.

(iii) The approach speeds, including speeds for transition to the balked landing condition.

* * * * *

(c) * * *

(4) Procedures for takeoff determined in accordance with § 23.51.

* * * * *

Explanation. See the explanation for § 23.51 concerning airplanes of less than 6,000 pounds maximum weight.

Ref. Proposal No. 715; § 23.1585; Agenda Item B–5.

6–31. By revising § 23.1587 to read as follows:

§ 23.1587 Performance information.

(a) *General.* For each airplane, the following information must be furnished:

(1) Any loss of altitude more than 100 feet, or any pitch more than 30° below flight level, occurring during the recovery part of the maneuver prescribed in § 23.201(b).

(2) The conditions under which the full amount of usable fuel in each tank can safely be used.

(3) The stalling speed, V_{s_0}, at maximum weight.

(4) The stalling speed, V_{s_1}, at maximum weight and with landing gear and wing flaps retracted, and the effect upon this stalling speed of angles of bank up to 60°.

(5) The takeoff distance determined under § 23.51, the airspeed at the 50-foot height, the airplane configuration (if pertinent), the kind of surface in the tests, and the pertinent information with respect to cowl flap position, use of flight—path control devices, and use of the landing gear retraction system.

(6) The landing distance determined under § 23.75, the airplane configuration (if pertinent), the kind of surface used in the tests, and the pertinent infor-

mation with respect to flap position and the use of flight-path control devices.

(7) The steady rate or gradient of climb determined under § 23.65 and § 23.77, the airspeed, power, and the airplane configuration.

(8) The calculated approximate effect on takeoff distance (paragraph (a)(5) of this section), landing distance (paragraph (a)(6) of this section), and steady rates of climb (paragraph (a)(7) of this section), of variations in—

(i) Altitude from sea level to 8,000 feet; and

(ii) Temperature at these altitudes from 60° F below standard to 40° F above standard.

(b) *Skiplanes.* For skiplanes, a statement of the approximate reduction in climb performance may be used instead of complete new data for skiplane configuration if—

(1) The landing gear is fixed in both landplane and skiplane configurations;

(2) The climb requirements are not critical; and

(3) The climb reduction in the skiplane configurations is small (30 to 50 feet per minute).

(c) *Multiengine airplanes.* For multiengine airplanes, the following information must be furnished:

(1) The loss of altitude during the one engine inoperative stall shown under § 23.205 (as measured from the altitude at which the airplane starts to pitch uncontrollably to the altitude at which level flight is regained) and the pitch angle during that maneuver.

(2) The best rate of climb speed or the minimum rate of descent speed with one engine inoperative.

(3) The speed used in showing compliance with the cooling and climb requirements of § 23.1047(d)(5), if this speed is greater than the best rate of climb speed with one engine inoperative.

(4) The steady rate or gradient of climb determined under § 23.67 and the airspeed, power, and airplane configuration.

(5) The calculated approximate effect on the climb performance determined under § 23.67 of variations in—

(i) Altitude from sea level to 8,000 feet in a standard atmosphere and cruise configuration; and

(ii) Temperature, at those altitudes, from 60° F below standard to 40° F above standard.

Explanation. See the proposal for § 23.51 concerning airplanes of less than 6,000 pounds maximum weight.

Also see the proposal for § 23.67 concerning one-engine-inoperative performance data for multiengine airplanes, and best rate of climb and cooling speeds.

A proposal was made in Airworthiness Review Notice Number 2 [Notice 75–10] to strike the second sentence from present § 23.1587(a)(2). The same change is reproposed in this notice for clarity. Comments to the Notice Number 2 proposal or to this proposal will be considered by the FAA before adoption of a final rule.

Ref. Proposal Nos. 716, 717; §§ 23.1587, 23.1587(c)(2); Agenda Items B–5, B–8.

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

6–32. By deleting "—measured at a height of six feet above the runway." in the last phrase of § 25.21(d) and by adding a new § 25.21(f) to read as follows:

§ 25.21 Proof of compliance.

* * * * *

(f) When surface winds must be considered, the wind velocity must be measured at a height of 10 meters above the surface, or corrected for the difference between the height at which the wind velocity is measured and the 10 meter height.

Explanation. The National Weather Service is standardizing on a height of 10 meters above the surface for reporting winds at airports. The proposal would make the flight requirements consistent with the National Weather Service standard.

Ref. Proposal No. 1020; § 25.21(f); Agenda Item E–26.

6–33. By amending § 25.29 by deleting paragraph (a)(4), and by revising paragraph (a)(3) to read as follows:

§ 25.29 Empty weight and corresponding center of gravity.

(a) * * *

(3) Full operating fluids, including—

(i) Oil;

(ii) Hydraulic fluid; and

(iii) Other fluids required for normal operation of airplane systems, except water intended for water injection in the engines.

* * * * *

Explanation. See the proposal for § 23.29.

Ref. Proposal No. 152; § 25.29(a)(3); Agenda Item E–30.

6–34. By revising § 25.107(a) to read as follows:

§ 25.107 Takeoff speeds.

(a) V_1 must be established in relation to V_{EF} as follows:

(1) V_{EF} is the calibrated airspeed at which the critical engine is assumed to fail. V_{EF} must be selected by the applicant, but may not be less than V_{MCG} determined under § 25.149(e).

(2) V_1, in terms of calibrated airspeed, is the takeoff decision speed selected by the applicant; however V_1 may not be less than V_{EF} plus the speed gained with all engines operating during the recognition-reaction time interval. This interval is the sum of—

(i) The time between the instant at which the critical engine is failed, and the instant at which the pilot recognizes and reacts to the engine failure, as indicated by the pilot's application of the first retarding means during accelerate-stop tests; and

(ii) The time, not less than 2.0 seconds, to allow for time delays in service.

* * * * *

Explanation. "V_1" is now defined as the critical-engine-failure speed, and the accelerate-stop distance is established as the distance required to accelerate the airplane to V_1 and stop. Section 25.101(h) requires allowance for any time delays in the execution of procedures that may reasonably be expected in service. However, the regulations are not explicit as to where or how time delays should be introduced in relation to V_1. In flight testing, V_1 has been considered as the speed at which the pilot recognizes the engine failure, as evidenced by his initial action, with time delays for subsequent actions. In operations, it is common practice for one pilot to call out V_1 during takeoff, and for the other pilot to use this as a decision speed, i.e. to stop if he is aware of a problem before V_1 is called, or to continue the takeoff after V_1 is called. This decision by the pilot is often due to problems other than engine failure and this condition is not specifically described in the present performance requirements.

The proposal for § 25.107(a) takes the foregoing factors into account. To allow for time delays in service, including a surprise element, the proposal would provide that at least 2.0 seconds must be added to the test pilot recognition-reaction time. To allow for events other than engine failure, the speed gained during this time interval would be based on all engines operating. Also see the proposal for § 25.149(e) which includes an explanation of the new term V_{MCG}.

The speed at the end of the recognition-reaction time interval would be designated as "V_1", and this would be the speed at which the pilot is assumed to have made a decision to continue or discontinue the takeoff. To make this intent clear, the proposal for § 1.2 would change the definition of V_1 to "takeoff decision speed", with a parenthetical statement "(formerly denoted as critical engine failure speed)" added to cover the use of this term in existing Airplane Flight Manuals. For airplanes certificated under the proposed requirements, the critical-engine failure speed used in determining performance data would be denoted by a new symbol "V_{EF}", in § 25.107(a).

Under the foregoing concept, V_1 would be the same for both the "engine failure" and "other event" cases. However, the accelerate stop distance for the engine failure case may be greater or lesser than the distance for the all engines operating case, depending upon the accelerations characteristics of the particular airplane. The proposal for § 25.109(a) would therefore require that the longer of the two distances be established as the accelerate-stop distance.

The term "Accelerate-stop distance" and its definition in § 1.1 would be deleted. The proposals for § 25.107(a) and § 25.109(a) would make them inconsistent with the present definition of accelerate-stop distance in § 1.1. The airworthiness requirements applicable to a particular airplane would correctly define the accelerate-stop distance, and these distances would be included in its Airplane Flight Manual, along with the takeoff and landing distances. The takeoff and landing distances are not defined in Part 1 and there appears to be no need to retain a definition of accerelate-stop distance in that Part.

In determining the takeoff path with one-engine-inoperative, the critical engine is made inoperative at the critical-engine-failure speed, which is designated as V_{EF} in the proposal for § 25.107(a). Therefore, the proposal for § 25.111 (a)(2) and (a)(3) would substitute "V_{EF}" for "V_1".

Ref. Proposal Nos. 10, 15, 158, 159, 160, 1022, 1025, 1026, 1028, 1035; §§ 1.1, 1.2, 25.101, 25.107, 25.109, 25.111, 25.149; Agenda Item F-33.

6-35. By revising § 25.107 (d) and (e)(1)(iv) to read as follows:

§ 25.107 Takeoff speeds.

* * * * *

(d) V_{MU} is the calibrated airspeed at and above which the airplane can safely lift off the ground, and continue the takeoff. V_{MU} speeds must be selected by the applicant throughout the range of thrust-to-weight ratios to be certificated. These speeds may be established from free air data if these data are verified by ground takeoff tests.

(e) * * *

(1) * * *

(iv) A speed that, if the airplane is rotated at its maximum practicable rate, will result in a V_{LOF} of not less than 110 percent of V_{MU} in the all-engines-operating condition and not less than 105 percent of V_{MU} determined at the thrust-to-weight ratio corresponding to the one-engine-inoperative condition. The V_{MU} determined at the thrust-to-weight ratio corresponding to the one-engine-inoperative condition may not be less than the speed required to control the airplane with the critical engine inoperative during lift off and must take into account the drag which would result from trim and control surface deflections used to maintain control if the critical engine was inoperative.

* * * * * *

Explanation. Flight testing to determine V_{MU} with one-engine-inoperative combines the problems of attempting to takeoff at the lowest possible speed with the difficulties of maintaining directional control. The required speed margins between V_{MU} and the operational takeoff speeds, and flight test experience indicate that it may be appropriate to determine V_{MU} with all engines operating at reduced thrust simulating the one-engine-inoperative thrust to weight ratio.

It would be necessry to show that this speed is adequate for control with the critical engine inoperative during lift off and that the resulting drag due to trim and control surface deflection which would be used to maintain control has been accounted for.

Ref. Proposal No. 1024; § 25.107(d); Agenda Item F-38.

6-36. By revising § 25.109(a) to read as follows:

§ 25.109 Accelerate-stop distance.

(a) The accelerate-stop distance is the greater of the following distances:

(1) The sum of the distances necessary to—

(i) Accelerate the airplane from a standing start to V_{EF} with all engines operating;

(ii) Accelerate the airplane from V_{EF} to V_1, assuming the critical engine fails at V_{EF}; and

(iii) Come to a full stop from the point at which V_1 is reached, assuming that the pilot does not apply any means of retarding the airplane until V_1 is reached and that the critical engine is still inoperative.

(2) The sum of the distances necessary to—

(i) Accelerate the airplane from a standing start to V_1 with all engines operating; and

(ii) Come to a full stop from the point at which V_1 is reached, assuming that the pilot does not apply any means of retarding the airplane until V_1 is reached.

* * * * *

Explanation. See the proposal for § 25.107(a).

Ref. Proposal Nos. 158, 159, 1025, 1026; §§ 25.107, 25.109; Agenda Item F-33.

§ 25.111 [Amended]

6-37. By amending § 25.111(a)(2) and (a)(3) by deleting "V_1" and substituting in both places "V_{EF}".

Explanation. See the proposal for §§ 25.107(a).

Ref. Proposal Nos. 1025, 160, 1028; §§ 25.107, 25.111; Agenda Item F-33.

6-38. By adding a new § 25.121(e) to read as follows:

§ 25.121 Climb: one-engine-inoperative.

* * * * *

(e) *One-engine-inoperative transition.* With the airplane in the landing configuration, but with the critical engine inoperative, at the speed recommended for approach with one-engine-inoperative but not less than 1.3 V_S and stabilized on a 3° descent path, a demonstration of the airborne transition to the stabilized climb condition prescribed in paragraph (d) of this section must be made. The vertical distance, in feet, between the point at which the transition is initiated and the lowest point in the resulting flight path must be determined. Testing must be conducted out of ground effect, at maximum landing weight, with all landing flap positions for which approval is requested.

Explanation. It is not uncommon that an airplane has to make an approach with an engine inoperative. The proposal would require that the vertical distance required to transition from a 3° descent path in the landing configuration to a climb in the approach configuration be determined. This information should be presented to the pilot in the Airplane Flight Manual.

Also see the proposal for § 25.1587.

Ref. Proposal No. 1029; § 25.121(e); Agenda Item F-40.

§ 25.123 [Amended]

6-39. By amending § 25.123(a) by deleting the word "may" in the second sentence and by adding the word "must" in its place.

Explanation. The present provision for computations of enroute flight paths does not require consideration of the variations in weight due to the consumption of fuel and oil. Enroute performance information presented in the Airplane Flight Manual includes the data computed under this section. Thus, the variations in weight due to fuel and oil consumption have not always been determined and the Airplane Flight Manual has not always contained the complete enroute flight path performance data desired for operational use.

Ref. Proposal No. 1030; § 25.123(a); Agenda Item F-41.

6-40. By amending § 25.143 by deleting "180" under yaw in the table of § 25.143 (c) and inserting "150" in its place, and by revising § 25.143(b) to read as follows:

§ 25.143 General.

* * * * *

(b) It must be possible to make a smooth transition from one flight condition to any other flight condition without exceptional piloting skill, alertness or strength, and without danger of exceeding the airplane limit-load factor under any probable operating conditions, including—

(1) The sudden failure of the critical engine, and for airplanes with three or more engines, the subsequent sudden failure of the second critical engine; and

(2) Configuration changes, including deployment or retraction of deceleration devices.

* * * * *

Explanation. The proposal for § 25.143 (c) would reduce the maximum permissible rudder force for temporary application in meeting the controllability requirements, from 180 pounds to 150 pounds, because flight test experience has shown that 180 pounds may make control difficult for some pilots under some flight conditions.

Section 25.143 presently contains general requirements on controllability, including the sudden failure of any engine. For airplanes with three or more engines, the proposals for § 25.149 contain specific requirements on the minimum control speed for sudden failure of a second critical engine during a landing approach, and this proposal for § 25.143 (b)(1) would provide a general requirement covering the failure of a second critical engine in other flight conditions.

The proposal would also add a general requirement on controllability during configuration changes, including the deployment or retraction of deceleration devices, since these are not covered in the specific configuration change requirements under §§ 25.145 through 25.147.

Ref. Proposal No. 1032; § 25.143; Agenda Item G-44.

6-41. By amending § 25.149 by—

1. Deleting paragraph (b) and redesignating paragraph (a) as paragraph (b);

2. Deleting "180" in paragraph (d) and inserting in its place "150"; and

3. Revising the paragraph (c) lead in and adding new paragraphs (a), (e), (f), (g) and (h) to read as follows:

§ 25.149 Minimum control speed.

(a) In establishing the minimum control speeds required by this section, the method used to simulate critical engine failure must represent the modes of powerplant failure expected in service.

* * * * *

(c) V_{MC} may not exceed 1.2 V_S with—

* * * * *

(e) V_{MCG}, the minimum control speed on the ground, is the calibrated airspeed during the takeoff run, at which, when the critical engine is suddenly made inoperative, it is possible to recover control of the airplane with the use of primary aerodynamic controls alone (without the use of nose-wheel steering) to enable the takeoff to be safely continued using normal piloting skill and rudder control forces not exceeding 150 pounds. Assuming that the ground track of the airplane accelerating with all engines operating is along the centerline of the runway, its ground track after the critical engine is made inoperative may not deviate more than 30 feet laterally from the centerline at any point, and must be parallel to or converging toward the centerline when the airplane is rotated for takeoff. V_{MCG} must be established with—

(1) The airplane in the most critical takeoff configuration;

(2) Maximum permissible takeoff power or thrust on the operating engines;

(3) The most unfavorable center of gravity;

(4) The airplane trimmed for takeoff; and

(5) The most unfavorable weight in the range of takeoff weights.

(f) V_{MCL}, the minimum control speed during landing approach with all engines operating, is the calibrated airspeed at which, when the critical engine is suddenly made inoperative, it is possible to recover control of the airplane with that engine still inoperative, and maintain straight flight either with zero yaw or, at the option of the applicant, with an angle of bank of not more than 5 degrees. V_{MCL} must be established with—

(1) The airplane in the most critical configuration for approach with all engines operating;

(2) The most unfavorable center of gravity;

(3) The airplane trimmed for approach with all engines operating;

(4) The maximum sea level landing weight (or any lesser weight necessary to show V_{MCL}); and

(5) Maximum permissible power or thrust on the operating engines.

(g) For airplanes with three or more engines, V_{MCL-2}, the minimum control speed during landing approach with one critical engine inoperative, is the calibrated airspeed at which, when a second critical engine is suddenly made inoperative, it is possible to recover control of the airplane with both engines still inoperative and maintain straight flight either with zero yaw or, at the option of the applicant, with a bank angle of not more than 5 degrees. V_{MCL-2} must be established with—

(1) The airplane in the most critical configuration for approach with the critical engine inoperative;

(2) The most unfavorable center of gravity;

(3) The airplane trimmed for approach with the critical engine inoperative;

(4) The maximum sea level landing weight (or any lesser weight necessary to show V_{MCL-2}); and

(5) Maximum permissible power or thrust on the operating engines.

(h) The rudder control forces required to maintain control at V_{MCL}, and V_{MCL-2} may not exceed 150 pounds nor may it be necessary to reduce power or thrust of the operating engines. In addition, the airplane may not assume any dangerous attitudes or require exceptional piloting skill, alertness, or strength to prevent a divergence in the approach flight path that could jeopardize continued safe approach when the critical engine is suddenly made inoperative, and when power or thrust on the operating engines is rapidly changed from the power or thrust required to maintain an approach path angle of 3 degrees, to—

(1) Minimum available power or thrust, and

(2) Maximum permissible power or thrust.

Explanation. Present paragraph (b) is deleted and the applicability phrase of paragrah (c) is revised for consistency with the proposals delete §§ 25.49 through 25.75 in Airworthiness Review Program Notice Number 2 [Notice 75–10]. The proposals in Notice Number 2 would establish the same performance regulations for turbine engine and reciprocating engine powered airplanes. Therefore, this proposal for § 25.149 would establish consistent requirements for determining minimum control speeds for these airplanes. To ensure that the various possible failure modes of different powerplants on these airplanes are given adequate consideration, a new paragraph (a) is added.

The proposal for § 25.149(d) would reduce the maximum permissible rudder force used in determining V_{MC}, from 180 pounds to 150 pounds, because flight test experience indicates that 180 pounds may make control too difficult for some pilots under some flight conditions.

Section 25.107(a) presently contains a ground controllability requirement in the determination of V_1. A proposal for § 25.107(a) makes it desirable for clarity to transfer the ground control provisions to § 25.149. The proposal for § 25.149(e) would require the determination of V_{MCG}, the minimum control speed on the ground for the sudden failure of the critical engine during the takeoff roll. During this demonstration, the permissible lateral deviation of the path of the airplane would be limited to 30 feet.

The proposal for § 25.149(f) would require the determination of a minimum control speed, V_{MCL}, at which the airplane can be safely controlled when an engine fails suddenly during a landing approach. For airplanes with three or more engines, the proposal for § 25.149 (g) would require the determination of a minimum control speed V_{MCL-2}, at which the airplane can be safely controlled when an approach is initiated with one engine inoperative and another engine fails during the approach. The information that would be obtained under the proposals for V_{MCL} and V_{MCL-2} should add to the safety of service and training operations.

Ref. Proposal Nos. 1035, 171, 1025; §§ 25.149, 25.107; Agenda Item G–47.

6–42. By revising § 25.177(b) to read as follows:

§ 25.177 Static directional and lateral stability.

* * * * *

(b) The static lateral stability (as shown by the tendency to raise the low wing in a sideslip with the aileron controls free and for any landing gear and flap position and symmetrical power condition) may not be negative in the following airspeed ranges:

(1) From 1.2 V_{S_1} to V_{MO}/M_{MO}.

(2) From V_{MO}/M_{MO} to V_{FC}/M_{FC} unless the Administrator finds that the divergence is—

(i) Gradual;

(ii) Easily recognizable by the pilot; and

(iii) Easily controllable by the pilot.

* * * * *

Explanation. The present provision requires that the static lateral stability in specified configurations must be positive at V_{FE}, V_{LE} or V_{FC}/M_{FC} (as appropriate) and may not be negative at 1.2 V_S. The proposal would require neutral or positive static lateral stability between 1.2 V_{S_1} and V_{MO}/M_{MO} and would allow negative static lateral stability between V_{MO}/M_{MO} and V_{FC}/M_{FC} under certain conditions. FAA flight test experience has indicated that positive static lateral stability in large airplanes is not necessary and that such a requirement would not appreciably increase safety.

Ref. Proposal No. 175; § 25.177; Agenda Item G–50.

6–43. By revising § 25.181 and its heading to read as follows:

§ 25.181 Dynamic stability.

(a) Any short period oscillation, not including combined lateral-directional oscillations, occurring between stalling speed and maximum allowable speed appropriate to the configuration of the airplane must be heavily damped with the primary controls—

(1) Free; and

(2) In a fixed position.

(b) Any combined lateral-directional oscillations ("Dutch Roll") occurring between stalling speed and maximum allowable speed appropriate to the configuration of the airplane must be positively damped with controls free, and must be controllable with normal use of the primary controls without requiring exceptional pilot skill.

Explanation. Section 25.181 presently requires that all short period dynamic longitudinal, directional, and lateral short period oscillations must be heavily damped. Flight tests have indicated that the combined lateral-directional oscillation known as "Dutch Roll" need not be heavily damped, but should be positively damped with controls free and should be controllable with normal use of the primary controls without requiring exceptional pilot skill.

The proposal for § 25.181(a) would provide an exception from the heavily damped requirement, and paragraph (b) would be added to require only positive damping of combined lateral-directional oscillations.

This proposal would also delete the parenthetical expression from present § 25.181 to avoid any possible confusion. The requirement as set forth, does not limit consideration to those speeds denoted in the parenthetical expression.

Ref. Proposal Nos. 1037, 176; § 25.181; Agenda Item G–51.

6–44. By deleting § 25.201(c)(2), redesignating § 25.201 (c)(3) as (c)(2), and by adding a new § 25.201(d) to read as follows:

§ 25.201 Stall demonstration.

* * * * *

(d) Occurrence of stall is defined as follows:

(1) The airplane may be considered stalled when, at an angle of attack measurably greater than that for maximum lift, the inherent flight characteristics give a clear and distinctive indication to the pilot that the airplane is stalled. Typical indications of a stall, occurring either individually or in combination, are—

(i) A nose down pitch that cannot be readily arrested;

(ii) A roll that cannot be readily arrested; or

(iii) If clear enough, a loss of control effectiveness, an abrupt change in control force or motion, or a distinctive shaking of the pilot's controls.

(2) On an airplane demonstrating an unmistakable inherent aerodynamic warning (in one or more configurations) of a magnitude and severity that is a strong and effective deterrent to further speed reduction, the airplane may be considered stalled when it reaches the speed at which the effective deterrent is clearly manifested.

Explanation. Section 25.201(c)(2) presently states that the airplane is considered stalled when, at an angle of attack measurably greater than that for maximum lift, the inherent flight characteristics give a clear and distinctive indication to the pilot that the airplane is stalled. An exception to the basic stall description "at an angle of attack measurably greater than that for maximum lift" is made for airplanes "demonstrating unmistakable inherent aerodynamic warning, associated with the stall in all required configurations, of a magnitude and severity that is a strong and effective deterrent to further speed reduction * * *."

Flight tests have shown that some airplanes provide an "effective deterrent" in some configurations, and meet the "angle of attack beyond maximum lift" description in other configurations. Since § 25.207 requires that a stall warning begin at a speed well above the stall speed established under § 25.201, it appears unnecessary to restrict the "effective deterrent" exception to those airplanes that provide the deterrent in all required configurations. The proposal would therefore make the "effective deterrent" exception available for one or more configurations. For clarity, the description of the conditions under which the airplane is considered to be stalled would be transferred from § 25.201(c)(2) to a new paragraph (d). It would also clarify the rule by placing the typical indications of stall after the basic description, and by stating the exception last.

Ref. Proposal No. 177; § 25.201; Agenda Item G–53.

§ 25.207 [Amended]

6–45. By deleting the term "§ 25.201(c)(2)" in § 25.207(c) and inserting in its place "§ 25.201(d)", and by adding a sentence at the end of § 25.207(b) to read as follows:

If a warning device is used, it must provide a warning in each of the airplane configurations prescribed in paragraph (a) of this section at the speed prescribed in paragraph (c) of this section.

Explanation. The proposal to amend § 25.201 deletes the present § 25.201(c)(2) and sets forth revised requirements as a new § 25.201(d).

Under the proposal for § 25.201(d), an airplane could have inherent aerodynamic stall warning in one or more but not all of the required configurations. The proposal for § 25.207(b) would require that the warning device provide the prescribed warning in all required configurations at the required speed.

Ref. Proposal No. 177; § 25.201; Agenda Item G–53.

§ 25.233 [Amended]

6–46. By amending § 25.233(a), by deleting "0.2 V_{SO}" and substituting "25 knots."

Explanation. This proposal would make § 25.233(a) consistent with the proposal for § 25.237(a).

Ref. Proposal Nos. 1020, 1039, 1040; §§ 25.21, 25.233, 25.237; Agenda Item E–26.

6–47. By revising § 25.237 to read as follows:

§ 25.237 Wind velocities.

(a) For landplanes and amphibians, a 90° cross component of wind velocity, must be established—

(1) For dry runways, for which the established cross component demonstrated to be safe for takeoff and landing, must be at least 25 knots; and

(2) For wet runways, for which the established cross component may be determined by analysis to be safe for takeoff and landing.

(b) For seaplanes and amphibians, the following wind velocities must be established:

(1) A 90° cross component of wind velocity, not less than 25 knots, up to which takeoff and landing is safe under all water conditions that may reasonably be expected in normal operation.

(2) A wind velocity of not less than 25 knots, for which taxiing is safe in any direction under all water conditions that may reasonably be expected in normal operation.

Explanation. The ability of transport category airplanes to takeoff and land in cross winds has become increasingly important because of the high cost of building airports with runways in more than one direction and the use of preferential runways for noise abatement. Operation of these airplanes at airports with only one available runway would involve safety as well as economic considerations.

The proposal would establish 25 knots as the minimum cross wind component for landplanes, to be demonstrated on dry runways. Operating experience indicates that it would also be desirable to establish a safe cross wind component for operation on wet runways. Due to the difficulty of obtaining suitable combinations of cross wind and runway surface conditions during flight tests, the proposal would permit analysis to be used in establishing the cross wind component for wet runways.

The proposal would also require wind velocities to be established for takeoff, landing, and taxiing of seaplanes and amphibians.

Ref. Proposal Nos. 1020, 1041, 1040; §§ 25.21, 25.233, 25.237; Agenda Item E–26.

§ 25.251 [Amended]

6–48. By deleting the word "perceptible" in the first sentence of § 25.251(e) and by adding the following after the first sentence in § 25.251(e):

The onset of buffet is defined as that degree of buffet which would be distinguishable from air turbulence but in no case greater than ±0.05g measured at the pilot's station.

Explanation. The proposal would add a quantitative definition as to what constitutes buffet onset. Under the present rules this determination is based on subjective pilot opinion. Flight test experience has shown that 0.05g corresponds closely with the pilot's determination of buffet onset.

Ref. Proposal No. 179; § 25.251; Agenda Item G–54.

6–49. By adding a new § 25.255 to read as follows:

§ 25.255 Out-of-trim characteristics.

From an initial condition with the airplane trimmed at cruise speeds up to V_{MO}/M_{MO}, the airplane must have satisfactory maneuvering stability and controllablity with the degree of out-of-trim in both the airplane nose up and nose down directions, which results from a three-second movement of the primary longitudinal trim system at its normal rate with no aerodynamic load, or the maximum mistrim that can be sustained

by the autopilot while maintaining level flight in the high speed cruising condition, whichever is greater. In this out-of-trim condition:

(a) The stick force per g curve must have a positive slope between 1g and +2.5g's at speeds up to V_{FC}/M_{FC} and there may not be reversal of the primary longitudinal control force at speeds up to V_{DF}/M_{DF} except that lesser acceleration values may be used at altitudes and speeds where buffet envelopes are established in accordance with § 25.251(e).

(b) Compliance with the provisions of paragraph (a) of this section must be demonstrated in flight over the normal acceleration range of—

(1) −1g to +2.5g's; or

(2) 0g to 2.0g's, and extrapolating by an acceptable method to −1g and +2.5g's.

(c) If the procedure set forth in paragraph (b)(2) of this section is used to demonstrate compliance and marginal conditions exist during flight test with regard to reversal of primary longitudinal control force, flight tests must be accomplished from the normal acceleration at which a marginal condition is found to exist to the applicable limit specified in paragraph (a) of this section.

(d) It must be possible from an overspeed condition at V_{DF}/M_{DF} to produce at least 1.5g's for recovery by applying not more than 125 pounds of longitudinal control force using either the primary longitudinal control alone or the primary longitudinal control and the longitudinal trim system. If the longitudinal trim is used to assist in producing the required load factor it must be shown at V_{DF}/M_{DF} that the longitudinal trim can be actuated in the airplane nose up direction with the primary surface loaded to correspond to the least of the following airplane nose up control forces:

(1) The maximum control forces expected in service as specified in §§ 25.301 and 25.397.

(2) The control force required to produce 1.5g's.

(3) The control force corresponding to buffeting or other phenomena of such intensity that it is a strong deterrent to further application of primary longitudinal control force.

(f) Recovery from normal accelerations less than 1g must be accomplished without exceeding V_{DF}/M_{DF}.

Explanation. Service experience indicates that out-of-trim conditions can occur in flight for various reasons, and that the control and maneuvering characteristics of the airplane may be critical in recovering from upsets. For flight test purposes, the proposal would simulate the out-of-trim conditions by requiring the longitudinal trim control to be displaced from the trimmed position by the amount resulting from movement of the trim system at its normal rate with no aerodynamic load, or the maximum mistrim that the autopilot can sustain in level flight in the high speed cruise condition, whichever is greater. The proposal would require the maneuvering characteristics, including stick force per g, to be explored throughout a specified maneuver load factor speed envelope. The dive recovery characteristics would be investigated to determine that safe recovery can be made from the demonstrated flight dive speed, V_{DF}/M_{DF}.

Ref. Proposal No. 1033–1; § 25.144; Agenda Item G–45.

6–50. By adding a new § 25.703 following § 25.701 to read as follows:

§ 25.703 Takeoff warning system.

A takeoff warning system must be installed and must meet the following requirements:

(a) The system must provide an aural and visual warning to the pilots during the takeoff run if the airplane is in a configuration, including any of the following, that would not permit a safe takeoff:

(1) The wing flaps, or leading edge devices are not within the approved range of takeoff positions.

(2) Wing spoilers (except lateral control spoilers meeting the requirements of § 25.671), speed brakes, or longitudinal trim devices are in a position that would not permit a safe takeoff.

(b) When required by paragraph (a) of this section, the warning for the system must be automatically activated during the initial portion of the takeoff roll and must continue until the configuration is changed to permit a safe takeoff, the takeoff roll is terminated, or the warning is manually deactivated by the pilot.

(c) The means used to activate the system must function properly throughout the ranges of takeoff weights, altitudes, and temperatures for which certification is requested.

(d) The system must be designed to provide reliable sensing of an unsafe position of each critical aerodynamic surface.

Explanation. The proposal would require a system to warn the pilots during the initial takeoff roll if the airplane is in a configuration that would prevent successful completion of the takeoff. Wing flaps and associated leading edge devices pose a special problem because some airplanes have takeoff flap settings that vary with weight, altitude, temperature, and runway length. A warning system that accounts for these variables would be extremely complex, and would still require the pilot to enter the proper input data. In the interest of reliability, the proposal would require the system to give a warning when the flaps or leading edge devices are not within the approved range of takeoff positions. The system should warn the pilots when they have not placed the flaps in an approved takeoff position or have retracted the flaps inadvertently, or if the flaps fail to move from the retracted position in response to a control input. Since throttle position may be used as a means to sense the start of the takeoff run and the takeoff throttle setting may vary considerably with temperature, altitude, and the use of reduced thrust procedures, this proposal would require the takeoff sensing means to function properly over the ranges of takeoff weights, altitudes, and temperatures for which certification is requested. Due to the possibility of failures or malfunctions in aerodynamic surface control systems between the pilots' controls and the surfaces, the proposal would require the takeoff warning system be designed to provide reliable sensing of an unsafe position of each critical surface.

Ref. Proposal No. 220; § 25.659; Agenda Item E–24.

6–51. By revising § 25.729(e)(3) to read as follows:

§ 25.729 Retracting mechanism.

* * * * *

(e) * * *

(3) If there is a manual shutoff to silence the aural warning device prescribed in paragraph (e)(2) of this section, the warning system must be designed so that, when the warning has silenced after one or more throttles are closed, subsequent retardation of any throttle to or beyond the position for a normal landing approach will activate the aural warning.

* * * * *

Explanation. The present rule requires that a manual shutoff for the aural landing gear warning device be installed so that reopening the throttle will reset the device. However, when an engine has been shut down in flight, its throttle may not be reopened before landing. The proposal would require the aural warning to be activated when any throttle is subsequently retarded to or beyond the position for a normal landing approach, thus requiring the warning intended by paragraph (e)(2) regardless of the position of any other throttle and the prior deactivation.

Ref. Proposal No. 89; §§ 23.729, 25.729; Agenda Item E–23.

§ 25.1043 [Amended]

6–52. By amending § 25.1043(b) in a manner substantively identical to that proposed for § 23.1043(b).

6–53. By revising § 25.1501 to read as follows:

§ 25.1501 General.

(a) Each operating limitation specified in §§ 25.1503 through 25.1533 and other limitations and information necessary for safe operation must be established.

(b) The operating limitations and other information necessary for safe operation must be made available to the crewmembers as prescribed in §§ 25.1541 through 25.1587.

Explanation. Section 25.1501 is the introductory general section for Subpart G, Operation Limitations and Information, which covers three main subjects, i.e., the establishment of operating limitations, the information required on markings and placards, and the information required to be furnished in an Airplane Flight Manual.

By referring to appropriate sections of Subpart G, the proposal for § 25.1501 would make it clear that operating limi-

tations must be established and would also clarify what information must be made available to the crewmembers in a particular form.

Also see the proposal § 25.1581.

Ref. Proposal Nos. 706, 877, 962; §§ 25.1501, 27.1501, 29.1501; Agenda Items H–58, L–73, L–74.

6–54. By revising § 25.1521(e) to read as follows:

§ 25.1521 Powerplant limitations.

* * * * *

(e) *Ambient temperature.* Ambient temperature limitations (including limitations for winterization installations if applicable) must be established as the maximum ambient atmospheric temperature at which compliance with the cooling provisions of §§ 25.1041 through 25.1045 is shown.

Explanation. See the proposal for § 23.1521(e).

Ref. Proposal No. 714; § 23.1583(m); Agenda Item D–20.

6–55. By deleting § 25.1581(c) and marking it "[Reserved]"; and by revising § 25.1581 (a) and (b) to read as follows:

§ 25.1581 General.

(a) *Furnishing information.* An Airplane Flight Manual must be furnished with each airplane, and it must contain the following:

(1) Information required by §§ 25.1583 through 25.1587.

(2) Other information necessary for safe operation.

(b) *Approved information.* Each part of the manual listed in §§ 25.1583 through 25.1587, that is appropriate to the airplane, must be furnished, verified and approved, and must be segregated, identified and clearly distinguished from each unapproved part of that manual.

* * * * *

Explanation. Section 25.1581 presently requires that each part of the Airplane Flight Manual listed in §§ 25.1583 through 25.1587 be furnished, verified, approved, etc., and that information not specified in these sections must also be furnished if it is required for safe operation because of unusual design, operating, or handling characteristics.

The FAA believes that the qualifying clause "because of unusual design, operating, or handling characteristics" in present § 25.1581(c) is too restrictive in limiting the additional information in the Flight Manual. Even though certain design, operating, or handling characteristics of a particular airplane type are similar to those characteristics in some other airplane types, information concerning those characteristics may be necessary for safety. The proposal for § 25.1581(a)(2) would therefore require "other information necessary for safe operation," without the present qualifying clause.

The term in § 25.1581(a) "Unless otherwise prescribed" would be deleted as inappropriate for the type certification rules. Also see the proposal for § 121.141(b).

Airworthiness Review Notice No. 2 [Notice 75–10] contains a proposal to add a new § 25.1581(d).

Ref. Proposal No. 827; § 25.1581(c); Agenda Item H–59.

6–56. By amending § 25.1583(b) in a manner substantively identical to that proposed for § 23.1583(b); and by revising § 25.1583(c) and by adding a new § 25.1583(i) to read as follows:

§ 25.1583 Operating limitations.

* * * * *

(c) *Weight and loading distribution.* The weight and center of gravity limits required by §§ 25.25 and 25.27 must be furnished in the Airplane Flight Manual. All of the following information must be presented either in the Airplane Flight Manual or in a separate weight and balance control and loading document which is incorporated by reference in the Airplane Flight Manual:

(1) The condition of the airplane and the items included in the empty weight as defined in accordance with § 25.29.

(2) Loading instructions necessary to ensure loading of the airplane within the weight and center of gravity limits, and to maintain the loading within these limits in flight.

(3) If certification for more than one center of gravity range is requested, the appropriate limitations, with regard to weight and loading procedures, for each separate center of gravity range.

* * * * *

(i) *Maneuvering flight load factors.* The positive maneuvering limit load factors for which the structure is proven, described in terms of accelerations, and a statement that these accelerations limit the angle of bank in turns and limit the severity of pull-up maneuvers, must be furnished.

Explanation. A series of airplanes having the same external configuration and engines generally have the same basic weight and center of gravity limitations. However, the loading instructions necessary to load a particular airplane within these limitations will depend upon the equipment and other items included in the weight empty and the seating arrangement of that airplane. The proposal would permit the loading instructions to be placed in a separate document that is incorporated by reference in the Airplane Flight Manual. This should enable Airplane Flight Manuals to be prepared in a more convenient and useable form.

The proposal would transfer present § 25.1583(c)(3) to a new § 25.1583(i) because the maneuver load factor limitation is not appropriately placed under the subject of weight and loading distribution.

Ref. Proposal Nos. 334, 336; § 25.1583(c); Agenda Item H–59.

6–57. By revising § 25.1585 (a)(7) and (c) to read as follows:

§ 25.1585 Operating procedures.

(a) * * *

(7) Use of fuel jettisoning equipment, including any operating precautions relevant to the use of the system.

* * * * *

(c) The buffet onset envelopes determined under § 25.251 must be furnished. The buffet onset envelopes presented may reflect the center of gravity at which the airplane is normally loaded during cruise if corrections for the effect of different centers of gravity locations are furnished.

Explanation. The proposal for § 25.1585(a)(7) would replace a specific list of items that could affect fuel jettisoning with a general statement that covers any operating condition for which precautions should be taken during jettisoning.

The proposal for § 25.1585(c) would permit presenting in the Airplane Flight Manual the buffet boundary at the center of gravity most representative of operational loadings rather than the center of gravity at which the buffet boundary was determined during flight testing. If this procedure is used, the proposal would require that information be provided so that the pilot could apply a correction for the actual center of gravity.

Ref. Proposal Nos. 339, 340; §§ 25.1585 (a)(7), 25.1585(c); Agenda Item H–61.

6–58. By adding a new § 25.1587 (c)(5) and (c)(6) to read as follows:

§ 25.1587 Performance information.

* * * * *

(c) * * *

(5) The vertical distance determined in accordance with § 25.121(e).

(6) The data determined in accordance with the requirements of § 25.123 must be presented in terms of net flight path as a function of time and distance with wind accountability.

Explanation. The proposal for paragraph (c)(5) would require the vertical distance determined in accordance with proposal § 25.121(e) be presented to the operator in the Airplane Flight Manual. Also see the proposal for § 25.121(e).

The proposal for paragraph (c)(6) is related to the proposal for § 25.123(a). Under present §§ 25.123(a) and 25.1587 (c), the airplane flight manual has not always contained the complete en route flight path performance data desired for operational use. The proposal for § 25.123 (a) would require that the variation in weight due to consumption of fuel and oil be included in the computation of the en route flight paths. This proposal for paragraph (c)(6) would require the en route net flight paths to be presented in terms of time and distance with wind accountability, for use in flight planning for terrain clearance and range with one or two engines inoperative.

Ref. Proposal Nos. 1029, 835; §§ 25.121 (e), 25.1587(c)(5); Agenda Items F–40, F–41.

PART 27—AIRWORTHINESS STANDARDS: NORMAL CATEGORY ROTORCRAFT

§ 27.25 [Amended]

6–59. By deleting § 27.25(b)(1)(iii).

Explanation. See the proposal for § 23.25.

Ref. Proposal Nos. 61, 152; §§ 23.29(a)(3), 25.29(a)(3); Agenda Items A–1, E–30.

§ 27.29 [Amended]

6–60. By amending § 27.29 in a manner substantively identical to that proposed for § 23.29.

6–61. By deleting § 27.33(b)(3) and by adding a new § 27.33(e) to read as follows:

§ 27.33 Main rotor speed and pitch limits.

* * * * *

(e) *Main rotor low speed warning for helicopters.* For each single engine helicopter, and each multiengine helicopter that does not have an approved device that automatically increases power on the operating engines when one engine fails, there must be a main rotor low speed warning which meets the following requirements:

(1) The warning must be furnished to the pilot in all flight conditions, including power-on and power-off flight, when the speed of a main rotor approaches a value that can jeopardize safe flight.

(2) The warning may be furnished either through the inherent aerodynamic qualities of the helicopter or by a device.

(3) The warning must be clear and distinct under all conditions, and must be clearly distinguishable from all other warnings. A visual device that requires the attention of the crew within the cockpit is not acceptable by itself.

(4) If a warning device is used, the device must automatically deactivate and reset when the low speed condition is corrected. If the device has an audible warning, it must also be equipped with a means for the pilot to manually silence the audible warning before the low speed condition is corrected.

Explanation. Operating experience has indicated a need for a warning to the pilot when the main rotor of a helicopter is approaching an unsafe low rotational speed. The proposal would require the warning to be furnished either by the inherent aerodynamic qualities of the helicopter or by a warning device that is clearly distinguishable and would not require the attention of the crew within the cockpit. The warning would be activated until the low rotor speed condition is corrected or the audible device is shut off manually, and would reset itself automatically. Main rotor low speed warning would not be required on multiengine helicopters that have an approved automatic means to increase power on the operating engines when one engine fails, since this means would serve to maintain a safe main rotor speed.

Ref. Proposal Nos. 832A, 887; §§ 27.33, 29.33; Agenda Item I–62.

6–62. By revising § 27.45 including its heading to read as follows:

§ 27.45 General.

(a) Unless otherwise prescribed, the performance requirements of this subpart must be met for still air and a standard atmosphere.

(b) The performance must correspond to the engine power available under the particular ambient atmospheric conditions, the particular flight condition, and the relative humidity specified in paragraphs (d) or (e) of this section, as appropriate.

(c) The available power must correspond to engine power, not exceeding the approved power, less—

(1) Installation losses; and

(2) The power absorbed by the accessories and services appropriate to the particular ambient atmospheric conditions and the particular flight condition.

(d) For reciprocating engine powered rotorcraft, the performance, as affected by engine power, must be based on a relative humidity of 80 percent in a standard atmosphere.

(e) For turbine engine powered rotorcraft the performance, as affected by engine power, must be based on a relative humidity of—

(1) 80 percent, at and below standard temperature; and

(2) 34 percent, at and above standard temperature plus 50 degrees F. Between these two temperatures, the relative humidity must vary linearly.

Explanation. See the proposal for § 23.45.

Ref. Proposal No. 588; § 23.45; Agenda Item B–3.

6–63. By changing the heading of § 27.65 and by revising § 27.65(b) to read as follows:

§ 27.65 Climb: all engines operating.

* * * * *

(b) Each helicopter must meet the following requirements:

(1) V_Y must be determined—

(i) For standard sea level conditions;

(ii) At maximum weight; and

(iii) With maximum continuous power on each engine.

(2) If at any altitude within the range for which certification is requested, V_{NE} is less than V_Y, the steady rate of climb must be determined—

(i) At the most favorable climb speed at or below V_{NE};

(ii) For the weights, temperatures, and altitudes for which certification is requested; and

(iii) With maximum continuous power on each engine.

Explanation. See proposal for § 29.65.

Ref. Proposal Nos. 878, 963; §§ 27.1505(a)(1), 29.1505(a)(1); Agenda Item L–70.

6–64. By revising § 27.67(c) to read as follows:

§ 27.67 Climb: one engine inoperative.

* * * * *

(c) Maximum continuous power on the other engines, and (for helicopters for which certification for the use of 30-minute power is requested), at 30-minute power.

Explanation. This proposal would include provisions in § 27.67(c) for establishing one-engine-inoperative performance for multiengine rotorcraft with the operating engines at the 30-minute power rating in addition to the performance with the operating engines at maximum continuous power. The proposal would make Part 27 similar to present Part 29 in this respect.

This proposal is related to proposals for §§ 27.923 and 27.927 (concerning rotor drive system tests) contained in Airworthiness Review Notice No. 3 (Notice 75–19).

Ref. Proposal No. 346; § 27.67(c); Agenda Item J–65 for Committee II; Agenda Item M–65 for Committee IV.

6–65. By revising § 27.75(a)(2)(ii) to read as follows:

§ 27.75 Landing.

(a) * * *

(2) * * *

(ii) For multiengine rotorcraft, one engine inoperative and with each operating engine within approved operating limitations; and

* * * * *

Explanation. The proposal is intended to clarify the current rule and to ensure consistency with § 29.75(a)(4)(ii).

Ref. Proposal No. 347; § 27.75; Agenda Item J–66.

6–66. By revising § 27.143(b) and adding a new § 27.143(e) to read as follows:

§ 27.143 Controllability and maneuverability.

* * * * *

(b) The margin of cyclic control must allow satisfactory roll and pitch control at V_{NE} with—

(1) Critical weight;

(2) Critical center of gravity;

(3) Critical rotor r.p.m.; and

(4) Power off (except for helicopters demonstrating compliance with paragraph (e) of this section) and power on.

* * * * *

(e) For helicopters for which a V_{NE} (power-off) is established under § 27.1505(c), compliance must be demonstrated with the following requirements with critical weight, critical center of gravity, and critical rotor r.p.m.:

(1) The helicopter must be safely slowed to V_{NE} (power-off), without exceptional pilot skill, after the last operating engine is made inoperative at power-on V_{NE}.

(2) At a speed of 1.1 times V_{NE} (power-off), the margin of cyclic control must allow satisfactory roll and pitch control with power-off.

Explanation. See the proposal for § 27.1505.

Ref. Proposal Nos. 349, 383, 836, 892; §§ 27.143, 29.143; Agenda Item K–68.

6–67. By revising § 27.175(c) to read as follows:

§ 27.175 Demonstration of static longitudinal stability.

* * * * *

(c) *Autorotation.* Static longitudinal stability must be shown in autorotation at airspeeds from 0.5 times the speed for minimum rate of descent to V_{NE}, or to 1.1 V_{NE} (power-off) if V_{NE} (power-off) is established under § 27.1505(c), and with—

(1) Critical weight;

(2) Critical center of gravity;

(3) Power off;

(4) The landing gear (i) retracted and (ii) extended; and

(5) The rotorcraft trimmed at appropriate speeds found necessary by the Administrator to demonstrate stability throughout the prescribed speed range.

* * * * *

Explanation. Current § 27.175(c) requires demonstration of static longitudinal stability in autorotation throughout the speed range for which certification is requested. The FAA believes that demonstration of static longitudinal stability at very low speeds in autorotation might not be very meaningful. The proposal would require that the lower speed limit for that demonstration be 0.5 times the speed for minimum rate of descent. In addition, the maximum speed for demonstration would be limited by V_{NE} or by 1.1 V_{NE} (power-off), if established, pursuant to the proposal for § 27.1505(c).

Ref. Proposal Nos. 174, 385; §§ 27.175, 29.175; Agenda Item K–69.

§ 27.1043 [Amended]

6–68. By amending § 27.1043(b) in a manner substantively identical to that proposed for § 23.1043(b).

6–69. By revising § 27.1501 to read as follows:

§ 27.1501 General.

(a) Each operating limitation specified in §§ 27.1503 through 27.1525 and other limitations and information necessary for safe operation must be established.

(b) The operating limitations and other information necessary for safe operation must be made available to the crewmembers as prescribed in §§ 27.1541 through 27.1589.

Explanation. See the proposal for § 25.1501.

Ref. Proposal Nos. 706, 877, 962; §§ 25.1501, 27.1501, 29.1501; Agenda Items H–58, L–73, L–74.

6–70. By revising § 27.1505(a) and adding a new § 27.1505(c) to read as follows:

§ 27.1505 Never-exceed speed.

(a) The never-exceed speed, V_{NE}, must be established so that it is—

(1) Not less than 40 knots (CAS); and

(2) Not more than the lesser of—

(i) 0.9 times the maximum forward speeds established under § 27.309; or

(ii) 0.9 times the maximum speed shown under §§ 27.251 and 27.629.

* * * * *

(c) For helicopters, a stabilized power-off V_{NE} denoted as V_{NE} (power-off) may be established at a speed less than V_{NE} established pursuant to paragraph (a) of this section; if the following conditions are met:

(1) V_{NE} (power-off) is not less than a speed midway between the power-on V_{NE} and the speed for maximum range in autorotation at maximum weight.

(2) V_{NE} (power-off) is—

(i) A constant airspeed;

(ii) A constant amount less than power-on V_{NE}; or

(iii) A constant airspeed for a portion of the altitude range for which certification is requested, and a constant amount less than power-on V_{NE} for the remainder of the altitude range.

Explanation. Present § 27.1505 requires that a never exceed speed, V_{NE}, be established for each rotorcraft, and permits V_{NE} to vary with altitude, rotor r.p.m., temperature, and weight; however, it does not provide for differentiation between power-on and power-off (autorotation) conditions.

The use of turbine engines and other design improvements has resulted in higher cruise and V_{NE} speeds for helicopters, and has also increased the difference between the maximum and minimum operating weights. For these helicopters an excessively steep dive would be required to demonstrate flight characteristics to a speed with the power-off that is as high as the V_{NE} with the power-on.

The proposal for § 27.1505(c) would therefore permit the applicant to establish a maximum airspeed for stabilized autorotation, designated by the term "V_{NE} (power-off", and this speed can be less than V_{NE} with power-on if certain conditions are met. The term "V_{NE}" would apply to the power-on conditions for helicopters for which a V_{NE} (power-off) is established, and would apply to both the power-on and power-off conditions for helicopters for which a separate V_{NE} (power-off) is not established.

The V_{NE} (power-off) should be high enough to provide the pilot with an adequate range of speeds and glide angles during autorotation.

The proposal for § 27.1505(c) would, therefore, require that V_{NE} (power-off) be not less than a speed midway between the power-on V_{NE} and the speed for maximum range in autorotation at maximum weight.

To ensure ability to make a safe transition from power-on V_{NE} to V_{NE} (power-off) after failure of the last operating engine, the proposal for § 27.143(e) would require demonstration of the transition maneuver. To provide adequate control at V_{NE} (power-off), proposed § 27.143(e) would also require a margin of cyclic control at a speed of 1.1 times V_{NE} (power-off).

To avoid unintended increase in speed while the pilot's attention is required on other tasks, the proposal for § 27.175(c) would require longitudinal stability to be shown in autorotation at speeds up to 1.1 times V_{NE} (power-off).

See the proposal for § 29.65 for explanation of the proposed revision to § 27.1505(a)(1), which would require V_{NE} to be not less than 40 knots.

The proposal for § 27.1585 would require that the procedures for reducing speed from the power-on V_{NE} to V_{NE} (power-off) be included in the Rotorcraft Flight Manual.

Ref. Proposal Nos. 371, 409, 878, 879, 963, 964; §§ 27.1505, 29.1505; Agenda Items L–70, L–71.

6–71. By adding a new § 27.1521(f) to read as follows:

§ 27.1521 Powerplant limitations.

* * * * *

(f) *Ambient Temperature.* Ambient temperature limitations (including limitations for winterization installations, if applicable) must be established as the maximum ambient atmospheric temperature at which compliance with the cooling provisions of §§ 27.1041 through 27.1045 is shown.

Explanation. See the proposal for § 23.1521(e).

Ref. Proposal No. 714; § 23.1583(m); Agenda Item D–20.

§ 27.1527 [New]

6–72. By adding a new § 27.1527 that is substantively identical to proposed new § 29.1527.

6–73. By deleting § 27.1581(c) and marking it "[Reserved]"; and by revising § 27.1581 (a) and (b) to read as follows:

§ 27.1581 General.

(a) *Furnishing information.* A Rotorcraft Flight Manual must be furnished with each rotorcraft, and it must contain the following:

(1) Information required by §§ 27.1583 through 27.1589.

(2) Other information necessary for safe operation.

(b) *Approved information.* Each part of the manual listed in §§ 27.1583 through 27.1589, that is appropriate to the rotorcraft, must be furnished, verified and approved, and must be segregated, identified and clearly distinguished from each unapproved part of that manual.

* * * * *

Explanation. See the proposal for § 25.1581.

Also see the proposal for § 21.5 with respect to making Rotorcraft Flight Manuals available for helicopters.

Ref. Proposal No. 882; § 27.1581; Agenda Item L–74.

§ 27.1583 [Amended]

6–74. By amending § 27.1583(b) in a manner substantively identical to that proposed for § 23.1583(b), and by amending § 27.1583(g) in a manner substantively identical to that proposed for § 29.1583(h).

6–75. By adding a new § 27.1585(c) to read as follows:

§ 27.1585 Operating procedures.

* * * * *

(c) For helicopters for which a V_{NE} (power-off) is established under § 27.1505(c), information must be furnished to explain the V_{NE} (power-off) and the procedures for reducing airspeed to not more than the V_{NE} (power-off) following failure of all engines.

Explanation. See the proposal for § 27.1505.

Ref. Proposal Nos. 885, 972; §§ 27.1585, 29.1585; Agenda Item L–71.

PART 29—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY ROTORCRAFT

§ 29.29 [Amended]

6–76. By amending § 29.29 in a manner substantively identical to that proposed for § 23.29.

§ 29.33 [Amended]

6–77. By deleting § 29.33(b)(3) and by adding a new § 29.33(e) that would be substantively identical to the proposed new § 27.33(e).

6–78. By amending § 29.45 as follows:

(1) By deleting paragraphs (a)(3) and (b)(3).

(2) By deleting the semicolon and the word "and" at the end of paragraph (b)(2) and by adding a period in place thereof.

(3) By adding the word "and" at the end of paragraph (b)(1).

(4) By adding new paragraphs (c), (d), and (e) to read as follows:

§ 29.45 General.

* * * * *

(c) The available power must correspond to engine power, not exceeding the approved power, less—

(1) Installation losses; and

(2) The power absorbed by the accessories and services appropriate to the particular ambient atmospheric conditions and the particular flight condition.

(d) For reciprocating engine powered rotorcraft, the performance, as affected by engine power, must be based on a relative humidity of 80 percent in a standard atmosphere.

(e) For turbine engine powered rotorcraft, the performance, as affected by engine power, must be based on a relative humidity of—

(1) 80 percent, at and below standard temperature; and

(2) 34 percent, at and above standard temperature plus 50 degrees F.

Between these two temperatures, the relative humidity must vary linearly.

Explanation. See the proposal for § 23.45.

Ref. Proposal No. 588; § 23.45; Agenda Item B–3.

6–79. By changing the heading of § 29.65, by revising § 29.65(a) and by adding a new § 29.65(c) to read as follows:

§ 29.65 Climb: all engines operating.

(a) The steady rate of climb must be determined for each category B rotorcraft—

(1) With maximum continuous power on each engine;

(2) With the landing gear retracted;

(3) For the weights, altitudes, and temperatures for which certification is requested; and

(4) At V_Y for standard sea level conditions at maximum weight and at the speeds selected by the applicant for other conditions.

* * * * *

(c) For helicopters, if V_{NE} at any altitude within the range for which certification is requested is less than V_Y at sea level standard conditions, with maximum weight, and maximum continuous power, the steady rate of climb must be determined—

(1) At the most favorable climb speed at or below V_{NE};

(2) For weights, altitudes, and temperatures for which certification is requested;

(3) With maximum continuous power on each engine; and

(4) With the landing gear retracted.

Explanation. This is one of a series of proposals that would provide relief from current § 29.1505 which requires that the never exceed speed, V_{NE}, be established so that it is not less than the best rate of climb speed, V_Y. This series includes proposals for §§ 29.65, 29.1505, 29.1527, 29.1583, 27.65, 27.1505, 27.1527, and 27.1583. Since V_{NE} usually decreases with altitude, the current rule may unnecessarily limit the permissible operating altitude of high performance helicopters. The proposals for §§ 29.65 and 27.65 would permit determining climb performance at the most favorable climb speed at or below the V_{NE} speed, at any altitude where the V_{NE} is less than the V_Y speed established for standard sea level conditions. The FAA believes that constraints must be placed on the V_{NE} speed and operating altitudes to ensure that the helicopter will be operated well above the translational lift speed, in a speed range where the airspeed system is accurate, and within a safe range of altitudes. Those constraints are prescribed in the proposals for the following sections:

Proposed §§ 29.1505(a) and 27.1505(a) would require that V_{NE} be not less than 40 knots.

Proposed §§ 29.1527 and 27.1527 would require that a maximum altitude (operating limitation) be established as limited by flight, structural, powerplant, functional, or equipment characteristics. This is the same requirement in §§ 23.1527(b) and 25.1527.

Proposed §§ 29.1583 and 27.1583 would require that the maximum operating altitude established under §§ 29.1527 and 27.1527 be furnished as an operating limitation in the Rotorcraft Flight Manual.

Present §§ 29.1587 and 27.1587 would require that the steady rates of climb and the recommended climb speeds, at altitudes where the V_{NE} speed is equal to or less than the V_Y speed determined under §§ 29.65 and 27.65, be furnished in the Rotorcraft Flight Manual.

Ref. Proposal Nos. 376, 878, 963; §§ 29.65(a), 27.1505(a)(1), 29.1505(a)(1); Agenda Items J–64, L–70.

§ 29.143 [Amended]

6–80. By amending § 29.143 in a manner substantively identical to that proposed for § 27.143.

§ 29.175 [Amended]

6–81. By amending § 29.175(c) in a manner substantively identical to that proposed for § 27.175(c).

§ 29.1043 [Amended]

6–82. By amending § 29.1043(b) in a manner substantively identical to that proposed for § 23.1043(b).

6–83. By revising § 29.1501 to read as follows:

§ 29.1501 General.

(a) Each operating limitation specified in §§ 29.1503 through 29.1525 and other limitations and information necessary for safe operation must be established.

(b) The operating limitations and other information necessary for safe operation must be made available to the crewmembers as prescribed in §§ 29.1541 through 29.1589.

Explanation. See the proposal for § 25.1501.

Ref. Proposal Nos. 706, 877, 962; §§ 25.1501, 27.1501, 29.1501; Agenda Items H–58, L–73, L–74.

§ 29.1505 [Amended]

6–84. By amending § 29.1505 in a manner substantively identical to that proposed for § 27.1505.

6–85. By revising § 29.1521(e) to read as follows:

§ 29.1521 Powerplant limitations.

* * * * *

(e) *Ambient temperature.* Ambient temperature limitations (including limitations for winterization installations if applicable) must be established as the maximum ambient atmospheric temperature at which compliance with the cooling provisions of §§ 29.1041 through 29.1049 is shown.

* * * * *

Explanation. See the proposal for § 23.1521(e).

Ref. Proposal No. 714; § 23.1583(m); Agenda Item D–20.

6–86. By adding a new § 29.1527 to read as follows:

§ 29.1527 Maximum operating altitude.

The maximum altitude to which operations is allowed, as limited by flight, structural, powerplant, functional, or equipment characteristics, must be established.

Explanation. See proposal for § 29.65.

Ref. Proposal Nos. 878, 963; §§ 27.1505(a)(1), 29.1505(a)(1); Agenda Item L–70.

6–87. By deleting § 29.1581(c) and marking it "[Reserved]", and by revising § 29.1581(a) and (b) to read as follows:

§ 29.1581 General.

(a) *Furnishing information.* A Rotorcraft Flight Manual must be furnished with each rotorcraft, and it must contain the following:

(1) Information required by §§ 29.1583 through 29.1589.

(2) Other information necessary for safe operation.

(b) *Approved information.* Each part of the manual listed in §§ 29.1583 through 29.1589 that is appropriate to the rotorcraft, must be furnished, verified and approved, and must be segregated, identified and clearly distinguished from each unapproved part of that manual.

* * * * *

Explanation. See the proposal for § 25.1581.

Ref. Proposal No. 827; § 25.1581(c); Agenda Item H–59.

6–88. By amending § 29.1583(b) in a manner substantively identical to that proposed for § 23.1583(b); and by adding a new § 29.1583(h) to read as follows:

§ 29.1583 Operating limitations.

* * * * *

(h) *Altitude.* The altitude established under § 29.1527 and an explanation of the limiting factors must be furnished.

Explanation. For an explanation of § 29.1583(h), see the proposal for § 29.65.

Ref. Proposal Nos. 878, 963; §§ 27.1505(a)(1), 29.1505(a)(1); Agenda Item L–70.

§ 29.1585 [Amended]

6–89. By amending § 29.1585 in a manner substantively identical to that proposed for § 27.1585.

PART 91—GENERAL OPERATING AND FLIGHT RULES

6–90. By revising § 91.31(b) and adding a new § 91.31(e) to read as follows:

§ 91.31 Civil aircraft operating limitations and marking requirements.

* * * * *

(b) No person may operate a U.S. registered civil aircraft—

(1) For which an Airplane or Rotorcraft Flight Manual is required by § 21.5 unless there is available in the aircraft a current approved Airplane or Rotorcraft Flight Manual or the manual provided for in § 121.141(b); and

(2) For which an Airplane or Rotorcraft Flight Manual is not required by § 21.5, unless there is available in the aircraft a current approved Airplane or Rotorcraft Flight Manual, approved manual material, markings, and placards, or any combination thereof.

* * * * *

(e) The Airplane or Rotorcraft Flight Manual, or manual material, markings and placards required by paragraph (b) of this section must contain each operating limitation prescribed for that aircraft by the Administrator, including the following:

(1) Powerplant (e.g., r.p.m., manifold pressure, gas temperature, etc.).

(2) Airspeeds (e.g., normal operating speed, flaps extended speed, etc.).

(3) Aircraft weight, center of gravity, and weight distribution, including the composition of the useful load in those combinations and ranges intended to insure that the weight and center of gravity position will remain within approved limits (e.g., combinations and ranges of crew, oil, fuel, and baggage).

(4) Minimum flight crew.

(5) Kinds of operation.

(6) Maximum operating altitude.

(7) Maneuvering flight load factors.

(8) Rotor speed (for rotorcraft).

(9) Limiting height-speed envelope (for rotorcraft).

Explanation. The proposal for § 91.31(b)(1) is related to the proposal for § 21.5. See the proposal for § 21.5.

The proposals for § 91.31(b)(2) and (e) are substantively the same as present § 91.31(b), except that the word "approved" is inserted between "current" and "Airplane or Rotorcraft Flight Manual" to make it clear that these are FAA approved manuals, not other operating handbooks provided by manufacturers.

Ref. Proposal Nos. 582, 1008; §§ 21.183, 91.31; Agenda Items D–20, D–22.

6–91. By revising the heading and by adding a new paragraph (d) to § 91.37 to read as follows:

§ 91.37 Transport category civil airplane runway and weight limitations.

* * * * *

(d) No person may operate a turbine engine powered transport category landplane or amphibian on any runway other than a smooth, hard-surfaced runway unless—

(1) Limitations and performance information for such operations, including the particular type of surface, are set forth in the Airplane Flight Manual; and

(2) The operation is conducted in accordance with the approved limitations and performance information in the Airplane Flight Manual.

Explanation. The FAA is aware of a growing need for the use of transport category airplanes on unpaved runway surfaces. Airworthiness Review Notice Number 2 [Notice 75–10], contains proposals for §§ 25.105, 25.125, and 25.1533, and a proposed new § 25.241, which would establish certification standards for transport category airplanes intended to be used in operations on unpaved runways. Experience indicates that airplane acceleration and braking performance on unpaved runway surfaces, is affected by characteristics such as load bearing capability. Surfaces that are composed, in part, of loose stones or gravel pose a problem because such loose objects may cause structural damage by being deflected into the airplane structure. Similarly, turbine engine ingestion of loose, flying objects may also occur. Such ingestion can cause engine failure during the critical takeoff phase of flight.

For airplanes certificated under the new proposed standards for Part 25, appropriate operating limitations and information would be included in the Airplane Flight Manual. The FAA believes that a requirement is also necessary for turbine engine powered transport category airplanes that will not be required to comply with the new Part 25 amendment. Due to special considerations applicable to this kind of airplane, unpaved runways such as sod or gravel surfaces may have a critical effect on its operation.

This proposal would allow operation on a smooth, hard-surfaced runway, but for any other runway surface, the Airplane Flight Manual must contain limitations and performance information appropriate to the particular type of surface. The proposal would also emphasize that this operation must be conducted in accordance with such limitations and performance information.

Ref. Proposal No. 1013; § 91.37; Agenda Item E–28.

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

6–92. By revising § 121.141(b) to read as follows:

§ 121.141 Airplane or rotorcraft flight manual.

* * * * *

(b) In each transport category aircraft, the certificate holder shall carry either the manual required by § 121.133 if it contains the information required for the applicable flight manual and this information is clearly identified as flight manual requirements, or an approved airplane or rotorcraft flight manual. If the certificate holder elects to carry the manual required by § 121.133, he may revise the operating procedures sections and modify the presentation of performance data from the applicable flight manual if the revised operating procedures and modified performance data presentation are—

(1) Approved by the Administrator; and

(2) Clearly identified as airplane or rotorcraft flight manual requirements.

Explanation. Users of Aircraft Flight Manuals have indicated that the contents of the manuals are sometimes not presented in the most usable form for flight crews. This proposal would authorize the inclusion of approved revisions of the operating procedures and approved modifications of the performance data format in an operators manual required by § 121.133. This manual could be utilized by the flight crew instead of the flight manual. This proposal does not authorize any substantive change to the performance data but does authorize the modification of the presentation to be more usable by flight crews.

Ref. Proposal No. 1112; § 121.141(b); Agenda Item H–59.

APPENDIX I COMMITTEE II (FLIGHT) PROPOSALS DEFERRED

GROUP 1

Based upon the discussions at the Airworthiness Review Conference, the FAA has determined that the proposals listed below appear to have sufficient merit to warrant further consideration but for various reasons should be deferred for consideration at the next Airworthiness Review or Operations Review as appropriate. Included in the reasons for deferral are the following:

1. The proposal is so complex or extensive that more time is required than is available within the 1974–75 Airworthiness Review to give it full consideration.

2. More data is needed, to supplement or support the proposal, before a decision can be reached.

3. The proposal would be more appropriately considered during an operations review.

The deferral of these proposals does not foreclose the FAA from taking earlier separate rulemaking action on the deferred proposals if a need for such action should arise.

14 CFR (FAR)	Proposal No.	Agenda Item	Proponent
23.65	68	B-7	General Aviation Manufacturers Association.
23.67	69	B-8	Do.
23.77	70	B-10	Do.
23.177	77	C-14	Do.
23.221	59	C-18	M. C. Godbout.
Part 25	150	E-25	Department of Transportation—Australia.
25.105	155	F-36	Air Line Pilots Association.
25.107	1113	F-38	Aerospace Industries Association.
25.107	156	F-39	Do.
25.109	157	F-35	Department of Transportation—Australia.
25.123	162	F-41	Aerospace Industries Association.
25.125	163	F-43	Department of Transportation—Australia.
25.125	164	F-43	Do.
25.125	166	F-43	Aerospace Industries Association.
25.147	168	G-46	Do.
25.149	170	G-47	Air Line Pilots Association.
25.173	172	G-49	Aerospace Industries Association.
25.175	173	G-49	Do.
25.261	183	G-57	Air Line Pilots Association.
25.1583	335	H-60	Air Transport Association.
29.79	382	J-67	Aerospace Industries Association.
121.180	516	F-37	Air Line Pilots Association.
121.570	538	E-29	Do.

GROUP 2

The following proposals are being deferred to be dealt with in a later notice as a part of this Airworthiness Review Program:

14 CFR (FAR)	Proposal No.	Agenda Item	Proponent
25.21(g)	151	E-27	Air Line Pilots Association.
25.101(c)	154	F-32	Aerospace Industries Association.
25.253	1043	G-55	Federal Aviation Administration.
25.1583	338	H-60	Aerospace Industries Association.
27.79	348	J-67	Do.
29.75	890	J-66	Federal Aviation Administration.
29.1587	973	J-63	Do.

APPENDIX II COMMITTEE II (FLIGHT)
PROPOSALS WITHDRAWN BY PROPONENT

The proposals listed below were withdrawn by their proponents after the publication of the committee workbooks. The proponents or other interested persons may submit similar proposals in the future. The withdrawal of FAA proposals does not commit the FAA to any future course of action.

14 CFR (FAR)	Proposal No.	Agenda Item	Proponent
23.49	509	B-5	Federal Aviation Administration.
23.65	502	B-7	Do.
23.67	506	B-5	Do.
23.67	506	B-8	Do.
23.207	612	C-17	Do.
25.109	1027	F-34	Do.
25.125	165	F-36	Air Line Pilots Association.
25.147	1034	G-46	Federal Aviation Administration.
25.161	1036	G-48	Do.
25.183	1038	G-52	Do.
25.253	1044	G-55	Do.
25.255	1045	G-56	Do.
25.1307	788	E-24	Do.
25.1528	820	E-26	Do.
25.1581	1109	H-59	Federal Aviation Administration.
25.1583	829	H-60	Do.
25.1584	823	H-61	Do.
25.1585	1110	H-59	Do.
25.1585	1110	H-64	Do.
25.1585	833	H-61	Do.
25.1585	834	H-61	Do.
27.1509	372	L-72	Aerospace Industries Association.
29.51	888	J-63	Federal Aviation Administration.
29.67	378	J-65	Aerospace Industries Association.
29.1509	410	L-72	Do.
91.31	1111	H-59	Federal Aviation Administration.
121.193	517	F-41	Aerospace Industries Association.
121.193	518	F-42	Do.
121.195	519	F-36	Air Line Pilots Association.

APPENDIX III COMMITTEE II (FLIGHT)
PROPOSALS REMOVED FROM CONSIDERATION

Based on the FAA's review of the discussions at the Airworthiness Review Conference and of the information submitted by interested persons, the following proposals considered by Committee II at the Airworthiness Review Conference are removed from consideration during the First Biennial Airworthiness Review for the reasons listed below:

14 CFR (FAR)	Proposal No.	Agenda Item	Proponent
23.29	60	A-1	General Aviation Manufacturers Association.
23.49	64	B-4	The Dee Howard Co.
23.49	65	B-4	General Aviation Manufacturers Association.
23.49	66	B-4	Do.
23.145	73	C-11	Do.
23.45	74	C-11	Do.
23.171	76	C-13	Do.
23.181	78	C-15	Do.
23.207	79	C-17	Do.
23.729	91	A-2	Do.
23.1513	127	C-12	Do.
25.101	153	F-31	Air Line Pilots Association.
25.123	162A	F-41	Aerospace Industries Association.
25.149	169	G-47	Rijksluchtvaartdienst, Netherlands.
25.203	178	G-53	Aerospace Industries Association.
25.251	180	G-54	Do.
25.1581	330	H-59	Do.
29.75	381	J-66	Do.
29.143	384	K-68	Do.

Proposal No. 60. The proposal would have amended § 23.29 to include means other than weighing each airplane to determine the empty weight. Apparently the proponent, as indicated in the justification submitted, feels this change is necessary for other than type certification procedures. Since Part 23 establishes "standards for the issue of type certificates, and changes to those certificates," the FAA believes this amendment proposed for § 23.29 is not justified and is inappropriate for Part 23.

Proposal No. 64. The proposal would have amended § 23.49 and added a new § 23.50 to establish a separate regulation on stalling speed for airplanes with reversible pitch propellers. The FAA has determined that the proposal is not sufficiently definitive because it would not limit the amount of positive thrust used during the determination of stalling speed.

Proposal No. 65. The proposal would amend the definition of V_{s_0} and V_{s_1} in § 23.49 and would allow the stalling speeds to be determined on the basis of assumed elevator power capability that will provide an actual stalling speed. This would replace the minimum steady speed for those airplanes in which stalling speed is not obtainable. There was insufficient justification or evidence shown to assure that such a procedure as proposed would maintain operating speed margins necessary for an adequate level of flight safety.

Proposal No. 66. The proponent withdrew Part A of the proposal. Part B of the proposal would eliminate the 61 knot maximum V_{s_0} requirement for single engine and certain multiengine airplanes. The 61 knot limit was established because fatalities during forced landings increase rapidly for stalling speeds higher than 61 knots. The FAA believes that the reduced margin of safety is not justified.

Proposal No. 73. The proposal would amend the longitudinal control tests that now require power off to read—"Power required for a 3° descent." The FAA believes that there is in sufficient justification for this change which would result in a lower level of safety than that provided under the present regulation.

Proposal No. 74. The proponent suggested amending the current longitudinal control requirements. The FAA does not concur with the proposal for the following reasons:

1. Part A of the proposal would permit excessive control force if pilot actions were interrupted before retrimming can be accomplished. This could result in an unsafe condition.

2. Part B would eliminate a requirement which the FAA considers necessary and not adequately covered by the rest of the regulation.

3. Part C is objected to since "power off" flight during part or all of an approach is not uncommon and the test should be conducted at the most critical condition expected in service, not at a normal or average condition.

Proposal No. 76. The proposal would remove the term "control 'feel' (static stability)" from § 23.171 and insert in its place, "control force change." The FAA believes that the current wording is sufficiently clear and is not clarified by the terminology suggested.

Proposal No. 78. The proposal would have eliminated the term "heavily damped" in favor of "damped within two cycles." While the FAA believes that some advisory material may be necessary, the FAA does not believe that such material should be specified in the regulations.

Proposal No. 79. The proposal would have allowed installations of a warning system which need not function under an icing condition where the pilot knows of airframe ice accumulations and appropriate landing speed margin for airframe ice accumulations is presented by placard or in the Airplane Flight Manual. The FAA believes that the stall warning device should operate under all environmental conditions for which flight is approved.

Proposal No. 91. The proponent suggested that the landing gear warning requirement be amended to require the warning device to be activated when the wing flaps are extended "beyond the approach flap position" vice "to or beyond the approach flap position." Many landings made in Part 23 airplanes are made at wing flap settings less than the landing setting and at the recommended approach setting. The FAA believes that the present landing gear warning requirements are necessary to maintain an adequate level of flight safety.

Proposal No. 127. The proponent suggested that § 23.1513 be amended to allow the applicant to determine the operating limitation of V_{MC} in accordance with § 23.149 or that speed plus a margin selected by the applicant. The FAA believes that the pilot should

be informed of the actual V_{MC} as determined under § 23.49. However, it may be desirable for the Airplane Flight Manual to include a recommended higher speed for use in practicing one-engine-inoperative flight where V_{MC} is very close to stall speed.

Proposal No. 153. There was no proposal submitted, but only a request for discussion of reduced thrust takeoff procedures. A general policy discussion was held on the portions of this item which related to the Airworthiness Review.

Proposal No. 162A. The proponent suggested that the regulations be amended to allow the use of a contingency thrust engine rating in the determinations of two-engine-inoperative en route climb performance. Based upon Conference discussions, the FAA believes that the emergency thrust concept (see Proposal No. 154; § 25.101(c); Agenda Item F-32), which applies only to takeoff is a better approach for airplane turbine engines than contingency ratings. Therefore, the proposal is considered inappropriate for Part 25 airplanes.

Proposal No. 169. The proposal would have eliminated the dynamic demonstration of V_{MC}. The FAA has determined that there is a need for the dynamic demonstration and that sufficient justification is lacking to allow the reduction in the margin of flight safety which could occur with the elimination of the requirement.

Proposal No. 187. The proposal would allow reversal of stick force characteristics after reaching the stall. The FAA believes that this could result in an unwarranted degradation in flight safety.

Proposal No. 180. The proposal would permit continuous mild buffet in cruise. The current regulation protects crew and passengers from prolonged exposure to vibration. Also, pilots often use buffeting as a warning means. The FAA has determined that there is sufficient justification for the proposed change.

Proposal No. 330. The proposal would allow, at the option of the applicant, that the Airplane Flight Manual be crew oriented and not necessarily contain all of the presently required information. The FAA believes that regardless of who operates the aircraft, the Flight Manual that goes with the airplane should be complete with regard to all necessary information to operate the aircraft safely with due regard given to the usefulness of the information and the circumstances under which information is expected to be used.

Proposal No. 381. The proposal would eliminate the requirement that a safe landing must be possible after complete power failure for Category A rotorcraft. The FAA believes that this requirement is necessary to maintain an adequate level of flight safety for rotorcraft.

Proposal No. 384. See Proposal No. 381 for § 29.75.

Issued in Washington, D.C., on May 29, 1975.

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

[FR Doc.75-14521 Filed 6-6-75;8:45 am]

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Volume 40 ■ Number 111

PART IV

INTERSTATE COMMERCE COMMISSION

■

RAIL SERVICE CONTINUATION SUBSIDY DECISIONS

Intent to Establish Criteria

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 293 (Sub. No. 6)]

RAIL SERVICE CONTINUATION SUBSIDY DECISIONS

Intent To Establish Criteria

Section 205(d)(4) of the Regional Rail Reorganization Act of 1973, Pub. L. 93-236, 87 Stat. 987 (the "Act"), directs the Rail Services Planning Office of the Interstate Commerce Commission (the "Office") to

> * * * Assist States and local and regional transportation agencies in making determinations whether to provide rail service continuation subsidies to maintain in operation particular rail properties by establishing criteria for determining whether particular rail properties are suitable for rail service continuation subsidies.* * *

This particular duty of the Office is related to other provisions of the Act, which provide for the preservation of certain rail services in the Northeast and Midwest Regions if States, local or regional transportation authorities, users of rail services or other responsible persons offer to make "rail service continuation subsidy" payments (section 304); and which provide for a two-year Federally supported assistance program of $90 million for each of two fiscal years (sections 402 and 403). The Federal share of rail service subsidy costs under section 402 will be 70 percent, with the remaining 30 percent share to be provided by each State, subject to entitlement as spelled out in section 402(b)(1) and (2). Eligibility for a subsidy is covered under section 402(c). Under section 403 of the Act, Federal loans or loan guarantees for the acquisition or modernization of rail properties will not exceed 70 percent of the purchase price or the cost of rehabilitation.

In addition to the requirement that it publish criteria to assist in the making of rail service continuation subsidy decisions, the Office was directed under section 205(d)(3) of the Act, to publish standards for determining the level of rail service continuation subsidy payments. Such standards were the subject of another proceeding, Ex Parte No. 293, (Sub. No. 2), *Standards for Determining Rail Service Continuation Subsidies* (the "Subsidy Standards proceeding"), and were published on July 1, 1974, at 39 FR 24294, with amendments on January 8, 1975, at 40 FR 1624 and with additional amendments on March 28, 1975, at 40 FR 14186. In order to avoid possible confusion, it should be noted that this proceeding pertains to subsidy criteria, required to be issued by the Office under section 205(d)(4) of the Act, and not to subsidy standards, issued previously by the Office pursuant to section 205(d)(3).

The Act specifies that the subsidy criteria include the following considerations:

> * * * Rail properties are suitable if the cost of the required subsidy for such properties per year to the taxpayers is less than the cost of termination of rail service over such properties measured by increased fuel consumption and operational costs for alternative modes of transportation; the cost to the gross national product in terms of reduced output of goods and services; the cost of relocating or assisting through unemployment, retraining and welfare benefits to individuals and firms adversely affected thereby; and the cost to the environment measured by damage caused by increased pollution. * * *

It is clear from the Act that the subsidy criteria are to be advisory in nature, and in no respect should they be construed as compulsory guidelines which must be followed by any party in connection with any provisions of the Act. However, Federal Railroad Administration regulations promulgated under § 255.9(b)(1)(ii), *Requirements for State Rail Plan for Rail Transportation and Local Rail Services, Continuation of Local Rail Services, Procedures and Requirements Regarding Applications for and Disbursement of Rail Service Continuation Assistance*, 49 CFR Part 255, FRA Economic Docket No. 3, Notice No. 2, issued with amendments on January 22, 1975, require that State Rail Plans submitted to the Federal Railroad Administrator must indicate consideration by the States of the Office's advisory subsidy criteria.

It is also clear that there is no legal requirement that the criteria be adopted pursuant to formal rule-making procedures. Nevertheless, the Office believes that public comment, suggestions and criticism will prove valuable to it in developing the criteria.

This notice, therefore, is to inform interested persons of the Office's intent to establish subsidy criteria and to invite the submission of any comments in writing which would lead to the development of those criteria so as to make them as useful as possible to those who may ultimately find themselves in the position of having to make rail service continuation subsidy decisions.

Background and Overview

Briefly, the Act provides for a general reorganization and restructuring of the properties and services of the bankrupt railroads operating in the Northeast and Midwest which are found by their respective reorganization courts not capable of being reorganized under the normal bankruptcy laws. Once the statutory planning process has been completed and the Final System Plan for restructuring these railroads has become effective, services over lines not included in that plan may be terminated unless a rail service continuation subsidy is offered or other appropriate action is taken.

On February 26, 1975, the United States Railway Association (the "Association"), the principal planning agency in the rail reorganization process, issued the Preliminary System Plan for restructuring the railroads. In that plan, the Association identified some 6,200 miles of rail trackage that it recommends not be included in the new system (Consolidated Rail Corporation or "ConRail"). The Office, during the weeks of March 17 and March 24, 1975, held extensive public hearings in some 27 locations throughout the 17-State region at which more than 1,900 witnesses presented their comments and views on the preliminary plan. As expected, the overwhelming majority of the testimony centered around the light-density rail lines recommended for exclusion by the Association.

Based on the public testimony received in its hearings, the Office made available to the Association on April 28, 1975, its evaluation of the Preliminary System Plan. The Association now has until July 26, 1975, to prepare a Final System Plan and submit it to the Congress. If subsequent analysis or data indicates that branch lines currently excluded from the Preliminary System Plan could be operated without a loss to ConRail, they may be reclassified for inclusion in the new system.

In the meantime, in accordance with the Federal Railroad Administration's *Regulations Governing Subsidy Applications and Disbursements* cited above, States were required to submit Phase I of their State Rail Plans to the Federal Railroad Administrator for approval by May 15, 1975, with Phase II due for approval within 30 days after the date of approval of the Final System Plan by the Congress.

In Phase I, a State had to explain in detail how it intends to conduct its assistance program, including identification of the data to be acquired on the rail system in the State; the methodology to be used in determining which essential rail services should be continued; the criteria to be employed in ranking these services according to their service priority; and an explanation of the goals to be used in the development of the State Rail Plan. Under Phase II, a State must identify the specific data utilized; the specific services which should be continued as determined by the application of the Phase I methodology, criteria and goals in response to and consistent with the Final System Plan; the order of funding priority of those services; and the amount and form of the assistance required.

Under the present statutory timetable, the Final System Plan could become effective—unless rejected by the Congress—as early as September 24, 1975. Beginning 30 days thereafter, or as early as October 25, 1975, the trustees of railroads in reorganization may give notice of their intention to terminate service on lines not included in the Final System Plan. These service discontinuance notices may be made effective on not less than 60 days' notice. Thus, service on affected branch lines may actually be discontinued as early as December 23, 1975.

Purpose and Conceptual Approach

The purpose of the proposed criteria is to assist potential subsidizers to decide whether a rail service continuation subsidy should be offered, or whether the rail service involved should simply be allowed to come to an end and some other solution devised.

While the Act permits potential subsidizers to be a rail user (shipper/receiver); a State Government (or agency thereof); a local or regional transportation authority (or agency); a commu-

nity; or any responsible person, the Office is directed only to assist "States and local and regional transportation agencies." It is assumed, however, that the criteria will also be of interest to other concerned organizations and individuals who would not qualify technically as "transportation agencies" but who are interested in determining whether to retain rail service. The Office does not think it necessary to provide criteria to guide individual business firms in determining whether to subsidize rail service for their own benefit, regardless of any benefits that might flow to the States, regions or communities in which they are located. Presumably, such firms would have available their own cost, revenue and other business information upon which to base such a decision.

The Office's conceptual approach to "establishing criteria" is to identify the relevant factors and to explain the decision-making process so that those responsible for making the decision can be reasonably assured that all significant factors and alternatives have been considered.

The Office has attempted to identify the relevant factors and they are shown in Appendix A. The factors identified are those which the Office suggests a potential subsidizer should take into consideration in making the determination whether to provide a subsidy to maintain in operation a particular rail property or to shift to an alternative mode. A review of these factors, however, will not constitute a detailed, structured method or process for making this determination.

Therefore, the criteria will serve as guidelines only. No claim is made that they will be all-inclusive. However, their use by a potential subsidizer should provide a reasonable assurance that important considerations are not overlooked in the rail subsidy decision-making process.

The factors identified will differ from one another in that some will be readily convertible to monetary terms, although ascertaining their actual values may be difficult. Other factors will be such that it may be impractical, if not impossible, to represent them in monetary terms. However, a measure of value, even though it is very subjective, might be decisive in the rail subsidy determination process.

It is also important to recognize that the perspective with which the suggested criteria are viewed and the values assigned may vary considerably, depending upon whether they are evaluated at the local, regional, State or Federal level. Moreover the Office, in offering these criteria, will not suggest that each and every factor be considered in every potential rail subsidy situation. A would-be subsidizer should keep these points in mind and be guided in the application of the criteria by conditions peculiar to the affected area and to the particular rail property in question.

The Office recognizes that the identification of subsidy criteria will not be helpful unless they can be applied to the individual situation. Those who will be affected by the discontinuance of rail service will have a short time frame in which to make the decision whether to offer a rail service continuation subsidy, take some other action to retain rail service, or switch to an alternative form of transportation. In short, this means making the decision whether the particular rail service is worth keeping.

The ultimate decision which a would-be subsidizer must make, of course, is whether to pay the direct financial cost (i.e., the actual subsidy payment, which can be computed by applying the formulae issued by the Office in the Subsidy Standards proceeding cited earlier in this notice) required to retain rail service that would otherwise be lost. The path by which that final decision point is reached may prove to be a long one, with many preliminary decisions having to be made enroute.

In some cases, the use of rail service may be so insignificant as to permit the making of an almost immediate, intuitive decision that subsidy payments would be unwarranted. In such a situation, the decision-making process can be terminated promptly and the service allowed to stop without any further action being taken.

In other cases, a brief analysis of the branch line in question—perhaps mentally employing the economic social, energy and environmental criteria suggested by the Office—may reveal that rail service continuance is desirable. Again, the decision-making process may end at that point with a decision to offer a subsidy or take other appropriate action to continue rail service.

The most difficult situations, however, will be those in which the decision to subsidize or not to subsidize is a marginal one, possibly demanding a formal, structured study. Pertinent data may have to be obtained from rail users (shippers/receivers and passengers), the railroad involved and other affected parties (communities, local and regional transportation authorities, State and Federal agencies, etc.).

A complete cost-benefit analysis may have to be undertaken. The objective of such a study would be to determine whether the costs of continuing rail service are greater than the benefits to be derived, or whether the benefits which will accrue from rail service continuance outweigh the costs involved.

No attempt will be made to describe a cost-benefit analysis process. The Office believes that the circumstances of each rail property are unique; that the sources for localized data are better known to planners within each State; and that the capabilities of the various potential subsidizers to perform cost-benefit analyses vary so widely that to attempt to prescribe a standard methodology would be futile.

At least two publications—*Guide for Evaluating the Community Impact of Rail Service Discontinuance*, prepared for the Office's Public Counsel; and *Analysis of Community Impacts Resulting from the Loss of Rail Service*, prepared by the CONSAD Research Corporation for the U.S. Railway Association—set forth in detail the procedures and methodology for conducting such analyses if the potential subsidizer deems such a study necessary.

In conducting a cost-benefit analysis, costs and revenues attributable to the branch line in question should be based upon the specific rail service needs of the affected area rather than upon past or present rail service. Adjustments in frequency of service, rehabilitation of equipment and facilities to provide for more efficient operations and a more positive marketing program are but a few examples of how future costs can be minimized and future revenues maximized.

If the analysis reveals that benefits do not exceed costs, no further action is required and the rail service in question should be allowed to come to an end. However, the fact that a rail line is currently unprofitable and that the costs exceed the benefits to be derived from rail service continuance at the present time does not necessarily mean that abandonment of the line is the appropriate decision. Total abandonment of a rail line should result only after all alternatives to abandonment have been fully analyzed and explored. Once rail rights-of-way are abandoned and converted to other uses, their reacquisition, if possible at all, is likely to be very expensive. Options permitting their future use would be valuable assets.

Where it is found that the benefits of continued rail service exceed the costs, the proper course of action in the majority of cases will undoubtedly be to accept the Federal assistance as the most viable alternative. The Office believes, however, that the best decision can be made, pursuant to local conditions and requirements, when all alternatives are known and considered.

As a result, it would be to the advantage of those who are dependent on rail service which is threatened, or who might seek the reinstitution of service on light-density lines now defunct, to consider and appraise local independent self-help efforts as alternatives to Federal/State subsidies for the following reasons:

(a) There is no assurance that these subsidies will be provided for branch lines longer than for a two-year period. There are obvious significant risks to letting time pass without considering alternative actions.

(b) The conditions and requirements established in the subsidy provisions of the Act, or in other proposed Federal or State legislation, may be too demanding, may be unattainable or may be of a character which would warrant local independent self-help alternative efforts or approaches to continue to provide the desired rail service. Indeed, these local efforts may provide the rail service at a lower cost (possibly even paying a net dollar operating profit) of a superior quality or in a more efficient manner.

(c) Some situations might call for accepting Federal/State subsidies in concert with the locally devised branch line approaches, which could assure less

costly, more efficient light-density line operations, rather than depending solely on Federal/State subsidies as a solution.

(d) Even if Federal/State subsidies are provided, a State may find that the available Federal funds are inadequate to subsidize every light-density line which is considered essential locally. In these cases, alternative local self-help efforts may offer the best possibility for continued, reinstituted or future rail service.

(e) In cases where a branch line meets the suitability criteria for Federal/State subsidization, subsequent operations, occurrences, etc., could result in a withdrawal of such assistance. It would be advantageous to anticipate such possibilities and consider alternative local, self-help approaches before the subsidy is actually withdrawn.

Time, effort and expenses utilized in challenging rail service discontinuance in certain circumstances might be more fruitfully applied in developing local self-help efforts to preserve service. Such efforts may have both short and long-term advantages superior to the subsidy program provided for under the Act. The Office, therefore, will attempt to identify and describe these alternative approaches for preserving branch line rail service.

Alternative self-help efforts which have been identified are described in Appendices B and C. Appendix B, "Basic Alternative Approaches for Preserving Light-Density Rail Line Service," lists alternative approaches concerned primarily with how interested parties might secure control/ownership of light-density line complete properties, rights-of-way (including tracks, etc.) and/or operations by purchase, lease or otherwise. Appendix C, "Supportive Alternative Approaches for Preserving Light-Density Rail Line Service," lists self-help efforts concerned with rates; compensation for losses; special assistance; improved service; productivity and customer relations attitudes; tax relief; use of most efficient and economical transportation; and promotion of new kinds of rail service. The "Basic Alternative Approaches" in Appendix B could be used in conjunction with the "Supportive Alternative Approaches" in Appendix C.

PUBLIC COMMENT

The Office contemplates the issuance of rail service continuation subsidy criteria which will provide guidelines for those who will have to make subsidy decisions. It is expected that those guidelines will cover and expand upon the points set out in the appendices to this notice.

All interested persons are invited to submit comments, in writing, on the matters discussed in this notice and the appendices thereto. The Office is particularly interested in receiving views as to what form the proposed subsidy criteria should take, the level of detail that they should include, and the specific areas in which subsidy decision guidelines would be most useful.

Three copies of any comments should be filed with the Office on or before July 24, 1975. They should be sent to: Rail Services Planning Office, Fifth Floor, 1900 L Street, NW., Washington, D.C. 20036.

[SEAL] GEORGE M. CHANDLER,
Director,
Rail Services Planning Office.

JUNE 3, 1975.

APPENDIX A

SUBSIDY CRITERIA

In determining whether a particular rail property is suitable for a service continuation subsidy, the potential subsidizer should focus on the economic, social, and environmental factors involved in the loss of rail service, and possible shift to alternative modes, assessing them in quantitative and/or qualitative terms.

The major economic factors which should be considered in assessing the impact of rail discontinuance are: (a) Employment. Layoff or transfer of railroad employees; curtailment, relocation or cessation of operations by rail users; and reduction in force by firms providing goods and services to the affected area. (b) Income. Loss of compensation, to all employees identified in (a) above, in the form of wages, salaries, dividends and fringe benefits; proprietors' income generated by small business firms providing retail and wholesale goods and services, including farms; rental income resulting from rental of property and equipment by individuals; and corporate profits produced by generally large manufacturers. (c) Financial Aid. Increase in employment benefits paid to laid-off employees; welfare benefits paid to affected employees and their dependents; relocation allowances made to employees wishing to relocate in their jobs; retraining expenses to retrain employees who lose their jobs; and government aids to private industry in the form of special grants, waivers, etc. to adversely affected business firms. (d) Taxes. Loss of revenue accruing to local, State and Federal governments generated from personal income taxes; sales taxes; property taxes; and corporate taxes. (e) Modal Costs. Increased operating costs, including fuel consumption, incurred by businesses in the use of an alternative transportation mode, with due consideration of such elements as packaging, loading, transloading, switching and line-haul costs. (f) Consumer Costs. Increased costs of goods and services to consumer brought about by changes in costs (i.e. transport costs) incurred by affected manufacturers, wholesalers and retailers. (g) Other. Loss of future benefits due to decreased potential for new industrial development and plant expansion where rail service is essential; unavailable or impractical alternative transportation modes because of local road and bridge conditions or because of the nature of the product being shipped, such as coal, fertilizer, grain or lumber; and lowering of commercial and residential property values dependent upon rail service, affecting the worth of those who own such properties.

The major social factors which should be considered are: (a) Demographic. Changes affecting population; urban/rural composition; housing patterns; and life style peculiarities. (b) Economic. Effects on the diversity of the economic base of the affected area; and the diversity of skills among the affected area's labor force. (c) Taxpayer Costs. Budgetary uncertainties and changes in funding priorities, irretrievable commitments of funds for projects and public services no longer needed; disruption of land use plans and zoning regulations, including possible re-use of rail rights-of-way for agricultural, commercial, industrial or residential purposes, transportation-related purposes or for recreational, tourist, wildlife, hobby, or historic preservation purposes; and overall government economic, social, energy and environmental objectives, policies and programs.

The major environmental factors which should be considered are: (a) Air Pollution. Pollutants (i.e. carbon monoxide, hydrocarbons, and nitrogen oxides) produced by combustion in diesel locomotives; and pollutants produced by alternative transportation modes, especially trucks. (b) Land Pollution. Esthetic conditions, such as accumulation of litter and weeds along rail lines; traffic congestion on highways and streets resulting from a switch to an alternative transportation mode, such as trucking; and public safety hazards, such as brush fires produced by locomotive sparks, motor-vehicle accidents at railroad grade-crossings and motor-vehicle accidents on highways and streets if the alternative transportation mode is trucking. (c) Noise Pollution. Noise levels, for both the railroad and the alternative transportation mode (usually trucks), depending on such factors as locations of the rail line and major highways and streets in relation to locations of schools, hospitals and residential neighborhoods; types of equipment used by the railroad and the alternative mode; the number of railroad grade-crossings and State Laws concerning audible warnings; number and age of motor vehicles required to replace rail; types of motor vehicle engines to be used—diesel vs. gasoline; and overall level of background noise. (d) Water Pollution. Interference with normal water flow by railroad causeways; the threat to water quality by the application of pesticides to railroad rights-of-way for weed and brush control; and fuel spillage, especially at railroad fueling stations, shops and terminals.

APPENDIX B

BASIC ALTERNATIVE APPROACHES FOR PRESERVING LIGHT-DENSITY LINE RAIL SERVICE

1. Purchase and Assumption of Ownership of Complete Rail Light-Density Line Properties: with direct management of operations by entrepreneur, principal stockholders, members, or their agents or manager, or; with management of operations by an internal arm of the governmental entity or special authority, or; with management of operations by a separate corporation formed by the governmental entity or special authority, or; with contract with previous rail line owner to manage operations.

2. Purchase and Assumption of Ownership of Right-of-Way (Tracks, Etc.): with lease/contract to seller of right-of-way or other existing railroad to rehabilitate and maintain right-of-way and to operate line, or; with lease/contract to seller of right-of-way or other existing railroad to operate line, but owner to rehabilitate and maintain right-of-way, or; with lease/contract to newly-formed corporation to rehabilitate and maintain right-of-way and to operate line, or; with lease/contract to newly-formed corporation to operate line but owner to rehabilitate and maintain right-of-way.

3. Lease of Complete Light-Density Line Rail Properties From Owning Railroad, Followed by: contract to lessor or other existing railroad to rehabilitate and maintain right-of-way and to operate line, or; contract to lessor or other existing railroad to operate line, but lessee to rehabilitate and maintain right-of-way or; contract to newly-formed corporation to rehabilitate and maintain right-of-way and to operate line, or; contract to newly-formed corporation to operate line, but lessee to rehabilitate and maintain right-of-way.

4. Lease of Right-Of-Way (Tracks, Etc.) From Owning Railroad, Followed by: con-

tract to lessor or other existing railroad to rehabilitate and maintain right-of-way and to operate line, or; contract to lessor or other existing railroad to operate line, but lessee to rehabilitate and maintain right-of-way, or; contract to newly-formed corporation to rehabilitate and maintain right-of-way and to operate line, or; contract to newly-formed corporation to operate line, but lessee to rehabilitate and maintain right-of-way.

5. Lease-Purchase Plan: Lease of complete properties of light-density line, with management of operations contracted to owning railroad company, with option to buy line outright, allowing gradual accumulation of needed purchase funds.

6. Right-Of-Way (Tracks, etc.) Banking, by Purchase or Lease: Right-of-way banking for prospective fossil fuel and natural resources movements, future industrialization, and anticipated economic growth, by purchase or lease.

7. Abandonment of Line, With Purchase or Lease of Right-of-way (Tracks, etc.) For New Uses: Acquiesce in abandonment of light-density line, and purchase or lease of right-of-way for use as a recreational, tourist or wildlife attraction.

APPENDIX C

SUPPORTIVE ALTERNATIVE APPROACHES FOR PRESERVING LIGHT-DENSITY LINE RAIL SERVICE

(Many of the "Supportive" approaches could be used with or independently of, the Basic Alternative Approaches to reduce light density line losses and to improve amount and quality of rail service.)

1. Rate Alternatives to Attract More Rail Users from Competing Transportation Modes and Provide for Meeting Costs and Profits are: rate reduction to attract more users from competing transportation modes; agreement on surcharge for each car shipped or received; and upward rate adjustments negotiated.

2. Methods of Compensation for Losses include: cash bond posted by users to guarantee against losses and provide profit and; local or adjacent property owners and service businesses, who are not primary shippers or receivers, contribute to meeting losses (or other selected costs.)

3. Types of Special Assistance include: interest-free loans to railroad; users buy specialized equipment and lease to railroad at cost; users repair cars for railroad free or at cost; payment to railroad to rehabilitate or maintain track; *one-time* financial support to rehabilitate or upgrade light density line; users pay for rehabilitation of damaged or out-of-service light density line, to resume operations; and, users provide own inspection service to assure specialized car operating properly (e.g., refrigerator cars).

4. Friend of the Line Approaches Include Instances where: users arrange or promote guaranteed or "loyalty" shipments, or more shipments by rail mode, or; arrange decreased rail service to reduce costs and losses.

5. Ways of Improving Service, Productivity and Customer Relations Attitudes include: special agreements with labor, such as rules for rail line rehabilitation, maintenance and operation; arrange increased level of service to encourage more shipments by rail, with guarantee, in return, to railroad against loss and for reasonable profit; promote improved productivity and customer relations and sales attitudes of railroad management and employees; operate several light-density lines under common management—using common offices, administrative services, computers, repair facilities, etc.; and, arrange for improved branch line supervision to secure closer and better relationships with local users in order to encourage increased patronage.

6. State or local tax relief arranged through forgiveness or other legislative actions.

7. Use of Most Efficient and Economical Transportation by: promoting containerization and coordinated rail-truck service to best advantage for costs, fuel, ecology and rail superiority; use of combined water, truck, rail movements; and, accommodation to selective alternate transportation mode.

8. Promotion of New Kinds of Business by: encouraging tourist, hobby, recreational, commuter or passenger service as supplement/substitute for freight income.

APPENDIX D

INFORMATION SOURCES

The following, which are referred to in the preceding text, are suggested as useful sources of information to those who are interested in the rail service continuance subsidy program provided for under the Regional Rail Reorganization Act of 1973. They are listed in chronological order according to their date of issuance. A limited number of copies of these sources are available from the Rail Services Planning Office, Government and Industry Liaison, 1900 L Street NW., 5th Floor, Washington, D.C. 20036, (202/254-3294).

**Regional Rail Reorganization Act of 1973*, Public Law 93-236, 87 Stat. 985 (January 2, 1974).

**Rail Service in the Midwest and Northeast Region, A Report by the Secretary of Transportation*, Volumes I and II, 39 FR 5392 (February 1, 1974).

**Evaluation of the Secretary of Transportation's Rail Services Report*. A Report of the Rail Services Planning Office, 39 FR 17147, (May 2, 1974).

**Rail Service Continuation Subsidies, Standards for Determination*, Rail Services Planning Office, 39 FR 24294, (July 1, 1974), with Amendments, 40 FR 1624, (January 8, 1975), and with additional Amendments, 40 FR 14186, (March 28, 1975).

**United States Railway Association Annual Report June 30, 1974 with a Supplemental Report Through October, 1974* (November 13, 1974).

**Preliminary Views on Rail Restructuring*, Comments of the Rail Services Planning Office (January 10, 1975).

**Guide for Evaluating the Community Impact of Rail Service Discontinuance*, Office of Public Counsel, Rail Services Planning Office (January 10, 1975).

**Continuation of Local Rail Service, Procedures and Requirements Regarding Applications and Disbursement*, Federal Railroad Administration, U.S. Department of Transportation, 40 FR 4232 (January 28, 1975).

**Analysis of Community Impacts Resulting from the Loss of Rail Service*, CONSAD Research Corporation, Prepared for United States Railway Association, Volumes I, II, III and IV (February 14, 1975).

**Preliminary System Plan*, United States Railway Association, Volumes I and II, 40 FR 9323 (March 4, 1975).

**Evaluation of the U.S. Railway Association's Preliminary System Plan*, A Report of the Rail Services Planning Office, 40 FR 21802 (May 19, 1975).

Community Self-Help Methods to Preserve or Reinstitute Rail Light-Density Line Service, Ernest Weiss. Prepared for Rail Services Planning Office (June 6, 1975).

[FR Doc. 75-14882 Filed 6-6-75; 8:45am]

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PART V

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Community Planning and Development

■

COMMUNITY DEVELOPMENT BLOCK GRANTS

Title 24—Housing and Urban Development

CHAPTER V—OFFICE OF ASSISTANT SECRETARY FOR COMMUNITY PLANNING AND DEVELOPMENT, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket Nos. R-75-292, 307]

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

On November 13, 1974, and February 7, 1975, the Department published final rules adopting a new Part 570 (39 FR 40136 and 40 FR 5952). Since publication of Part 570, the need for various technical changes has been brought to the Department's attention for the correction of typographical errors, clarification of titles and terms, deletion of duplicative statements, elimination of inconsistencies, etc. In some instances, various modifications in program requirements are needed in response to legal and other questions arising subsequent to publication of this Part. The substance of these latter modifications is set forth below.

1. Section 570.103(e) is modified to permit a unit of general local government included within an urban county to waive its hold harmless grant in FY 1975 without regard for the deadline date otherwise applicable for such waivers.

2. Section 570.104(5) is modified to conform the definition of "federally recognized disasters" to that published in Subpart E on February 7.

3. Section 570.105(c) is clarified so that the reference to community renewal and lower income housing means specifically urban renewal and publicly assisted housing.

4. Section 570.200, paragraph (a)(2) is corrected by changing an erroneous reference from §§ 570.608 to 570.607, and also is modified to establish specific eligibility criteria for neighborhood facilities.

5. Section 570.200(a)(8) is modified by correcting the reference of §§ 570.303(b) to 570.303(b)(1)(i) to clarify that eligibility of public services depends on such services being supportive of only those activities assisted with community development block grants.

6. Section 570.200(a)(11) is modified to clarify that relocation payments and assistance below the levels of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, hereinafter refered to as the Uniform Act, are not prohibited in instances where the Uniform Act does not apply.

7. Section 570.201(a)(2) is modified to clarify that neighborhood libraries are eligible facilities.

8. Section 570.201(a) is modified by adding a new subparagraph (6) to clarify the general eligibility rule stated in the first sentence of paragraph (a) as it applies to sewage treatment facilities.

9. Section 570.300(a) is modified to incorporate exceptions to submission deadlines that were published in 40 FR 5357 (dated February 5, 1975), 40 FR 15089 (dated April 4, 1975), and 40 FR 16663 (dated April 14, 1975).

10. Section 570.300(c) is modified to clarify applicants' responsibilities in complying with OMB Circular No. A-95 as they relate to midprogram year amendments and major modifications in applications during HUD review.

11. Section 570.302(a) is modified to prescribe the manner in which authorization dates are established for applicants to incur costs under advances of funds.

12. Section 570.302(b)(2) is modified to clarify that federally assisted code enforcement programs are included in the authority for advances under the general term "urban renewal."

13. Section 570.302(c) is modified by adding new subparagraphs (2) and (3) and redesignating the original paragraph (c) as subparagraph (1). The effect of this change is to provide new instructions concerning establishment of the date on which costs may be incurred pursuant to an advance of funds and reimbursement of local expenditures for the planning and implementation of block grant activities and continuation of urban renewal and model cities programs.

14. Section 570.303(b)(1)(i) is modified to clarify that community development programs may not be limited to planning activities only.

15. Section 570.303(b)(3) is modified to describe how the cost of an eligible activity can be paid for over a several year period in installments or increments.

16. Section 570.303(d) is modified to clarify that mandatory budgeting of relocation payments and assistance applies only to activities covered by the Uniform Act.

17. Section 570.303(e)(4) is modified by adding new instructions setting forth the environmental review responsibilities of the certifying officer, consistent with 24 CFR Part 1392.

18. Section 570.303(e)(5) is modified to clarify that applicants will comply with all applicable requirements of Federal Management Circular 74-7.

19. Section 570.304(a)(1)(ii) is corrected by deleting the word "not" preceding the phrase "outside an 'urbanized area'."

20. Section 570.304(b) is modified to clarify that an application submitted under the provisions of § 570.304(a) does not require a prior waiver request by the applicant if the funds applied for do not exceed $1,000,000, and adds new waiver provisions for applications in excess of $1,000,000.

21. Section 570.305(a) is modified to provide for an amendment to an approved housing assistance plan.

22. Section 570.305 is modified by adding a new paragraph (d) requiring prior HUD approval of amendatory reductions in amounts budgeted for completion of urban renewal projects, in order to protect the financial interest of the Federal Government.

23. Section 570.306(a)(1)(ii) is modified to more accurately refer to applications accepted for review under § 570.304 (a).

24. Section 570.400(c)(3) is modified to extend the submission date for urgent needs applications to June 30, 1975, as published in 40 FR 23864, dated June 3, 1975.

25. Section 570.400(e) is modified to clarify that costs incurred prior to approval of an application or a letter to proceed are not eligible for reimbursement.

26. Section 570.403(c)(1) is modified by eliminating the statement that application requirements pertain only to the geographic area within the new community. With this change, applicants may provide off-site facilities and improvements that serve a new community.

27. Section 570.403(c)(2) is modified to correct a typographical error that appeared in the February 7, 1975, FEDERAL REGISTER publication.

28. Section 570.403(c)(3) is modified to require the submission of the certification regarding compliance with the Uniform Act only if the applicant is a public agency.

29. Section 570.403(e) is modified to provide additional exceptions to the regulations concerning applicability of the Uniform Act and the Hatch Act, to certain classes of new communities applicants.

30. Section 570.408(d) is modified to clarify the application submission requirements for applicants for inequities funds.

31. Section 570.504 is modified by inserting a new parenthetical phrase into the second sentence to eliminate a conflict of this statement with the exceptions to it in §§ 570.702 and 570.802.

32. Section 570.505 is modified to clarify the requirement that an applicant's financial management system must comply with Federal Management Circular 74-7, Attachment G.

33. Section 570.506(c) is modified to clarify the policy concerning the retention and use of program income.

34. Section 570.509 (b) and (c) are modified to place greater importance upon non-HUD audits, with correspondingly higher standards applicable thereto.

35. Section 570.510 is modified to include environmental review records among the records that must be retained by the recipient.

36. Section 570.510(a) is modified to reduce the mandatory retention period for records that have been the subject of audit findings.

37. Section 570.600 provisions concerning maintenance of effort are deleted because of their duplication with those in § 570.2(c).

38. Section 570.601, "Limitations on local option activities and contingency accounts" is redesignated § 570.600, due to the preceding deletion.

39. Section 570.602 (a) and (b) are modified to clarify the applicability of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 to acquisition and displacement for an activity assisted under this part.

40. Section 570.602 is modified by adding a new paragraph (d) imposing additional requirements on recipients electing to provide relocation payments and assistance above those required by the Uniform Act and in those cases in which the Uniform Act does not apply.

41. Section 570.604 is modified to bring criteria for historic preservation into conformity with those of the Department of Interior. This section is also corrected by changing the reference from §§ 570.604(b) to 570.603.

42. Section 570.606 is corrected to change an erroneous reference to the Architectural Barriers Act of 1968.

43. Section 570.607(c) is modified to require that applicants must receive authorization from HUD prior to incurring costs for activities for which other Federal funds must be sought.

44. Section 570.609 is revised to explain the effect of the Flood Disaster Protection Act of 1973 upon assistance under this part.

45. Section 570.702(b) is modified to clarify the prohibition on loans which may benefit private individuals or corporations.

46. Section 570.801(b)(1)(i) is modified by deleting the words "by contract" to establish HUD's obligation of funds to a recipient on the basis of a reservation, and substituting clearer language at the beginning of this paragraph.

47. Section 570.900(a) is modified by limiting applicability of the mandatory requirements listed thereunder only to those activities subject to the Uniform Relocation Assistance and Real Property Acquisition Act of 1970.

48. Section 570.900(d)(1) is modified by revising the second sentence to emphasize that opportunities for citizen participation are to be made known to the public as well as to HUD for review.

49. Section 570.900(d)(2) is modified by deleting the term "process" from the first sentence in order to avoid unintended limitations beyond the requirements of this section.

50. Section 570.906(a) which reads "Submission. Prior to the beginning of fiscal year 1977 and prior to each fiscal year thereafter, each recipient shall submit a performance report." is eliminated because it duplicates the next paragraph which is also numbered § 570.906(a) and is titled "Submission."

51. Section 570.906(b) is modified by adding a new subparagraph (7) which states that the recipient's annual performance report shall indicate compliance with the objectives stated in § 570.2(c) concerning the amount of local financial support.

52. Section 570.907(d) is modified to extend record-keeping requirements to also include relocation activities not covered by the Uniform Relocation Assistance and Real Property Acquisition Act of 1970.

53. Section 570.907(e) is corrected by changing an erroneous reference from §§ 570.603 to 570.602.

54. Section 570.907(j) has been modified by deleting the existing paragraph pertaining to the record-keeping period, since that is a duplication of the provisions in § 570.510, and substituting a new paragraph pertaining to environmental review records.

Statutorily based constraints imposed upon both HUD (i.e., 75 day limit on review time) and the applicant (i.e., pre-submission requirements contained in OMB Circular No. A-95) for entitlement applications to be approved during the current fiscal year necessitate that these modifications and corrections become effective on January 1, 1975. In connection with environmental review of these technical changes to the final regulations, a Finding of Inapplicability has been made under HUD Handbook 1390.1, 38 FR 19182. Accordingly, Part 570 is revised to read as follows:

Subpart A—General Provisions

Subpart B—Allocation and Distribution of Funds

Subpart C—Eligible Activities

Subpart D—Applications for Entitlement Grants

Subpart E—Applications and Criteria for Discretionary Grants

Subart F—Grant Administration

Subpart G—Other Program Requirements

Subpart H—Loan Guarantees

Subpart I—Financial Settlement of Urban Renewal Projects

Subpart J—Program Management

AUTHORITY: Title I of the Housing and Community Development Act of 1974 (Pub. L. 93-383); and sec. 7(d), Department of Housing and Urban Development Department, (42 U.S.C. 3535(d)).

Subpart A—General Provisions

§ 570.1 Applicability and scope.

(a) The policies and procedures contained herein are applicable to the making of community development program block grants and loan guarantees on behalf of urban communities under the provisions of Title I of the Housing and Community Development Act of 1974.

(b) This Part covers policies and procedures relating to the roles and responsibilities of HUD and general local government with regard to the allocation and distribution of funds; eligible activities; application for entitlement grants; applications and criteria for discretionary grants; grant administration; other program requirements; loan guarantees; financial settlement of urban renewal projects; and program management.

(c) The community development block grant program under this Part replaces the following programs consolidated by the Act:

(1) Urban renewal (and neighborhood development programs) under title I of the Housing Act of 1949;

(2) Model Cities under Title I of the Demonstration Cities and Metropolitan Development Act of 1966;

(3) Water and sewer facilities under section 702 of the Housing and Urban Development Act of 1965;

(4) Neighborhood facilities under section 703 of the Housing and Urban Development Act of 1965;

(5) Public facilities loans under Title II of the Housing Amendments of 1955;

(6) Open space land under Title VII of the Housing Act of 1961; and

(7) Rehabilitation loans under section 312 of the Housing Act of 1964, except that such loans may be made under the authority of section 312 of the Housing Act of 1964, as amended, until August 22, 1975.

§ 570.2 Objective and purpose of program.

(a) The primary objective of the Community Development Program is the development of viable urban communities, including decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income. Consistent with this primary objective, the Federal assistance provided in this Part is for the support of community development activities which are directed toward the following specific objectives:

(1) The elimination of slums and blight and the prevention of blighting influences and the deterioration of property and neighborhood and community facilities of importance to the welfare of the community, principally persons of low and moderate income;

(2) The elimination of conditions which are detrimental to health, safety, and public welfare, through code enforcement, demolition, interim rehabilitation assistance, and related activities;

(3) The conservation and expansion of the Nation's housing stock in order to provide a decent home and a suitable living environment for all persons, but principally those of low and moderate income;

(4) The expansion and improvement of the quantity and quality of community services, principally for persons of low and moderate income, which are essential for sound community development and for the development of viable urban communities;

(5) A more rational utilization of land and other natural resources and the better arrangement of residential, commercial, industrial, recreational, and other needed activity centers;

(6) The reduction of the isolation of income groups within communities and geographical areas and the promotion of an increase in the diversity and vitality of neighborhoods through the spatial deconcentration of housing opportunities for persons of lower income and the revitalization of deteriorating or deteriorated neighborhoods to attract persons of higher income; and

(7) The restoration and preservation of properties of special value for historic, architectural or esthetic reasons.

(b) It is also the purpose of this Part to further the development of a national urban growth policy by consolidating a number of complex and overlapping programs of financial assistance to communities of varying sizes and needs into a consistent system of Federal aid which:

(1) Provides assistance on an annual basis, with maximum certainty and minimum delay, upon which communities can rely in their planning;

(2) Encourages community development activities which are consistent with comprehensive local and areawide development planning;

(3) Furthers achievement of the national housing goal of a decent home and a suitable living environment for every American family; and

(4) Fosters the undertaking of housing and community development activities in a coordinated and mutually supportive manner.

(c) It is intended under this Part that the Federal assistance made available hereunder not be utilized to reduce substantially the amount of local financial support for community development activities below the level of such support prior to the availability of such assistance.

§ 570.3 Definitions.

(a) "Act" means Title I of the Housing and Community Development Act of 1974, P.L. 93-383.

(b) "Applicant" means the State or unit of general local government which makes application pursuant to the provisions of Subpart D or Subpart E. One or more public agencies, including existing local public agencies, may be designated by the chief executive officer of a State or a unit of general local government to undertake a Community Development Program in whole or in part, but only the State or unit of general local government may be the applicant under Subpart D and E.

(c) "Basic grant amount" means the amount of funds which a metropolitan city or urban county is entitled to receive under this Part as determined by the formula based on factors pertaining to population, extent of poverty, and extent of housing overcrowding provided in Subpart B.

(d) "Chief executive officer" of a unit of local government means the elected official, or the legally designated official, who has the primary responsibility for the conduct of that unit's governmental affairs. Examples of the "chief executive officer" of a unit of local government may be: The elected mayor of a municipality; the elected county executive of a county; the chairman of a county commission or board in a county that has no elected county executive; the official designated pursuant to law by the governing body of the unit of local government; or the chairman, governor, chief, or president (as the case may be) of an Indian tribe or Alaskan native village.

(e) "City" means for purposes of basic grant eligibility, (1) any unit of general local government which is classified as a municipality by the United States Bureau of the Census or (2) any other unit of general local government which is a town or township and which, in the determination of the Secretary, (i) possesses powers and performs functions comparable to those associated with municipalities, (ii) is closely settled and (iii) contains within its boundaries no incorporated places as defined by the United States Bureau of the Census.

(f) "Community Development Program" means the program formulated by the applicant in its application to HUD as described in Subpart D which (1) includes the activities to be undertaken to meet its community development needs and objectives identified in its summary community development plan, together with the estimated costs and general location of such activities, (2) indicates resources other than those provided under this Part which are expected to be made available toward meeting its identified needs and objectives, and (3) takes into account appropriate environmental factors.

(g) "Discretionary grant" means a grant made from the Secretary's fund, from the transition fund for urgent community development needs, and from the general purpose funds for metropolitan and nonmetropolitan areas as described more fully in § 570.104(a), (b), (c)(1), and (c)(2), respectively.

(h) "Entitlement amount" means the amount to be received by a unit of general local government consisting of its basic grant amount and/or hold-harmless grant under § 570.102 and § 570.103.

(i) "Extent of housing overcrowding" means the number of housing units with 1.01 or more persons per room based on data compiled and published by the United States Bureau of the Census for 1970.

(j) "Extent of poverty" means the number of persons whose incomes are below the poverty level based on data compiled and published by the United States Bureau of the Census for 1970 and the latest reports of the Office of Management and Budget. For the purposes of this Part, the Secretary has determined that it is neither feasible nor appropriate to make adjustments at this time in the computations of "extent of poverty" for regional or area variations in income and cost of living.

(k) "Hold-Harmless amount" means the amount which represents the average past level of funds received by a unit of general local government under the consolidated programs cited in § 570.1(c) and which is used to determine the amount of the Hold-Harmless grant.

(l) "Hold-Harmless grant" means that amount of funds which a unit of general local government is entitled to receive in excess of its basic grant amount under § 570.103.

(m) "HUD" means the Department of Housing and Urban Development.

(n) "Identifiable segment of the total group of lower-income persons in the community" means women, and members of a minority group which includes Negroes, Spanish-Americans, Orientals, American Indians and other groups normally identified by race, color, or national origin.

(o) "Low and moderate income families" or "lower income families" means

families whose incomes do not exceed 80 percent of the median family income of the area as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income limits higher or lower than 80 percent of the median for the area on the basis of his findings that such variations are necessary because of prevailing levels of construction cost, unusually high or lower family incomes, or other factors.

(p) "Low and moderate income persons" or "lower income persons" means persons for whom the income of the family conforms with the definition of lower income families as established in § 570.3(o) above.

(q) "Metropolitan area" means a standard metropolitan statistical area, as established by the Office of Management and Budget.

(r) "Metropolitan city" means (1) a city within a metropolitan area which is a central city of such area, as defined and used by the Office of Management and Budget, or (2) any other city, within a metropolitan area, which has a population of fifty thousand or more.

(s) "Population" means the total resident population based on data compiled and published by the United States Bureau of the Census for 1970.

(t) "Secretary" means the Secretary of Housing and Urban Development.

(u) "State" means any State of the United States, or any instrumentality thereof approved by the Governor; and the Commonwealth of Puerto Rico.

(v) "Unit of general local government" means any city, county, town, township, parish, village, or other general purpose political subdivision of a State; Guam, the Virgin Islands, and American Samoa or a general purpose political subdivision thereof; a combination of such political subdivisions recognized by the Secretary; the District of Columbia; the Trust Territory of the Pacific Islands; and Indian tribes, bands, groups, and nations, including Alaska Indians, Aleuts, and Eskimos, of the United States. Such term also includes a State or a local public body or agency (as defined in section 711 of the Housing and Urban Development Act of 1970), a community association, or other entity, which is approved by the Secretary for the purpose of providing public facilities or services to a new community as part of a program meeting the eligibility standards of section 712 of the Housing and Urban Development Act of 1970 or Title IV of the Housing and Urban Development Act of 1968.

(w) "Urban county" means any county within a metropolitan area which, pursuant to § 570.105, (1) is authorized under State law to undertake essential community and housing assistance activities in its unincorporated areas, if any, which are not units of general local government, and (2) has a combined population of two hundred thousand or more (excluding the population of metropolitan cities therein) in such unincorporated areas and in its included units of general local government (i) in which it has authority to undertake essential community development and housing assistance activities and which do not elect to have their population excluded or (ii) with which it has entered into cooperation agreements to undertake or to assist in the undertaking of essential community development and housing assistance activities.

Subpart B—Allocation and Distribution of Funds

§ 570.100 General.

(a) This subpart describes the policies and procedures governing the determination of entitlement for eligible units of general local government to receive grants, the entitlement amounts, and the allocation of appropriated funds among the several distribution categories provided under Title I of the Housing and Community Development Act of 1974.

(b) In determining eligibility for a Basic Grant and allocating funds under this subpart, current corporate status and geographic boundaries will be considered, in accordance with the following, to the extent such information is available from the U.S. Bureau of the Census at such time as the allocation of funds is to be made each year:

(1) Incorporation of a community having population of at least 50,000 based on latest national census;

(2) Change in boundaries or annexations resulting in the population of the unit of general local government reaching or exceeding 50,000 based on latest national census; and

(3) Changes in boundaries or annexations cumulatively resulting in an increase or decrease in population of the unit of general local government of at least five percent based on latest national census.

§ 570.101 Allocation between metropolitan and nonmetropolitan areas.

Eighty percent of the funds appropriated each year for the purposes of this Part, excluding amounts for the Secretary's discretionary fund and the urgent needs fund described in Subpart E and excluding fifty million dollars in each of Fiscal Years 1975 and 1976 as specified in § 570.104, will be allocated to metropolitan areas, with the balance of twenty percent allocated to nonmetropolitan areas, for community development block grants in metropolitan and nonmetropolitan areas, respectively.

§ 570.102 Basic grant amounts.

(a) *Metropolitan cities.* (1) Of the amount allocated to metropolitan areas pursuant to § 570.101, the Secretary will allocate to all metropolitan cities an amount of funds which bears the same ratio to the allocation for such metropolitan areas as the average of the ratios between:

(i) The population of all metropolitan cities and the population of all metropolitan areas;

(ii) The extent of poverty in all metropolitan cities and the extent of poverty in all metropolitan areas; and

(iii) The extent of housing overcrowding by units in all metropolitan cities and the extent of housing overcrowding by units in all metropolitan areas.

(2) Of the amount allocated to all metropolitan cities, the Secretary will allocate to each metropolitan city a basic grant amount which bears the same ratio to the allocation for all metropolitan cities as the average of the ratios between:

(i) The population of that city and the population of all metropolitan cities;

(ii) The extent of poverty in that city and the extent of poverty in all metropolitan cities, and

(iii) The extent of housing overcrowding by units in that city and the extent of housing overcrowding by units in all metropolitan cities.

(3) In determining the average of ratios under paragraph (a) (1) and (2) of this section, the ratio involving the extent of poverty will be counted twice.

(4) Towns or townships having population of 50,000 or more may be eligible for entitlement to basic grant amounts although they are not classified as municipalities by the U.S. Bureau of the Census. In determining eligibility, primary reliance shall be placed on information available from the U.S. Bureau of the Census with respect to population level, closeness of settlement, and presence of incorporated places within the boundaries of the unit of general local government.

(b) *Urban counties.* (1) Of the amount allocated to metropolitan areas pursuant to § 570.101, the Secretary will allocate to each urban county a basic grant amount determined by:

(i) Calculating the total amount that would have been allocated to all metropolitan cities and urban counties together under paragraph (a)(1) of this section if data pertaining to the population, extent of poverty, and extent of housing overcrowding in all urban counties were included in the numerator of each of the fractions described in that paragraph; and

(ii) Determining for each urban county the amount which bears the same ratio to the total amount calculated under paragraph (b)(1)(i) of this section as the average of the ratios between:

(A) The population of that urban county and the population of all metropolitan cities and urban counties;

(B) The extent of poverty in that urban county and the extent of poverty in all metropolitan cities and urban counties; and

(C) The extent of housing overcrowding by units in that urban county and the extent of housing overcrowding by units in all metropolitan cities and urban counties.

(2) In determining the average of ratios under paragraph (b)(1)(ii) of this section, the ratio involving the extent of poverty will be counted twice.

(3) In computing amounts or exclusions with respect to an urban county in any fiscal year there will be excluded any metropolitan city, any other unit of general local government within the county which is to receive a hold-harmless grant for that fiscal year pursuant to § 570.103, and any other unit of general local government the population

of which has been excluded from the county's population as part of the urban county qualification process, pursuant to § 570.105.

(4) In excluding the population, poverty, and housing overcrowding data of units of general local government which are to receive a hold-harmless grant from the computations in this paragraph, as required by paragraph (b)(3) of this section, the Secretary will exclude only two-thirds of such data for Fiscal Year 1978 and one-third of such data for Fiscal Year 1979.

(c) *Phase-in provisions.* During the first three years for which funds are approved for distribution to a metropolitan city or urban county, the basic grant amount of those cities and counties as computed under paragraphs (a) and (b) will be adjusted if the amount so computed for the first year exceeds the city's or county's hold-harmless amount for that year as determined under § 570.103. The adjustments will be made so that:

(1) The amount for the first year does not exceed one-third of the full basic grant amount or the hold-harmless amount, whichever is the greater;

(2) The amount for the second year does not exceed two-thirds of the full basic grant amount, or the hold-harmless amount, or the amount allowed under paragraph (c)(1) of this section, whichever is the greatest; and

(3) The amount for the third year does not exceed the full basic grant amount.

§ 570.103 Hold-harmless grants.

(a) *Metropolitan cities and urban counties.* Any metropolitan city or urban county having a hold-harmless amount, as calculated under paragraph (c) of this section, in any fiscal year which exceeds its basic grant amount for that year as computed under § 570.102 will be entitled to receive a hold-harmless grant, in addition to its basic grant. Except as provided in paragraph (d) of this section, the amount of the hold-harmless grant will be equal to the difference between the basic grant amount and the hold-harmless amount.

(b) *Other units of general local government.* Any other unit of general local government will be entitled to receive a hold-harmless grant if, during the five fiscal year period ending June 30, 1972 (or June 30, 1973, in the case of a locality which first received a grant for a neighborhood development program in that fiscal year), it had been carrying out one or more urban renewal projects, code enforcement programs, or neighborhood development programs under Title I of the Housing Act of 1949, or model cities programs under Title I of the Demonstration Cities and Metropolitan Development Act of 1966, under commitments for assistance entered into with HUD during that period. Except as provided in paragraph (d) of this section, such hold-harmless grant will equal the hold-harmless amount as computed under paragraph (c) of this section.

(c) *Calculation of hold-harmless amount.* (1) For each unit of general local government having entitlement for either a basic grant amount or a hold-harmless grant, the Secretary will calculate a hold-harmless amount for each of the first five fiscal years beginning with Fiscal Year 1975, and, for a unit of general local government first qualifying for a basic grant amount after the fourth such fiscal year, for the first two years that unit of general local government receives a basic grant amount.

(2) The hold-harmless amount will be the sum of:

(i) The annual average during the five fiscal years ending June 30, 1972, of:

(A) Commitments for grants for urban renewal (excluding neighborhood development programs) under Part A of Title I of the Housing Act of 1949. For the purposes of this calculation, "commitments for grants" means any of the following conditions occurring during the five year base period:

(*1*) Funds reserved and not either cancelled or allocated;

(2) Funds reserved and allocated; and funds allocated which had not previously been reserved.

(B) Loans made for the purpose of rehabilitation of property under section 312 of the Housing Act of 1964;

(C) Grants for open space land projects, including urban beautification and historic preservation, under Title VII of the Housing Act of 1961;

(D) Grants for water and sewer projects under section 702 of the Housing and Urban Development Act of 1965;

(E) Grants for neighborhood facilities under section 703 of the Housing and Urban Development Act of 1965; and

(F) Loans for public facilities under Title II of the Housing Amendments of 1955; and

(ii) The average annual grant for a neighborhood development program under Part B of Title I of the Housing Act of 1949 made during the five fiscal years ending June 30, 1972, or during Fiscal Year 1973 in the case where the initial grant for this purpose was made in that fiscal year; and

(iii) In the case of a unit of general local government having a model cities program which was funded or extended in Fiscal Year 1973 for a period ending after June 30, 1973, amounts based on the following percentages of the average annual grant made for the model cities program under Title I of the Demonstration Cities and Metropolitan Development Act of 1966 during fiscal years ending June 30, 1972:

(A) One hundred percent for each of a number of years, which, when combined with the number of funding years for which the unit of general local government has received grants prior to Fiscal Year 1975, equals five.

(B) Eighty percent for the year immediately following year five as determined in paragraph (c)(2)(iii)(A) of this section;

(C) Sixty percent for the year immediately following the year provided in paragraph (c)(2)(iii)(B) of this section; and

(D) Forty percent for the year immediately following the year provided in paragraph (c)(2)(iii)(C) of this section. For the purpose of calculating hold-harmless amounts, the average annual grant under paragraphs (c)(2)(ii) and (iii) of this section will be established by dividing the total amount of grants made to the unit of general local government by the number of months of program activity for which such grants were made and multiplying the result by twelve. In calculating the hold-harmless amount, any portion of grants which were made as one-time payments for relocation costs under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601) will be excluded. In calculating the average annual grant under paragraph (c)(2)(iii) of this section, the Secretary will exclude Planned Variations grants and grants for such other special purposes as relocation costs for Project Rehab in model cities programs. In attributing credit to metropolitan cities for grants or loans for the purpose of calculating the hold-harmless amount, the Secretary will be guided primarily by the location of the project, and, in addition, the identity of the local government which contracted for such grants or loans. Thus, where a county park authority received a grant to provide recreational facilities in a metropolitan city, the city would be credited with the grant in the hold-harmless calculation, and not the county.

(d) *Phase-out of hold-harmless.* (1) In determining the hold-harmless grant for Fiscal Years 1975, 1976, and 1977, the full hold-harmless amount calculated under paragraph (c) of this section will be used in accordance with paragraphs (a) and (b) of this section. In Fiscal Years 1978 and 1979, if the hold-harmless amount exceeds the basic grant amount for a locality in any such year, as computed under § 570.102, it will be reduced so that—

(i) In Fiscal Year 1978, the excess of the hold-harmless amount over the basic grant amount for that year will equal two-thirds of the difference between such hold-harmless and basic grant amounts; and

(ii) In Fiscal Year 1979, the excess of the hold-harmless amount over the basic grant amount for that year will equal one-third of the difference between such hold-harmless and basic grant amounts.

(2) In Fiscal Year 1980, no hold-harmless grants will be made.

(3) In determining the adjustments under paragraph (d)(1) of this section for units of general local government not qualifying for a basic grant, the provisions of paragraph (d)(1)(i) and (ii) of this section will be applied as though such units had entitlement to a basic grant amount of zero.

(e) *Waiver of hold-harmless.* Any unit of general local government qualifying for a hold-harmless grant under the conditions contained in paragraph (b) of this section may, not later than thirty days prior to January 1, 1975, or not later than 30 days prior to the beginning of any fiscal year thereafter, irrev-

ocably waive its eligibility for such grants. A unit of general local government which is included within an urban county may waive its hold-harmless grant for Fiscal Year 1975 without regard to the timing provisions of the preceding sentence of this subsection, but not later than April 15, 1975. Any such waiver under this subsection must be submitted to the Secretary in writing. In the case of such a waiver, the unit of general local government shall not be excluded from the computations described in § 570.102(b)(3) and § 570.104 (c) (1) and (2).

§ 570.104 Funds for discretionary grants.

(a) *Secretary's fund.* From the amount appropriated for community development block grants each fiscal year excluding the urgent needs fund described in paragraph (b) and fifty million dollars in each of Fiscal Year 1975 and 1976, HUD will determine an amount which is two percent of such appropriated funds for use in making grants:

(1) In behalf of new communities approved under Title VII of the Housing and Urban Development Act of 1970 or Title IV of the Housing and Urban Development Act of 1968;

(2) To States and units of general local government which jointly apply for such funds for addressing problems that are areawide in scope;

(3) In Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands;

(4) To States and units of general local government for use in demonstrating innovative community development projects;

(5) To States and units of general local government for use in meeting emergency community development needs caused by federally recognized disasters as defined in § 570.407(a) (but not more than one-fourth of the total amount reserved and set aside in the Secretary's fund under this section for each year will be used for this purpose); and

(6) To States and units of general local government where HUD finds it necessary to correct inequities resulting from the allocation provisions of this subpart.

Grants from the Secretary's fund may be made in addition to any other community development block grants which may be made to the same recipient under this subpart.

(b) *Urgent needs fund.* Using funds appropriated for Fiscal Years 1975, 1976, and 1977 for this purpose, grants may be made to units of general local government having urgent community development needs which cannot be met through the operation of the allocation provisions of this subpart. Grants under this paragraph may not exceed the total amount appropriated in each fiscal year for this purpose.

(c) *General purpose funds*—(1) *Metropolitan areas.* Any portion of the amount allocated to metropolitan areas under § 570.101, which remains after the allocation of (i) basic grant amounts to metropolitan cities and urban counties under § 570.102, and (ii) hold-harmless grants to which units of general local government in metropolitan areas are entitled, under § 570.103, plus fifty million dollars in each of Fiscal Year 1975 and Fiscal Year 1976, will be allocated for grants to units of general local government, other than metropolitan cities and urban counties, and to States for use in metropolitan areas, allocating for each such metropolitan area an amount which bears the same ratio to the total of those remaining amounts as the average of the ratios between:

(A) The population of that metropolitan area and the population of all metropolitan areas;

(B) The extent of poverty in that metropolitan area and the extent of poverty in all metropolitan areas; and

(C) The extent of housing overcrowding by units in that metropolitan area and the extent of housing overcrowding by units in all metropolitan areas.

In determining the average ratios for metropolitan areas, the ratio involving the extent of poverty will be counted twice; and in computing amounts for metropolitan areas there will be excluded any metropolitan cities, urban counties, and any units of general local government which receive hold-harmless grants under § 570.103(b).

(2) *Nonmetropolitan areas.* Any portion of the amount allocated to nonmetropolitan areas under § 570.101 which remains after providing the allocation of hold-harmless grants to which units of general local government in nonmetropolitan areas are entitled under § 570.103 (b), will be allocated for grants to units of general local government in nonmetropolitan areas or to States for use in nonmetropolitan areas, allocating for the nonmetropolitan areas of each State an amount which bears the same ratio to the total of those remaining amounts as the average of the ratios between:

(i) The population of the nonmetropolitan area in that State and the population of the nonmetropolitan area in all States.

(ii) The extent of poverty in the nonmetropolitan area in that State and the extent of poverty in the nonmetropolitan area in all States; and

(iii) The extent of housing overcrowding by units in the nonmetropolitan area in that State and the extent of housing overcrowding by units in the nonmetropolitan area in all States.

In determining the average of ratios for nonmetropolitan areas, the ratio involving the extent of poverty will be counted twice; and in computing amounts for nonmetropolitan areas there will be excluded units of general local government in nonmetropolitan areas which receive hold-harmless grants under § 570.103(b).

(d) *Adjustment to exclusions for hold-harmless grants.* In excluding the population, poverty and housing overcrowding data of units of general local government which receive hold-harmless grants as required under paragraphs (c) (1) and (2) of this section, only two-thirds of such data will be excluded for Fiscal Year 1978 and one-third of such data for Fiscal Year 1979.

(e) *Criteria.* Specific criteria for determining recipients of discretionary funds may be found in Subpart E, Applications and Criteria for Discretionary Grants.

§ 570.105 Qualification as urban county.

(a) *Determination of qualification.* The Secretary will determine the qualifications of counties to receive entitlements as urban counties pursuant to § 570.102(b) upon receipt of applications from counties in a form and manner prescribed by HUD. The Secretary shall determine eligibility and applicable portions of each eligible county for purposes of fund allocation under § 570.102(b) on the basis of information available from the U.S. Bureau of Census with respect to population and other pertinent demographic characteristics, and based on information provided by the county and its included units of general local government.

(b) *Qualification as an urban county.* A county will qualify as an urban county if such county:

(1) Is in a metropolitan area;

(2) Is authorized under State law to undertake essential community development and housing assistance activities ("essential activities") in its unincorporated areas, if any, which are not units of general local government; and

(3) Has a combined population of 200,000 or more (excluding the population of metropolitan cities therein) consisting of persons residing:

(i) In such unincorporated areas.

(ii) In its included units of general local government in which it is authorized under State law to undertake essential activities (without the consent of the governing body of the locality, or upon the consent of the governing body of the locality and the county has received such consent) and which do not elect to have their population excluded from that of the county pursuant to § 570.102(b)(3) or

(iii) In its included units of general local government with which it has entered into cooperation agreements to undertake or to assist in the undertaking of essential activities. Such cooperation agreements may consist of the provision by the county of funds or services or both in behalf of such essential activities.

(c) *Essential activities.* For purposes of this section, the term "essential activities" means community renewal and lower income housing activities, specifically urban renewal and publicly assisted housing. In determining whether a county has the required powers, the Secretary will consider both its authority and, where applicable, the authority of its designated agency or agencies.

(d) *Opinion as to authority.* A county wishing to qualify as an urban county shall, at a time designated by HUD and in a form prescribed by HUD, describe its authority for undertaking essential activities. Such description shall include an opinion with respect to such authority

by the appropriate legal officer of the county.

§ 570.106 Qualification and submission dates.

The Secretary will fix qualification and submission dates necessary to permit the computations and determinations required under this Subpart to be made in a timely manner and all such computations and determinations will be final and conclusive.

§ 570.107 Reallocation of funds.

(a) *Metropolitan areas.* Any amounts allocated to a metropolitan city, urban county, or other unit of general local government for basic grants or hold-harmless grants in metropolitan areas in any fiscal year which are not applied for by the date fixed by the Secretary for that purpose, or which are disapproved by the Secretary as part of the application review or program monitoring processes, will be reallocated for use by the Secretary in making grants to States, metropolitan cities, urban counties, or other units of general local government; first in any metropolitan area in the same State, and second, in any other metropolitan area. Any other amounts allocated to a metropolitan area for any fiscal year under § 570.104(c)(1) which the Secretary determines, on the basis of applications and other evidence available, are not likely to be fully obligated by the Secretary during the fiscal year for which the allocation has been made, will be reallocated by the Secretary sufficiently prior to the close of the fiscal year to allow a reasonable expectation that the funds may be used for making grants within that fiscal year to States, metropolitan cities, urban counties, and other units of general local government, first, in that or any other metropolitan area in the same State, and second, in any other metropolitan area.

(b) *Nonmetropolitan areas.* Any amounts allocated to a unit of general local government for any fiscal year for hold-harmless grants in a nonmetropolitan area which are not applied for by the date fixed by the Secretary for that purpose, or which are disapproved by the Secretary as part of the application review or program monitoring processes, will be reallocated by the Secretary for use in making grants to units of general local government in nonmetropolitan areas in any State or to any State for use outside of metropolitan areas. Any other amounts allocated to nonmetropolitan areas of a State for any fiscal year under § 570.104(c)(2) which the Secretary determines, on the basis of application and other evidence available, are not likely to be fully obligated during the fiscal year for which the allocation has been made, will be reallocated by the Secretary sufficiently prior to the close of the fiscal year to allow a reasonable expectation that the funds may be used for making grants within that fiscal year to units of general local government in nonmetropolitan areas of other States and to other States for use in nonmetropolitan areas.

(c) *Policies governing reallocation.* Each fiscal year, HUD will publish the policies to be employed in the reallocation of funds for that year.

(d) *Fiscal year reallocation.* Metropolitan area funds reallocated for any fiscal year which are not used within that fiscal year will remain available in the next subsequent fiscal year for the same area. Nonmetropolitan area funds reallocated for any fiscal year which are not used within that fiscal year will remain available in the next subsequent fiscal year for the same area.

§ 570.108 Offset against entitlement.

To the extent that grants under Title I of the Housing Act of 1949 (urban renewal) or Title I of the Demonstration Cities and Metropolitan Development Act of 1966 (model cities) are payable from appropriations made for Fiscal Year 1975, and are made with respect to a project or program being carried on in any unit of general local government having a basic or hold-harmless grant entitlement for Fiscal Year 1975 under § 570.102 or 570.103, the amount of such grants made under such urban renewal or model cities legislation will be considered to have been made against the entitlement amount of the unit of general local government as determined under this subpart, and will be deducted from such entitlement amount for Fiscal Year 1975. Deductions for this purpose will be made after the allocation of funds pursuant to this subpart and shall not otherwise affect the allocation of funds. The deduction required for such grants shall be disregarded in determining the amount of grants made to any unit of general local government that may be applied, pursuant to § 570.802(b), to payment of temporary loans in connection with urban renewal projects under Title I of the Housing Act of 1949.

Subpart C—Eligible Activities

§ 570.200 Eligible activities.

(a) Grant assistance for a community development program may be used only for the following activities:

(1) Acquisition in whole or in part by purchase, lease, donation, or otherwise, of real property (including air rights, water rights, and other interests therein), which is—

(i) Blighted, deteriorated, deteriorating, undeveloped, or inappropriately developed from the standpoint of sound community development and growth, as determined by the recipient pursuant to State and local laws;

(ii) Appropriate for rehabilitation or conservation activities;

(iii) Appropriate for the preservation or restoration of historic sites, the beautification of urban land, the conservation of open spaces, natural resources, and scenic areas, the provision of recreational opportunities, or the guidance of urban development;

(iv) To be used for the provision of public works, facilities, and improvements eligible for assistance under paragraph (a)(2) of this section; or

(v) To be used for other public purposes, including the conversion of land to other uses where necessary or appropriate to the community development program.

(2) Acquisition, construction, reconstruction, or installation of the following public works, facilities, and site or other improvements: neighborhood facilities, senior centers, historic properties (whether publicly owned or privately owned), utilities, streets, street lights, water and sewer facilities, foundations and platforms for air rights sites, pedestrian malls and walkways, and parks, playgrounds, and other facilities for recreational participation; flood and drainage facilities in cases where assistance for such facilities has been determined to be unavailable under other Federal laws or programs pursuant to the provisions of § 570.607; and parking facilities, solid waste disposal facilities, and fire protection services and facilities which are located in areas or which serve areas in which other activities described in § 570.303(b) are being, or are to be, carried out. For purposes of this paragraph, a neighborhood facility is one which (i) is designed to serve a particular neighborhood and provides services for that area, except that such a facility may serve an entire community of under 10,000 population; (ii) provides health, recreational, social, or similar community services; and (iii) may be either single purpose or multipurpose in nature.

(3) Code enforcement in deteriorated or deteriorating areas in which such enforcement, together with public improvements and services to be provided, may be expected to arrest the decline of the area.

(4) Clearance, demolition, removal, and rehabilitation of buildings and improvements (including (i) interim assistance to alleviate harmful conditions in which immediate public action is needed, (ii) financing rehabilitation of privately owned properties through the use of grants, direct loans, loan guarantees, and other means, when in support of other activities described in § 570.303(b), and (iii) demolition and modernization (but not new construction) of publicly owned low-rent housing).

(5) Special projects directed to the removal of material and architectural barriers which restrict the mobility and accessibility of elderly and handicapped persons.

(6) Payments to housing owners for losses of rental income incurred in holding for temporary periods housing units to be utilized for the relocation of individuals and families displaced by program activities.

(7) Disposition, through sale, lease, donation, or otherwise of any real property acquired pursuant to this Part or its retention for public purposes, provided that the proceeds from any such disposition shall be expended only for activities in accordance with this part.

(8) Provision of public services not otherwise available in areas, or serving residents of areas, in which the recipient is undertaking, or will undertake, other activities described in § 570.303(b)(1)(i), where such services are determined to be

necessary or appropriate to support such other activities and where assistance in providing or securing such services under other applicable Federal laws or programs has been applied for and denied or not made available pursuant to the provisions of § 570.607. For the purposes of this paragraph, such services shall be directed toward (i) improving the community's public services and facilities including those concerned with the employment, economic development, crime prevention, child care, health, drug abuse, education, welfare, or recreation needs of persons residing in such areas, and (ii) coordinating public and private development programs.

(9) Payment of the non-Federal share required in connection with a Federal grant-in-aid program undertaken as part of the community development program pursuant to § 570.303(b), *Provided*, That such payment shall be limited to activities otherwise eligible under this section.

(10) Payment of the cost of completing a project funded under Title I of the Housing Act of 1949, including the provisions for financial settlement contained in Subpart I.

(11) Relocation payments and assistance for individuals, families, businesses, organizations, and farm operations displaced by activities assisted under this Part.

(12) Activities necessary (i) to develop a comprehensive community development plan (which plan may address the needs, strategy, and objectives to be summarized in the application pursuant to § 570.303(a) but may treat only such public services as are necessary or appropriate to support activities meeting such needs and objectives), and (ii) to develop a policy-planning-management capacity so that the recipient may more rationally and effectively (A) determine its needs, (B) set long-term goals and short-term objectives, (C) devise programs and activities to meet the goals and objectives, (D) evaluate the progress of such programs in accomplishing these goals and objectives, and (E) carry out management, coordination, and monitoring of activities necessary for effective planning implementation.

(13) Payment of reasonable administrative costs and carrying charges related to the planning and execution of community development and housing activities, including the provision of information and, at the discretion of the recipient, of resources to residents of areas in which other community development activities described in § 570.303 (b) and the housing activities covered in the Housing Assistance Plan described in § 570.303(c) are to be concentrated with respect to the planning and execution of such activities.

(b) Notwithstanding anything to the contrary in this section or in § 570.201, any ongoing activity being carried out in a model cities program shall be eligible for funding under this Part from that portion of the hold-harmless amount attributable to such model cities program until the applicant has received five years of funding for such activities as calculated pursuant to § 570.103(c)(2)(iii). For the purpose of this paragraph, the term "ongoing activity" means any model cities activity underway as of January 1, 1975, that was approved and funded by HUD on or before June 30, 1974.

(c) Costs incurred in carrying out the program, whether charged to the program on a direct or an indirect basis, must be in conformance with the requirements of Federal Management Circular 74-4, "Cost Principles Applicable to Grants and Contracts with State and Local Governments," except as modified in these regulations.

§ 570.201 Ineligible activities.

Any type of activity not described in § 570.200 is ineligible. The following list of examples of ineligible activities is merely illustrative, and does not constitute a list of all ineligible activities.

(a) *Public works, facilities, and site or other improvements.* The general rule is that public works, facilities, and site or other improvements are ineligible to be acquired, constructed, reconstructed, rehabilitated, or installed unless they are specifically mentioned in § 570.200(a)(2), or were previously eligible under any of the programs consolidated by the Act (except the public facilities loan program, the model cities program, and as an urban renewal local grant-in-aid eligible under section 110(d)(3) of the Housing Act of 1940) and cited in § 570.-1(c). Examples of facilities which cannot be provided with these funds include the following:

(1) Buildings and facilities for the general conduct of government, such as city halls and other headquarters of government (where the governing body meets regularly), of the recipient and which are predominantly used for municipal purposes, courthouses, policies stations, and other municipal office buildings;

(2) Stadiums, sports arenas, auditoriums, concert halls, cultural and art centers, convention centers, museums, central libraries, and similar facilities, but excluding: (i) A neighborhood library, and (ii) cultural, art, museum, and similar facilities included as part of a neighborhood facility;

(3) Schools generally, including elementary, secondary, college and university facilities, but excluding a neighborhood facility or senior center in which classes in practical and vocational activities (such as first aid, homemaking, crafts, etc.) may be taught;

(4) Airports, subways, trolley lines, bus or other transit terminals, or stations, and other transportation facilities;

(5) Hospitals, nursing homes, and other medical facilities, but excluding a neighborhood facility or senior center which provides health services; and

(6) Treatment works for sewage or industrial wastes of a liquid nature.

(b) *Operating and maintenance expenses.* Except for the public services described in § 570.200(a)(8), and the interim assistance authorized under § 570.200(a)(4), operating and maintenance expenses in connection with community services and facilities are not eligible. Examples include maintenance and repairs of water and sewer and parking facilities, and salaries of staff operating such facilities.

(c) *General government expenses.* Except for the provisions of § 570.200(c), expenses required to carry out the regular responsibilities of the unit of general local government are not eligible. Examples include all ordinary general government expenditures not related to the community development program described pursuant to § 570.303(b) and not related to activities eligible under § 570.200.

(d) *Political activities.* No expenditure may be made for the use of equipment or premises for political purposes, sponsoring or conducting candidates' meetings, engaging in voter registration activity or voter transportation (except where part of the communitywide registration drive sponsored by the unit of general local government), or other partisan political activities.

(e) *New housing construction.* Construction of new permanent residential structures, or any program to subsidize or finance such construction, is not a permissible use of funds provided under this Part, except as provided under the last resort housing provisions of 24 CFR Part 43.

(f) *Income payments.* Except as authorized under § 570.200, funds may not be expended for direct income payments for housing or for any other purpose, except as provided under the last resort housing provisions of 24 CFR Part 43. Examples include payments for income maintenance and housing allowances.

Subpart D—Applications for Entitlement Grants

§ 570.300 Pre-submissions.

(a) *Timing of submission of applications.* The Secretary will establish from time to time the earliest and latest dates for submission of an application for each fiscal year. Applications, or draft materials relating to applications, received before the earliest date will be returned to the applicant without review. For fiscal year 1975, the earliest date for submission of an application shall be December 1, 1974; the latest date shall be April 15, 1975: *Provided, however*, That the Secretary may extend the April 15, 1975, deadline for submission of an application in particular cases in which, in his judgment, procedures mandated by state statute or regulation render submission of the application by April 15, 1975 impracticable, but in no event will submission of an application be accepted after May 30, 1975. Applicants wishing to request an extension of the April 15, 1975, deadline pursuant to this paragraph shall inform the appropriate HUD Area Office by April 15, 1975 giving the basis for the applicant's inability to file an application by April 15, 1975. No extension will be granted if the request for extension and the reasons therefor have not been re-

ceived by HUD by April 15, 1975. *Provided, further,* That all counties which have been advised by HUD of either final qualification or preliminary recognition for qualification as urban counties under § 570.105 may have their deadline for submission of their applications extended to May 15, 1975; provided, however, that the request for such an extension has been received by the HUD Area Office by April 15, 1975. Cooperation agreements, where required for urban counties, shall be submitted not later than fifteen days after the date an application from an urban county has been received for processing in HUD. Prior to the earliest date for submission of an application for each fiscal year, HUD will provide all applicants with forms and instructions, including the actual or estimated entitlement amount. Entitlement applicants wishing to apply for discretionary grants shall follow the procedures described in Subpart E, Applications and Criteria for Discretionary Grants.

(b) Upon receiving advice from HUD that the application has been received for processing, the applicant shall make reasonable efforts to inform citizens involved in the local citizen participation process that the application has been submitted to HUD and is available to interested parties upon request. This requirement may be satisfied by publication of a notice to that effect in a periodical of general circulation in the jurisdiction of the applicant.

(c) *Meeting the requirement of OMB Circular No. A-95.* Applicants must comply with the procedures set forth in OMB Circular No. A-95 which require the submission of the application, and mid-program year amendments as set forth in § 570.305(a), to the State and areawide clearinghouses for review and comment prior to submission to HUD. For Fiscal Year 1975 submissions only, the Office of Management and Budget has granted an exception to the length of review time for block grant applications to permit clearinghouses a single 45-day period for review. In addition, clearinghouses should divide their comments into two sections. The first will cover comments relating to facts and data relevant to HUD's making its statutory determination on the application in accordance with § 570.306(b). The second section will include all other comments and recommendations which clearinghouses desire to submit to the applicant.

An applicant modifying its application while it is under review by HUD is required by Circular No. A-95 to inform the clearinghouses of such modification. An applicant shall also indicate to the clearinghouses the number of days remaining, within the 75-day statutory limitation on review time described in § 570.306(c), for HUD to complete its review of the application.

§ 570.301 Program year.

(a) *First program year.* The first program year shall start on the date of HUD approval of the application and shall run for twelve consecutive months, except when modified under the provision of paragraph (b) of this section.

(b) *Subsequent program years.* The second program year shall normally begin twelve months after the beginning date of the first program year. However, an applicant may request to shorten the first program year by no more than three calendar months in order to meet urgent local needs and objectives, to reflect activity funded with Fiscal Year 1975 appropriations for the urban renewal and model cities programs, or to conform the program year to State or local budgeting requirements. The applicant shall not submit an application for a program year beginning prior to the end of the preceding twelve-month program year without the prior concurrence of the HUD Area Office.

§ 570.302 Advances of funds and authorization to incur costs.

(a) *Request for advance.* For the first program year beginning after January 1, 1975, an applicant may request an advance of funds in an amount not to exceed ten percent of its entitlement amount. A request for advance may be submitted to the appropriate HUD Area Office no earlier than December 1, 1974. An advance of funds may not be approved prior to January 1, 1975, and the applicant's program year does not begin until approval of a full application for a grant. The request for advance shall be in a form and manner prescribed by HUD and shall identify and estimate the cost of the activities to be carried out with the advance. Upon HUD approval of the advance, the applicant will be authorized to incur costs from January 1, 1975, or the date the advance was requested, whichever is later, for any purpose for which the advance was approved.

(b) *Eligible uses of advance funds.* Advance funds will be made available for the following purposes:

(1) To plan and prepare for the implementation of activities to be assisted under this part; and

(2) To continue previously approved urban renewal (including Neighborhood Development Program and federally assisted code enforcement) activities being carried out under Title I of the Housing Act of 1949 and/or previously approved model cities activities being carried out under Title I of the Demonstration Cities and Metropolitan Development Act of 1966. The phrase "previously approved" in the preceding sentence shall mean those urban renewal and model cities activities that were approved and funded by HUD on or before June 30, 1974.

(c) *Authorization to incur costs.* (1) Upon the effective date of these regulations, an applicant, by appropriate resolution of the local governing body and as of the date of such resolution, may begin to incur costs for the planning and preparation of an application for funds available under this Part. The resolution shall recognize that reimbursement for such costs will be dependent upon HUD approval of such application. Costs incurred with local funds pursuant to this paragraph may be reimbursed from an advance of funds. The total of all costs incurred pursuant to this section may not exceed ten percent of the applicant's entitlement amount and must be fully documented in the applicants' files. (2) After January 1, 1975, an applicant may incurr costs not to exceed ten percent of its entitlement amount for any of the purposes set forth in § 570.302(b). Such incurred cost must be duly authorized in advance by a resolution of the local governing body. Reimbursement by HUD for such incurred cost is subject to the applicant's submitting a request for advance pursuant to § 570.302(a). Upon satisfaction of the requirements of this paragraph, HUD will recognize for reimbursement from the advance only such costs as are incurred on or after the date of the resolution of the governing body.

(3) After January 1, 1975, an applicant may incur costs in excess of ten percent of its entitlement amount, but not to exceed 30 percent of its entitlement amount without the prior approval of HUD, for purposes set forth in § 570.302(b) for which no new environmental review is required under 24 CFR 58.19(c). Such incurred cost must be duly authorized in advance by a resolution of the local governing body. Reimbursement by HUD for such incurred cost is subject to their meeting the requirements of, and being included in, an application submitted pursuant to § 570.303 and approved in accordance with § 570.306, and to compliance by the applicant with 24 CFR 58.19(c) last sentence, 24 CFR 58.11 (a) and (g) and 24 CFR 58.30. Reimbursement by HUD is also subject to prior compliance with 24 CFR 58.31. Upon satisfaction of the requirements of this paragraph, HUD will recognize for reimbursement only such costs as are incurred on or after the date of the resolution of the governing body.

§ 570.303 Application requirements.

An application for a grant shall conform to and be limited to the prescribed HUD forms and shall include the following items:

(a) *Community development plan summary.* The application shall include a summary of a three-year community development plan which identifies community development needs, demonstrates a comprehensive strategy for meeting those needs, and specifies both short- and long-term community development objectives which have been developed in accordance with areawide development planning and national urban growth policies. The plan shall be written in a manner to encompass the needs, strategy and objectives, and to describe a program, which is designed to eliminate or prevent slums, blight, and deterioration where such conditions or needs exist, and to provide improved community development facilities and public improvements, including the provision of supporting health, social and similar services where necessary and appropriate. In identifying the needs, the applicant shall take into consideration any special needs found to exist in any identifiable segment of the total group of lower income persons in the community. With respect to area-

wide planning, the applicant must give careful consideration to applicable areawide plans but need not conform rigidly to such plans or secure approval of areawide planning agencies. Where areawide activities are determined in the A–95 comments transmitted by the area wide planning agency to be inconsistent with applicable areawide plans, then the applicant shall provide in the application to HUD an explanation of the reasons for the inconsistencies.

(b) *Community development program.* (1) The application shall include a summary of a community development program which:

(i) Includes the activities, which may not be limited to those described in § 570.200(a)(12), to be undertaken with the funds provided under this part for the program year to meet the community development needs and objectives together with the estimated costs and general location of such activities;

(ii) Indicates resources other than those provided under this Part which are expected to be made available during the program year toward meeting the identified needs and objectives; and

(iii) Takes into account appropriate environmental factors.

(2) The applicant shall submit maps of the geographic jurisdiction of the applicant. Such maps shall indicate the general location of proposed activities to be undertaken with funds provided under this Part and indicate, by each census tract, the concentrations of minority groups and lower-income persons.

(3) An applicant may provide in the community development program for the planned expenditure of program year funds in the subsequent program year. An applicant may also provide in its community development program for the payment of the cost of an eligible activity in installments or increments over a several year period, in which case the applicant shall provide in its community development program for the expenditure of at least a portion of its entitlement amount for the activity in the program year that the activity is initiated and shall identify that the cost of such activity is to be phased over a several year period; nevertheless, approval of such activity in subsequent years is subject to the availability of funds and the submission of an application meeting the requirements of this subpart each year for which entitlement funds are to be applied toward payment for the activity.

(c) *Housing assistance plan.* The application shall contain a housing assistance plan which:

(1) Accurately surveys the condition of the housing stock in the community. The applicant shall present in summary form a description of housing conditions by number of units in standard condition and in substandard condition, and to the extent such information is generally available, the units suitable for rehabilitation, and in each case distinguishing the numbers which are occupied and which are vacant.

(2) Estimates the housing assistance needs of lower income persons (including lower-income persons who are elderly and handicapped persons, large families, and persons displaced or to be displaced) either already residing in the community, or planning or expected to reside in the community as a result of planned or existing employment facilities. The assessment of housing assistance needs of lower income persons should take into consideration and summarize any special needs found to exist in any identifiable segment of the total group of lower-income persons in the community.

(3) Specifies a realistic annual goal for the number of dwelling units or persons to be assisted including the relative proportion of new, rehabilitated and existing dwelling units, and the sizes and types of housing projects and assistance best suited to the needs of lower income persons in the community. This statement of the annual goal for dwelling units to be assisted shall take into consideration the housing conditions and needs summarized pursuant to the two preceding paragraphs of this section. The goals for new, rehabilitated, and existing units should be consistent with the findings pursuant to § 570.303(c)(1) with respect to the availability of existing units of standard quality and units suitable for rehabilitation. HUD field offices will advise applicants, upon request, of housing assistance resources available to field office jurisdictions pursuant to section 213 of the Housing and Community Development Act of 1974 prior to submission of the housing assistance plan by the locality.

(4) Indicates the general location by census tract or groups of census tracts of proposed new housing construction projects and substantial rehabilitation projects for lower income persons on maps as called for in § 570.303(b)(2) (and for those projects proposed for HUD assistance, considering the site and neighborhood standards established by HUD for the housing assistance payments program), with the objectives of:

(i) Furthering the revitalization of the community, including the restoration and rehabilitation of stable neighborhoods to the maximum extent possible.

(ii) Promoting greater choice of housing opportunities and avoiding undue concentrations of assisted persons in areas containing a high proportion of low-income persons.

(iii) Assuring the availability of public facilities and services adequate to serve proposed housing projects.

(d) *Community development budget.* The applicant shall submit a community development budget on forms prescribed by HUD. Sufficient amounts shall be included in each year's budget to fully fund relocation payments and assistance for all persons expected to be displaced, pursuant to § 570.602(a), by that year's community development program activities even if such displacement will not occur until a later program year.

(e) *Certifications.* The applicant shall submit certifications, in such forms as HUD may prescribe, providing assurances that:

(1) The program will be conducted and administered in conformity with Title VI of the Civil Rights Act of 1964 (Pub. L. 88–352); Title VIII of the Civil Rights Act of 1968 (Pub. L. 90–284); section 109 of the Housing and Community Development Act of 1974; section 3 of the Housing and Urban Development Act of 1968; Executive Order 11246; Executive Order 11063, and any HUD regulations issued to implement these authorities.

(2) Prior to submission of its application, the applicant has:

(i) Provided citizens with adequate information concerning the amount of funds available for proposed community development and housing activities, the range of activities that may be undertaken, and other important program requirements;

(ii) Held at least two public hearings to obtain the views of citizens on community development and housing needs; and

(iii) Provided citizens an adequate opportunity to participate in the development of the application and in the development of any revisions, changes, or amendments.

The Act provides that no part of this paragraph shall be construed to restrict the responsibility and authority of the applicant for the development of the application and the execution of its community development program. Accordingly, the citizen participation requirements of this paragraph do not include concurrence by any person or group involved in the citizen participation process in making final determinations concerning the findings and contents of the application. The sole responsibility and authority to make such final determinations rests exclusively with the applicant.

(3) The applicant will comply with the relocation requirements of Title II and the acquisition requirements of Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and implementing regulations in 24 CFR Part 42.

(4) The applicant's certifying officer (i) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 insofar as the provisions of such act apply pursuant to this Part, and (ii) is authorized and consents on behalf of the applicant and himself to accept the jurisdiction of the Federal courts for the purpose of enforcement of his responsibilities as such an official.

The responsibilities of such an officer include, where applicable, the conduct of environmental reviews; decisionmaking, and action as to environmental issues; preparation and circulation of draft and final environmental impact statements; and assumption of lead agency responsibilities for preparation of such statements in behalf of Federal agencies other than HUD when such agencies consent to such assumption.

(5) The applicant will comply with the requirements of Federal Management Circular 74–4, "Cost Principles Applicable to Grants and Contracts with State and Local Government," and with the applicable requirements of Federal Management Circular 74–7 "Uniform

Administrative Requirements for Grants-in-Aid to State and Local Governments."

(6) The applicant has met the requirements of OMB Circular No. A-95 and any comments or recommendations made by or through the clearinghouses are attached and were considered prior to submission of the application, or, no clearinghouse comments or recommendations have been received.

(7) The Community Development program has been developed so as to give maximum feasible priority to activities which will benefit low- or moderate-income families or aid in the prevention or elimination of slums or blight. Where all or part of the community development program activities are designed to meet other community development needs having a particular urgency, the applicant may request a determination by the Secretary that the program activities are so designed to meet such needs as specifically described in the application.

(8) The applicant will administer and enforce the labor standards requirements set forth in § 570.605 and HUD regulations issued to implement such requirements.

(f) *Performance report.* Beginning with the application submitted in fiscal year 1976, and each fiscal year thereafter, the applicant shall submit an annual performance report as described in § 570.906.

§ 570.304 Waiver of application requirements.

(a) *Eligibility for waiver.* The Secretary may waive all or part of the application requirements contained in § 570.303 (a) and (b) if the applicant meets the following criteria:

(1) The applicant has a population of less than 25,000 according to the most recent data compiled by the Bureau of Census and is located:

(i) Outside a standard metropolitan statistical area, or

(ii) Inside such an area but outside an "urbanized area," as defined by the Bureau of Census;

(2) The application relates to the first community development activity to be carried out by such locality with assistance under this part; and

(3) The assistance requested is for a single development activity under this Part of a type eligible for assistance under § 570.200(a)(1)(iii); or neighborhood facilities, water and sewer facilities, historic properties, and parks, playgrounds, and similar recreational facilities authorized pursuant to § 570.200 (a)(2).

(b) *Secretarial determination.* Having considered the nature of the activities described in § 570.304(a)(3), the Secretary has determined that a waiver of the application requirements of § 570.303 (a) and (b) is not inconsistent with the purposes of this Part, provided that the grant requested does not exceed $1,000,000. The Secretary may also waive the application requirements of § 570.303 (a) and (b), in response to a written request in other cases in which the conditions described in § 570.304(a)(3) are met but the amount of the grant requested exceeds $1,000,000.

§ 570.305 Program amendments.

(a) *Mid-program year amendments.* An applicant shall submit an amended application to the HUD Area Office if the applicant's Community Development Program is being revised so that more than ten percent of the community development budget, excluding unspecified local option activities, is to be used for new or different activities not included in the approved community development program. An amendment shall also be submitted whenever the cumulative effect of a number of smaller changes add up to an amount that exceeds ten percent of the budget, excluding unspecified local option activities. The amendment submitted to HUD shall include only those elements of the application that are changed except that the amendment shall always include the certifications and assurances described in § 570.303(e). An applicant may also request HUD approval of an amendment to an approved housing assistance plan.

(b) *Other program amendments.* Program amendments not requiring prior HUD approval pursuant to the preceding paragraph may be undertaken by the applicant, provided all other requirements of this part are satisfied. Such amendments shall be reported to HUD as part of the annual performance report, as described in § 570.906, required with the subsequent annual application.

(c) *Reprogramming unobligated funds.* Funds that will be unobligated at the end of a program year may be reprogrammed as a part of a subsequent year's annual application for a grant so as to avoid subsequent program amendment. Such a reprogramming is not a requirement inasmuch as an applicant may continue to carry out activities included in a prior year's application.

(d) *Reduction of amount for completion of urban renewal projects.* In order to protect the Federal Government's financial interest in existing urban renewal projects, a recipient must request prior written authorization from HUD any time that the amount of funds shown in an approved application for completion of urban renewal projects is to be reduced.

§ 570.306 HUD review and approval of application.

(a) *Acceptance of application.* (1) Upon receipt of an application, the HUD Area Office will accept it for review, provided that:

(i) It has been received before the close of business on the final date established by HUD for submission of applications for each fiscal year;

(ii) The application requirements specified in § 570.303 are complete, except with regard to those applications for which certain submission requirements are waived pursuant to § 570.304;

(iii) The funds requested do not exceed the entitlement amount;

(iv) The required certifications have been properly executed; and

(v) The applicant has attached or enclosed any comments or recommendations made by or through State and areawide clearinghouses or has stated that no comments or recommendations have been received within the 45-day review period.

(2) If the application is accepted in accordance with the preceding paragraph, the date of acceptance of the application will be the date of receipt of the application in the HUD field office, and the applicant will be so notified in writing. If the application is not accepted for review, the applicant will be so notified in writing, and will be advised of the specific reasons for nonacceptance.

(b) *Scope of review.* (1) The Secretary will normally base his review upon the applicant's certifications, statements of facts and data and other programmatic decisions. The Secretary reserves the right, however to consider substantial evidence which contradicts or challenges the certifications, or significant facts and data, in accordance with the review criteria in this section and to require additional information or assurances from the applicant as warranted by such evidence.

(2) Based on that review, the Secretary will approve the application unless:

(i) On the basis of significant facts and data, generally available (whether published data accessible to both the applicant and the Secretary, such as census data, or other data available to both the applicant and the Secretary, such as recent local, areawide or State comprehensive planning data) and pertaining to community and housing needs and objectives, the Secretary determines that the applicant's description of such needs and objectives is plainly inconsistent with such facts or data, or

(ii) On the basis of the application, the Secretary determines that the activities to be undertaken are plainly inappropriate to meeting the needs and objectives identified by the applicant, or

(iii) The Secretary determines that the application does not comply with the requirements of this part or other applicable law, or proposes activities which are ineligible under this part.

(c) *Approval or disapproval of application.* Within seventy-five days of the date of receipt of the application, or at such earlier time as review is completed, the Secretary will notify the applicant in writing that the application has been approved, partially approved, or disapproved. In the event the Secretary has not mailed a notification to the applicant within seventy-five days from the date of acceptance of the application that it has been disapproved, the application shall be deemed to be approved. If the application is disapproved, the applicant shall be informed of the specific reasons for disapproval.

(d) *Approval of less than full entitlement.* The Secretary may adjust the entitlement amount to the extent identified in an application submitted under this part designated for an activity or activities that are not eligible under § 570.200, and the deficiency has not been corrected prior to the expiration of the 75-day re-

view period for the application. Funds not approved under the preceding sentence will be reallocated pursuant to § 570.107.

(e) *Conditional approval.* The Secretary may make a conditional approval, in which case the full entitlement amount will be approved but the utilization of funds for affected activities will be restricted. Conditional approvals may be made only where local environmental reviews under § 570.603 have not yet been completed, where the requirements of § 570.607 regarding the provision of public services or flood or drainage facilities have not yet been satisfied, or where the provisions of § 570.802 are exercised.

Subpart E—Applications and Criteria for Discretionary Grants

§ 570.400 General.

(a) *Applicability of rules and regulations.* The policies and procedures set forth in Subpart A, B, C, F, G, H, I, and J of this Part shall apply to this subpart and to the funds described in § 570.104, except to the extent that they are specifically modified or augmented by the contents of this subpart, including specified exemptions described herein. The HUD Environmental Review Procedures contained in 24 CFR Part 58 also apply to this subpart, unless otherwise specifically provided herein.

(b) *Preapplications.* Preapplications will be accepted for metropolitan and nonmetropolitan discretionary balances described in § 570.402. Applicants are encouraged to submit preapplications but, because of the time constraints in Fiscal Year 1975, a full application that was not preceded by a preapplication will nevertheless be considered without prejudice by HUD. The purpose of the preapplication is basically: (1) To determine how well the application compares with similar applications from other jurisdictions, and (2) to discourage applications which have little or no chance for Federal funding before applicants incur significant expenditures for preparing an application.

(i) *Submission requirements.* Preapplications shall be submitted on HUD forms to the appropriate HUD Area Office. The preapplication shall consist of a brief description of the applicant's community development needs, the activities proposed to meet those needs, and the general location and estimated cost of the proposed activities. The applicant's statement shall address the specific criteria under which it requests priority consideration for funding under § 570.402(b).

(ii) *HUD review of preapplications.* HUD will review preapplications based upon the appropriate criteria set forth in this subpart, to determine how well an application is likely to compete with other applications for the same discretionary funds submitted by other jurisdictions. Applicants will be advised of HUD's determinations and judgments on the preapplication, and of the availability of funds for that particular fiscal year. Notwithstanding the nature of such advice, any eligible applicant may submit an application under the provisions of this subpart.

(3) *Preapplication submission dates.* The Secretary will establish from time to time the earliest and latest dates for submission of preapplications for each fiscal year. For Fiscal Year 1975, the earliest date for submission of a preapplication shall be January 1, 1975; the latest date shall be March 1, 1975.

(c) *Applications*—(1) *Submission requirements.* Applications shall be submitted on HUD forms to the appropriate HUD Area Office. Specific submission requirements are contained in the following sections of this subpart which describe each discretionary fund. To the maximum extent possible, documentation submitted in support of an application previously submitted for funding under this part will be accepted and need not be resubmitted with an application for a discretionary grant.

(2) *Scope of application.* An application may include any number of eligible activities up to the maximum dollar amount established by the Secretary for applications submitted under this subpart. An application may be for any reasonable period of time necessary to complete the proposed activities. For new activities to be carried out with a discretionary grant the applicant shall apply for discretionary funds in an amount which, along with any other resources that may be available, will be adequate to complete the activities. While a recipient remains eligible for discretionary grant funding in subsequent years, an applicant shall not assume that additional funding will be available in subsequent years to continue or expand activities. An application may not, however, be only for planning purposes, as defined in § 570.200(a)(12).

(3) *Application submission dates.* The Secretary will establish from time to time the earliest and latest dates for submission of applications for discretionary grants for each fiscal year. For Fiscal Year 1975 the earliest and latest dates shall be as follows:

(i) General purpose funds for metropolitan and nonmetropolitan areas—March 15, 1975 through May 15, 1975;

(ii) Urgent needs fund—January 1, 1975 through June 30, 1975;

(iii) Secretary's fund:

(A) New communities—February 1, 1975 through May 15, 1975;

(B) Areawide projects—reserved;

(C) Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands—February 1, 1975 through May 15, 1975;

(D) Innovative projects—February 1, 1975 through April 20, 1975;

(E) Federally recognized disasters—January 1, 1975 through June 30, 1975; and

(F) Inequities funds—February 1, 1975 through May 15, 1975.

(d) *Meeting the requirements of OMB Circular No. A–95*—(1) *Preapplications.* Applicants must comply with the procedures set forth in OMB Circular No. A–95 which include the requirements of paragraph 7, Part I, for submission of a preapplication to the appropriate State and areawide clearinghouses at the same time that it is submitted to HUD. Although HUD has up to 45 days to respond to a preapplication, the Department expects to respond to all preapplications within 20 days of the closing date for the receipt of preapplications. Clearinghouse comments should be received by HUD within 15 days of receipt of a preapplication in order that HUD may respond promptly to preapplications. This period may be informally extended by mutual agreement between HUD and a clearinghouse, provided it will not delay the HUD response. However, any comment by a clearinghouse during the preapplication stage will not be considered a substitute for review under the regular procedures of Part I to A–95 unless the clearinghouse so indicates.

(2) *Final applications.* For final applications the Office of Management and Budget has granted for first year submissions only, an exception to the length of review time. Under the exception, a preapplication submission in accordance with the preceding subparagraph will meet the normal A–95 requirement that applicants notify clearinghouses of the intent to apply for assistance and the subsequent clearinghouse review of such notification. Therefore, for first year submissions only, final applications will be subject only to the A–95 requirement that clearinghouses be provided 30 days for review of the completed final application. Final applications submitted under this subpart which have not been preceded by a preapplication are subject to the requirements of 570.300(c).

(3) *Indian tribes.* Applications from federally recognized Indian tribes are not subject to the regular A–95 requirements. However, Indian tribes may voluntarily participate in the A–95 Project Notification and Review System and are encouraged to do so. HUD will notify the appropriate State and areawide clearinghouses of any applications from federally recognized Indian tribes upon their receipt.

(e) *Advances of funds.* Applicants are not authorized to receive an advance of funds from discretionary grants, as described in § 570.302, except for Guam and the Virgin Islands which may receive an advance of funds in an amount not to exceed ten percent of their hold harmless amounts. In response to a request by a unit of general local government, the Secretary may, however, in cases of demonstrated need, issue a letter to proceed authorizing an applicant to incur costs for the planning and preparation of an application for funds available under this subpart. Reimbursement for such costs will be dependent upon HUD approval of such application. Costs incured by a recipient prior to notification of a funding approval by HUD are not eligible for assistance under this Part, except as provided in the first two sentences of this subsection.

(f) *Review of applications for discretionary grants*—(1) *Acceptance of application.* HUD will accept an application for review, *Provided*, That:

(i) It has been received before the close of business on the final date established by HUD for submission of applications for each fiscal year;

(ii) The application is complete, as required in this subpart;

(iii) The required certifications have been properly executed; and

(iv) The applicant has attached or enclosed any comments or recommendations made by or through State and areawide clearinghouses or has stated that no comments or recommendations have been received.

(2) *Timing of review.* While the Secretary is not required by the Act to review and approve a discretionary grant application within any specified time period, the Secretary will make every effort to complete his review of all such applications within 75 days.

(3) *Notification to applicants.* The Secretary will notify the applicant in writing that the application has been approved, partially approved, or disapproved. If an application is partially approved or disapproved, the applicant will be informed of the specific reasons for partial approval or disapproval. The Secretary may make conditional approvals, as provided in § 570.306(e).

(g) *Program amendments.* Recipients shall request prior HUD approval for program amendments wherever the amendment results from changes in the scope or the objective of the approved program.

(h) *Performance report.* Except for new communities and innovative projects, each recipient shall, upon completion of the activities carried out with the discretionary grant, or upon submission of a subsequent discretionary grant application, whichever is earlier, submit a performance report as described in § 570.906(b), and shall meet the requirements of § 570.906(c) concerning notice of the availability of the report for examination by the public.

§ 570.401 Urgent needs fund.

(a) *Eligible applicants.* Eligible applicants are States, and units of general local government as defined in § 570.3(v). For the purpose of this section, the second sentence in § 570.3(v) includes those entities described in § 570.403(b) (1), (2) and (3).

(b) *Criteria for selection.* The Secretary shall make grants for the purpose of facilitating an orderly transition to the community development block grant program and to provide for urgent community development needs which cannot be met through the allocation provisions of § 570.102, § 570.103, and § 570.104(c), giving priority to the following:

(1) The analysis performed by the unit of general local government (and concurred in by HUD) of its ongoing projects or program undertaken pursuant to Title I of the Housing Act of 1949 indicates that the entitlement amount is: (i) Insufficient, over a three-year period beginning January 1, 1975, to complete the program or project plan as approved by HUD; or (ii) in any one of those three years the entitlement amount will be insufficient to maintain the progress schedules adopted locally for achievement of the program and the inability to maintain such progress will seriously and adversely affect the Federal interest in the project or program.

(2) A unit of general local government participated in the planned variations demonstration assisted under the provisions of the Demonstration Cities and Metropolitan Development Act of 1966 and will suffer a significant decrease in the level of ongoing activities funded under the planned variations demonstration.

(3) A state or unit of general local government, as a result of cost increases due to circumstances beyond its control, has been unable to complete an ongoing project assisted under one or more of the following terminated categorical programs: (i) Water and sewer facilities under section 702 of the Housing and Urban Development Act of 1965; (ii) neighborhood facilities under section 703 of the Housing and Urban Development Act of 1965; (iii) open-space land under Title VII of the Housing Act of 1961; and the Secretary's analysis of the financial capacity of the unit of general local government indicates a lack of available resources locally or otherwise to finance completion of the project and the Federal investment in the project as of January 1, 1975 warrants the incremental Federal assistance required to complete the project.

(c) *Application requirements.* Applications for funds to meet urgent community development needs shall be submitted by States and units of general local government to the HUD Area Office serving the locality. The required documentation establishing the basis for grants under this section shall be supplied by applicants at the request of the HUD Area Office. Planned Variation cities requesting funds under criterion (2) shall comply with the application requirements outlined in § 570.303. Applicants under criteria (1) and (3) shall submit documentation, in a manner and at such times as prescribed by HUD, justifying and documenting the urgent need for funds under this section, and shall provide the certifications required by § 570.303(e)(1), (3), (4), (5), (6), and (8).

§ 570.402 General purpose funds for metropolitan and nonmetropolitan areas.

(a) *Eligible applicants.* Eligible applicants are States, and units of general local government as defined in § 570.3(v), excluding metropolitan cities, urban counties and units of general local government which are included in urban counties as described in § 570.105(b)(3)(ii) and (iii). For the purpose of this section, the second sentence in § 570.3(v) includes those entities described in § 570.403(b)(1), (2) and (3).

(b) *Criteria for selection.* In selecting among applications, priority will be extended to those applications showing the following conditions, and proposing activities which directly or indirectly relate to these conditions:

(1) Extent of substandard housing conditions determined as follows:

(i) for metropolitan areas, the proportion and extent of overcrowded housing as defined in § 570.3(i) and expressed as a percentage of the total housing units in the unit of general local government; and

(ii) for nonmetropolitan areas, the proportion and extent of housing units lacking plumbing as published by the United States Bureau of the Census for 1970 for rural areas and expressed as a percentage of the total housing units in the unit of general local government.

(2) The proportion and extent of poverty as defined in § 570.3(j) and expressed as a percentage of the total population for the unit of general local government.

(3) An extraordinarily high rate of growth or a severe and rapid decline in population and economic activity, either one of these conditions resulting primarily from the impact of national policy decisions or direct Federal program decisions, and where the program is designed to offset or mitigate the effects of sudden spurts or declines in growth.

(4) Conditions which represent an imminent threat to public health or safety.

Additional priority may be extended where there are joint and voluntary cooperation agreements between States and units of general local government or two or more units of general local government and the activities are designed to implement housing and community development plans that are Statewide or areawide in scope, provided that one or more of the participants in the agreement also meets at least one of the other criteria listed in this subsection. Area Officers of HUD are authorized at their discretion (but not required) to set maximum grant limits for each fiscal year, related to the total amount of discretionary balance available in that year to a given metropolitan area or to the nonmetropolitan portion of a State. A judgmental factor which may be applied by each Area Office is an estimate of the capacity of the applicant to complete the proposed activities within the estimated cost.

(c) *Application requirements.* Applicants for general purpose funds for metropolitan and nonmetropolitan areas shall meet the application requirements in § 570.303.

(d) *Waiver of application requirements.* The provisions of § 570.304 shall also apply to applications under this section.

(e) *Applications submitted by States.* States (including the Commonwealth of Puerto Rico) may apply for general purpose funds for metropolitan and nonmetropolitan areas to carry out eligible activities in metropolitan and nonmetropolitan areas, respectively.

(1) Separate applications are required for nonmetropolitan areas and for each separate metropolitan area for which a State seeks funds.

(2) The geographical area to be covered by the application shall be the jurisdiction of the unit or units of general

local government in which the proposed activity or activities are to be located or carried out. This policy pertains particularly to the community development plan summary, as described in § 570.303 (a), and the housing assistance plan, as described in § 570.303(c). The State application shall indicate that the housing assistance plan has been adopted by the unit or units of general local government.

(3) A State may not apply for activities to be located in or carried out in metropolitan cities, urban counties or units of general local government which are included in urban counties, unless such funds have been reallocated in accordance with the provisions of § 570.107.

(4) A State may apply for activities to be carried out pursuant to State authority or pursuant to an agreement with one or more units of general local government.

(f) *Reallocation of funds.* When funds are reallocated in accordance with the provisions of § 570.107, the policies and criteria of this section shall apply except that metropolitan cities, urban counties and units of general local government which are included in urban counties shall be eligible applicants for reallocated funds. In Fiscal Year 1975, funds will be reallocated as soon as practicable after May 15, 1975.

§ 570.403 New communities.

(a) *General.* This Section covers grants made in behalf of activities and projects to be undertaken in direct support of a new community (which term means a new community approved by the Secretary under Title VII of the Housing and Urban Development Act of 1970 or Title IV of the Housing and Urban Development Act of 1968), and reflected in a current new community development plan (the development plan which forms an attachment to each new community project agreement by and between each developer and the United States, as the same may be revised and amended from time to time).

(b) *Eligible applicants.* States, and units of general local government which meet the definition contained in § 570.3 (v) may apply under this subsection for grants made on the basis of the provisions of this section. For the purpose of this section, the second sentence in § 570.3(v) includes:

(1) A State land development agency or local public body or agency with authority to act as a developer of a new community.

(2) Any community association (including any homes association), or other similar nonprofit organization established in a new community under covenants approved by the Secretary in connection with approved new community development projects, or any community authority established under State law for similar purposes, or any of the foregoing organizations otherwise approved by the Secretary which is legally and administratively qualified to carry to successful completion those projects for which grant assistance is sought by the applicant.

(3) A private new community developer or any subsidiary thereof organized in a form satisfactory to the Secretary: *Provided*, That a request has been made to an appropriate unit of general local government or a non-profit organization to apply for and serve as grantee for the direct benefit of the new community, and such request has been denied, or in the judgment of the New Communities Administration (NCA) of HUD, no acceptable response has been received within a reasonable period of time.

(c) *Application requirements*—(1) *General.* The requirements set forth in this paragraph are designed to supplement application procedures and approval requirements of the new communities program under which applicants will have already provided substantial information to the Secretary.

(2) *Activities program.* The application shall be submitted on forms as approved by NCA and include a brief description of the activities and costs to be funded from the grants for the program year. The application shall identify separately any activities not previously submitted to and approved by NCA as part of Title IV or Title VII documentation. The estimated costs and general location of these latter activities are to be shown.

(3) *Certifications.* The Applicant shall submit certifications in such form as NCA will prescribe, providing the assurances required under § 570.303(e) (1), (3) if applicable, (4) if applicable, (5) and (6) with respect to activities undertaken with funds under this Part.

(4) *Environmental review requirements.* (i) For activities proposed by an applicant eligible under § 570.403(b) (2) or (3), no new environmental review or clearances will be required by virtue of any such activity's proposed funding under this part if the activity is a part of a previously approved project for which environmental review clearances have been completed, which clearances adequately covered such activity, and for which circumstances, including the availability of additional data or advances in technology, have not changed significantly.

If NCA determines that an additional review is required, environmental review shall be conducted by HUD pursuant to HUD Handbook 1390.1.

(ii) For activities proposed by an applicant eligible under § 570.403(b), other than under § 570.403(b)(2) or (3), environmental reviews shall be conducted pursuant to 24 CFR Part 58.

(5) *Clearinghouse review.* Applicants must comply with the procedures set forth in OMB Circular A-95 (requiring review by a clearinghouse) only where the proposed Title I funded activities have not previously been the subject of clearinghouse review.

(6) *Performance report.* Progress in execution activities funded under the Act shall be reported to NCA as a part of the quarterly and annual reporting and review procedures.

(d) *Review and approval of applications.* All applications for grants to assist new community development projects pursuant to this section shall be submitted to NCA through the appropriate HUD Area Office.

(1) *Scope of review.* NCA will review the application, based upon data and information supplied by the developer of the new community project and other independent reviews conducted by NCA staff or others at NCA request, to determine pertinent facts and goals and their consistency with information contained in the Project Agreement, Development Plan, and other documents submitted by the developer or obtained by NCA in the project review process. The review will include application of the selection criterion in paragraph (d)(2) of this section.

(2) *Criterion for selection.* The criterion to be used in selecting among applications and activities is whether the grants are necessary to achieve new community objectives.

(e) *Exceptions to regulations.* (1) The provisions of Subpart F, Grant Administration, shall be applicable to recipients, except that a recipient under § 570.403(b)(2) and (3) shall not be required to comply with the competitive bidding requirements of subsections 3c (5), (6), and (8) of Attachment O of Federal Management Circular 74-7, "Procurement Standards," which is incorporated in § 570.507.

(2) The provisions of Subpart G, Other Program Requirements, shall be applicable to recipients, except as follows:

(i) A recipient under § 570.403(b)(2) and (3) which is not a "State agency" under Section 101(3) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 is not subject to the provisions of § 570.602(a), (b) and (c), regarding Title II and III of such Act.

(ii) A recipient under § 570.403(b)(2) and (3) is not subject to the provisions of § 570.608 regarding the Hatch Act.

(f) *Program management.* Program management shall be accomplished within the framework of NCA project management, including the financial and physical progress reports required by NCA administrative procedures.

(g) *Remedies for non-compliance.* The provisions of §§ 570.911, 570.912, and 570.913 shall apply, except that the provisions of § 570.912, dealing with securing compliance through State governors, shall not apply to private developers, or prospective grantees controlled by private developers.

§ 570.404 Areawide projects [Reserved]

§ 570.405 Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

(a) *Eligible applicants.* Eligible applicants are Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

(b) *Criteria for funding.* Applicants may submit applications for discretionary grants for the full range of eligible activities described in § 570.200. The Secretary will establish for each fiscal year an amount for which each eligible appli-

cant may apply. For Fiscal Year 1975, the following shall apply:

(1) Guam and the Virgin Islands shall each receive their hold-harmless amount as calculated pursuant to § 570.103(c). Guam and the Virgin Islands may also apply for funds to cover urgent needs not met by the hold-harmless amounts.

(2) The Secretary shall establish a funding level for American Samoa and the Trust Territory of the Pacific Islands, taking into account their needs and their local administrative capacity.

(c) *Application requirements.* Applicants shall meet the application requirements in § 570.303.

§ 570.406 Innovative projects.

(a) *Eligible applicants.* Eligible applicants are States, and units of general local government as defined in § 570.3 (v). For the purpose of this section, the second sentence in § 570.3(v) includes those entities described in § 570.403(b) (1), (2) and (3).

(b) *Criteria for selection.* (1) *Definition.* An innovative community development project is one which encompasses a concept, system, or procedure that is unique, advances the state of the community development art and has the potential for transferability. Where a proposed project is one which has been demonstrated or is in use elsewhere, the applicant will be expected to show the key variables of the project within the applicant's jurisdiction which will be significantly different from previous projects or that the circumstances and environment for its adaptation are different. In general, a project will not be considered as meeting innovative criteria if it does not potentially advance the state of technology.

(2) *Selection priorities.* Each year HUD may establish areas of national significance which will be given priority in the review of applications for funds under this section. In Fiscal Year 1975 priority will be given to projects which address one or more of the following areas:

(i) *Public services productivity.* Efforts to make local government services more effective, more efficient and less costly, and which are designed to mitigate the effects of inflation.

(ii) *Community development energy conservation.* Projects designed to enhance the rational use of energy for community development.

(iii) *Neighborhood preservation.* Projects which maximize the use of existing housing stock and community development and other resources for neighborhood preservation.

(3) *Other criteria.* In addition to the above criteria, HUD will consider the degree to which applications:

(i) Benefit persons of low and moderate income.

(ii) Integrate and relate the provision of housing to the provision of public facilities and/or supportive social services.

(iii) Demonstrate improved policy-planning-management capacity.

(iv) Demonstrate the involvement of both the public and private sectors.

(v) Encourage and reinforce the creation of community and neighborhood development organizations with the staff and ability to attract and involve public and private resources.

(vi) Serve as a prototype for improving community development activities, the demonstration of which would not otherwise be undertaken without Federal assistance.

(vii) Promote an increase in the diversity and vitality of neighborhoods.

(viii) Address problem areas common to a substantial number of communities.

(ix) Demonstrate activities which can be replicated by and transferred to a substantial number of communities.

(4) *Other review factors.* In addition, each application will be evaluated by such criteria as:

(i) The overall technical merit of the proposed project including the specific impact of the innovation.

(ii) The unique capabilities, related experiences, facilities or techniques which the applicant posseses and offers for achieving the objectives of the project.

(iii) The unique qualification capabilities and experience of proposed key personnel.

(iv) The availability of discretionary grant funding for innovative projects in light of competing needs.

(c) *Application requirements.* Applications shall be submitted to HUD's Office of Policy Development and Research through the appropriate HUD Area Office. Applications shall be in a format prescribed by HUD and shall include the following:

(1) A one page abstract summarizing the proposal and indicating where else in HUD or any other Federal agency the application has been sent within the last two years.

(2) A narrative describing the proposed project and how it conforms to the criteria for selection.

(3) The certifications required by § 570.303(e) (1), (3), (4), (5), (6), and (8) with respect to activities to be undertaken with funds under this Part. In addition, the applicant must certify that citizens likely to be affected by the project, particularly low and moderate income persons, have been provided an opportunity to comment on the application.

(d) *Reports.* In lieu of the annual performance report cited in § 570.906, recipients shall submit the following:

(i) *Outline for final project report.* Midway through completion of the project (or at an alternate point in time as specified by HUD) each recipient shall prepare a detailed outline of the final project report under guidelines provided by HUD.

(ii) *Draft report.* The recipient shall submit to HUD, six copies of a draft of the final project report with all readily reproducible charts, tables, graphs, and appendices that are to be included in the final report. In addition, each recipient shall meet the requirements of § 570.906 (c) concerning notice of the availability of the report for examination by the public with the exception that reports need only be available to be copied by the public.

(iii) *Final report.* The report shall describe in appropriate detail the objectives of the project and how they were met, the methods and techniques that were used, the types of problems encountered during project execution and the methods used to resolve them and the conclusions and recommendations that are to be drawn from the demonstration project. The final report shall be in a form and manner prescribed by HUD.

(e) *Records.* Recipients must comply with the requirements of § 570.907, excluding § 570.907(b). In lieu of this exception, recipients shall maintain records describing the process used to provide an opportunity for citizens to comment on the application.

§ 570.407 Federally recognized disasters.

(a) *General.* Grants under this section shall be for the purpose of meeting emergency community development needs caused by federally recognized disasters. For purposes of this section, "federally recognized disasters" means any hurricane, tornado, storm, flood, high-water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, explosion, or other catastrophe in any part of the United States which (1) in the determination of the President, pursuant to the Disaster Relief Act of 1974 (42 U.S.C. 5121n.), (i) causes damage of sufficient severity and magnitude to warrant major disaster assistance under such Act, above and beyond emergency services by the Federal Government, to supplement the efforts and available resources of States, local governments and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby, or (ii) requires Federal emergency assistance to supplement State and local effort to save lives and protect public health and safety or to avert or lessen the threat of a major disaster, or (2) in the determination of a Federal agency requires disaster or emergency assistance pursuant to the statutory authority of such Federal agency.

(b) *Eligible applicants.* Eligible applicants are States, and units of general local government as defined in § 570.3 (v). For the purpose of this section, the second sentence in § 570.3(v) includes those entities described in § 570.403(b) (1), (2) and (3).

(c) *Criteria for funding.* Within the limits of available funds, applications will be funded on the basis of the following criteria:

(1) Severity and magnitude of the federally recognized disaster, with priority given to needs caused by Presidentially declared major disasters.

(2) Community development needs identified which are essential for the immediate restoration or maintenance of community health, safety, or economic stability and resources are not available from other sources to meet these community development needs in a timely fashion.

(d) *Application requirements.* An application should be submitted within 120 days after either the Presidential declaration or other Federal recognition that disaster or emergency assistance is required. The application shall describe the emergency needs, the proposed program of activities, sources of funds and the level of funding requested. If the emergency nature of the needs requires, satisfaction of selected application requirements may be postponed or waived by the Secretary. Applications shall be submitted to the appropriate HUD Area Office in a form and manner prescribed by HUD to ensure coordination with respect to other disaster relief and emergency measures undertaken or being considered.

§ 570.408 Inequities funds.

(a) *General.* Funds are available under this subpart to correct in whole or in part inequities resulting from the allocation provisions of Section 106 of the Act.

(b) *Eligible applicants.* Eligible applicants are States, and units of general local government as defined in the first sentence of § 570.3(v).

(c) *Criteria for selection.* The Secretary shall make grants to eligible applicants, giving priority to the following: Applications for funds available under this subpart shall be reviewed by the Secretary in accordance with the following criteria:

(1) Funding under this subpart is necessary to correct a technical error in the computation of a locality's entitlement amount.

(2) Funding under this subpart is needed by an applicant, meeting the criteria as specified in § 570.401(b) for urgent needs funds.

(3) Funding under this subpart is necessary to compensate for the fact that the applicant's hold harmless amount as calculated pursuant to § 570.103(c) is significantly lower than the average amount of funds approved by HUD for applicable programs in such governmental unit during the fiscal years immediately preceding and immediately following the base period of Fiscal Years 1968 through 1972, and the applicant is subject to the phase-in provisions of § 570.102(c).

Grants may also be made under this section whenever implementation of the provisions of § 570.105 regarding the qualification of urban counties results in a significant decrease in the anticipated levels of funding available for discretionary grants in metropolitan areas in accordance with § 570.104(c)(1).

(d) *Application requirements.* Applicants requesting funds under criterion (2) shall meet the application requirements of § 570.401(c). All other applicants shall meet all application requirements in § 570.303.

Subpart F—Grant Administration

§ 570.500 Designation of public agency.

One or more public agencies, including existing local public agencies, may be designated by the governor of a State or the chief executive officer of a unit of general local government to undertake activities assisted under this Part. Notwithstanding such designations, the State or unit of general local government shall be the applicant, and, in the absence of special circumstances in which there is a legal incapacity on the part of the applicant to accept funds for eligible activities, the grant agreement shall be between HUD and the State or unit of general local government. Such designations do not relieve the State or unit of general local government of its responsibilities in assuring the administration of the program in accordance with all HUD requirements, including these regulations.

§ 570.501 Grant agreement.

Upon approval of the application, the Secretary will authorize the execution of a grant agreement. These regulations become a part of the grant agreement.

§ 570.502 Method of payment.

(a) *Advance payments.* Advance payments will be made by either a letter of credit or by U.S. Treasury checks to recipients when the following conditions are met:

(1) The recipient has demonstrated to the Secretary, initially through certification in a form prescribed by HUD and subsequently through performance, its willingness and ability to establish procedures that will minimize the time elapsing between the transfer of funds to it and its disbursement of such funds;

(2) The recipient's financial management system meets the standards for fund control and accountability prescribed in Attachment G of Federal Management Circular 74–7, "Standards for Grantee Financial Management Systems".

(b) *Reimbursement.* Recipients which do not meet the above conditions will receive grant payments by U.S. Treasury checks on a reimbursement basis.

§ 570.503 Disbursement of advances against entitlement.

Advances against entitlement made available pursuant to § 570.302 will be made through the same disbursement method as is appropriate for the recipient during the first program year.

§ 570.504 Release of funds pursuant to § 570.603 and § 570.607.

Recipients may spend funds for projects requiring environmental review pursuant to § 570.603, and for public services activities or for flood and drainage facilities for which other Federal funds must be sought pursuant to § 570.607, only after notification to HUD that the requirements of these sections have been met and receipt of authorization to spend funds for affected activities. If recipients receive funds through a letter of credit, the letter of credit shall, at the time of approval of the application, be in the amount of all grant funds approved in the application (except the amount deducted pursuant to the provisions of § 570.802 and the amount reserved and withheld pursuant to § 570.702), including those portions subject to the environmental review provisions of § 570.603 and the requirements of § 570.607 regarding activities for which other Federal funds must be sought. However, these provisions must be satisfied prior to authorized use of funds by the recipient for affected activities.

§ 570.505 Financial management systems.

Each recipient shall be required to maintain a financial management system which complies with Attachment G of Federal Management Circular 74–7, "Standards for Grantee Financial Management Systems."

§ 570.506 Program income.

(a) Units of general local government shall be required to return to the Federal Government interest (except for interest described in paragraph (c) of this section) earned on grant funds advanced by Treasury check or letter of credit in accordance with Attachment E of Federal Management Circular 74–7, "Program Income".

(b) Proceeds from the sale of personal property shall be handled in accordance with Attachment N of Federal Management Circular 74–7, "Property Management Standards".

(c) All other program income earned during any period under which the recipient is assisted under this Part including proceeds from the disposition of real property, payments of principal and interest on rehabilitation loans, and interest earned on revolving funds, shall be retained by the recipient and shall be added to funds committed to the program and be used in accordance with the provisions of this part.

(d) Recipients shall record the receipt and expenditure of revenues related to the program (such as taxes, special assessment, levies, fines, etc.) as a part of the grant program transactions.

§ 570.507 Procurement standards.

Recipients shall comply with the requirements of Attachment O of Federal Management Circular 74–7, "Procurement Standards."

§ 570.508 Bonding and insurance.

Recipients shall comply with the requirements of Attachment B of Federal Management Circular 74–7, "Bonding and Insurance."

§ 570.509 Audit.

(a) The Secretary, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to all books, accounts, records, reports, files, and other papers or property of recipients or their subgrantees and contractors pertaining to funds provided under this Part for the purpose of making surveys, audits, examinations, excerpts and transcripts.

(b) Recipient financial management systems shall provide for audits to be made by the recipient or at his direction, in accordance with audit guidelines prescribed by HUD. The recipient will schedule such audits with reasonable fre-

quency, usually annually, but not less frequently than once every two years. Such audit reports shall be used in conjunction with the performance review procedures of § 570.909. Payment for the audit may be made from community development block grants but the responsibility for such payment rests with the recipient.

(c) The Secretary may undertake such further or additional audits as he finds necessary or appropriate.

§ 570.510 Retention of records.

Financial records, supporting documents, statistical records, the environmental review records required by 24 CFR 58.11, and all other records pertinent to the grant program shall be retained by the recipient for a period of three years from the date of the submission of the annual performance report, except as follows:

(a) Records that are the subject of audit findings shall be retained for three years or until such audit findings have been resolved, whichever is later.

(b) Records for nonexpendable property which was acquired with Federal grant funds shall be retained for three years after its final disposition.

(c) Records for any displaced person shall be retained for three years after he has received final payment.

§ 570.511 HUD administrative services for rehabilitation loans and grants. [Reserved]

§ 570.512 Grant close out procedures. [Reserved]

Subpart G—Other Program Requirements

§ 570.600 Limitations on local option activities and contingency accounts.

No more than ten per centum of the estimated costs which are expected to be incurred during any program year may be designated for unspecified local option activities, which are eligible pursuant to Subpart C, or for a contingency account for activities designated by the applicant pursuant to § 570.303(b). Funds designated for unspecified local option activities are subject to the conditional approval requirements of § 570.306(e).

§ 570.601 Nondiscrimination.

(a) *Discrimination prohibited.* Section 109 of the Housing and Community Development Act of 1974 requires that no person in the United States shall on the ground of race, color, national origin or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with community development funds made available pursuant to this Part. For purposes of this section "program or activity" is defined as any function conducted by an identifiable administrative unit of the recipient, or by any unit of government or private contractor receiving community development funds or loans from the recipient. "Funded in whole or in part with community development funds" means that community development funds in any amount in the form of grants or proceeds from HUD guaranteed loans have been transferred by the recipient to an identifiable administrative unit and disbursed in a program or activity.

(b) *Specific discriminatory actions prohibited and corrective actions.* (1) A recipient may not, under any program or activity to which the regulations of this part may apply, directly or through contractual or other arrangements, on the ground of race, color, national origin, or sex:

(i) Deny any facilities, services, financial aid or other benefits provided under the program or activity.

(ii) Provide any facilities, services, financial aid or other benefits which are different, or are provided in a different form from that provided to others under the program or activity.

(iii) Subject to segregated or separate treatment in any facility in, or in any matter or process related to receipt of any service or benefit under the program or activity.

(iv) Restrict in any way access to, or in the enjoyment of any advantage or privilege enjoyed by others in connection with facilities, services, financial aid or other benefits under the program or activity.

(v) Treat an individual differently from others in determining whether the individual satisfies any admission, enrollment, eligibility, membership, or other requirement or condition which individuals must meet in order to be provided any facilities, services or other benefit provided under the program or activity.

(vi) Deny an opportunity to participate in a program or activity as an employee.

(2) A recipient may not utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination on the basis of race, color, national origin, or sex, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program or activity with respect to individuals of a particular race, color, national origin, or sex.

(3) A recipient, in determining the site or location of housing or facilities provided in whole or in part with funds under this part, may not make selections of such site or location which have the effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination on the ground of race, color, national origin, or sex; or which have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act and of this section.

(4) (i) In administering a program or activity funded in whole or in part with community development block grant funds regarding which the recipient has previously discriminated against persons on the ground of race, color, national origin or sex, the recipient must take affirmative action to overcome the effects of prior discrimination.

(ii) Even in the absence of such prior discrimination, a recipient in administering a program or activity funded in whole or in part with community development block grant funds should take affirmative action to overcome the effects of conditions which would otherwise result in limiting participation by persons of a particular race, color, national origin or sex. Where previous discriminatory practice or usage tends, on the ground of race, color, national origin or sex, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program or activity to which this part applies, the recipient has an obligation to take reasonable action to remove or overcome the consequences of the prior discriminatory practice or usage, and to accomplish the purpose of the Act.

(iii) A recipient shall not be prohibited by this part from taking any action eligible under § 570.200 to ameliorate an imbalance in services or facilities provided to any geographic area or specific group of persons within its jurisdiction, where the purpose of such action is to overcome prior discriminatory practice or usage.

(5) Notwithstanding anything to the contrary in this section, nothing contained herein shall be construed to prohibit any recipient from maintaining or constructing separate living facilities or rest room facilities for the different sexes. Furthermore, selectivity on the basis of sex is not prohibited when institutional or custodial services can properly be performed only by a member of the same sex as the recipients of the services.

§ 570.602 Relocation and acquisition.

(a) Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (40 U.S.C. 4601), hereafter referred to as the Uniform Act, and the regulations at 24 CFR Part 42 are applicable to all displacement of persons, businesses; nonprofit organizations, and farms occurring as a result of the acquisition of real property for an activity assisted under this Part. Any displacement resulting from the acquisition of real property shall be deemed to be subject to the Uniform Act if such displacement occurs on or after the date of submission of the application requesting the Federal assistance which is granted for the proposed activity.

(b) Title III of the Uniform Act and the regulations at 24 CFR Part 42 are applicable to any acquisition of real property for an activity assisted under this Part. Any acquisition of real property shall be deemed to be subject to the Uniform Act if it occurs on or after the date of submission of the application requesting the Federal assistance which is granted for the proposed activity.

(c) The costs of relocation payments and assistance under Title II of the Uniform Act shall be paid from funds provided by this Part and/or such other funds as may be available to the locality from any source.

(d) With respect to displacement not subject to § 570.602(a), and with respect to any other eligible relocation payments at levels above those established under the Uniform Act, the recipient shall adopt a written policy available to the public setting forth such relocation payments and assistance as it elects to pro-

vide to displaced persons and providing for equal payments and assistance within each class of displaced persons. If payments and assistance are pursuant to State or local law, such written policy is not required.

§ 570.603 Environment.

In order to assure that the policies of the National Environmental Policy Act of 1969 are most effectively implemented in connection with the expenditure of funds under this Part the recipient shall comply with HUD Environmental Review Procedures (24 CFR Part 58) leading to certification for the release of funds for particular projects. These procedures set forth the regulations, policies, responsibilities and procedures governing the carrying out of environmental review responsibilities of recipients.

§ 570.604 Historic preservation.

Recipients must take into account the effect of a project on any district, site, building, structure, or object listed in or found by the Secretary of the Interior, pursuant to 34 CFR Part 800, to be eligible for inclusion in the National Register of Historic Places, maintained by the National Park Service of the U.S. Department of the Interior. Recipients should make every effort to eliminate or minimize any adverse effect on a historic property. Activities affecting such properties will be subject to requirements set forth in § 570.603. Recipients must meet the historic preservation requirements of P.L. 89–665 and the Archeological and Historic Preservation Act of 1974 (Pub. L. 93–291), and Executive Order 11593, including the procedures prescribed by the Advisory Council on Historic Preservation in 36 CFR Part 800.

§ 570.605 Labor standards.

All laborers and mechanics employed by contractors or subcontractors on construction work assisted under this Part 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—276a–5), and shall receive overtime compensation in accordance with and subject to the provisions of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333), and the contractors and subcontractors shall comply with all regulations issued pursuant to these Acts and with other applicable Federal laws and regulations pertaining to labor standards. This section shall apply to the rehabilitation of residential property only if such property is designed for residential use of eight or more families. The Secretary of Labor has, with respect to the labor standards specified in this section, the authority and functions set forth in Reorganization Plan Number 14 of 1950 (5 U.S.C. 133z–15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

§ 570.606 Architectural Barriers Act of 1968.

The Architectural Barriers Act of 1968, 42 U.S.C. 4151 is applicable to assistance under this Part and requires that the design of any facility constructed with funds from this title comply with the "American Standard Specification for Making Buildings and Facilities Accessible, and Usable by, the Physically Handicapped," Number A–117.1R–1971, as modified (41 CFR 101–19.603).

§ 570.607 Activities for which other Federal funds must be sought.

A recipient may use community development funds for the provision of public services as described in § 570.200(a)(8) for activities (other than those previously approved under the model cities program and described in § 570.200(b)); or for flood or drainage facilities as described in § 570.200(a)(2), provided that:

(a) The recipient has applied or inquired in writing to the Federal agency or agencies, if any, which conduct a program or programs most likely to meet the needs for which community development funds are being considered, or of the State or local agency or agencies, if any, which customarily receive funds from such programs and administer them within the recipient's jurisdiction.

(b) The recipient has received (1) a written statement of rejection from such Federal, State or local agency, if any; (2) a written statement that funds cannot be made available for at least 90 days after the request; or (3) no response from the Federal, State or local agency, if any, within a 90 day period from the date of application or inquiry; and

(c) The recipient has notified HUD of the results of the application or inquiry and has received authorization from HUD to incur costs for such activities.

§ 570.608 Hatch Act.

Neither the Community Development Program nor the funds provided therefor, nor the personnel employed in the adminstration of the program shall be in any way or to any extent engaged in the conduct of political activities in contravention of Chapter 15 of Title 5, United States Code.

§ 570.609 National Flood Insurance Program.

The provisions of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and the regulations thereunder (24 CFR Ch. X, Subchapter B) apply to assistance under this Part. Under that Act no Federal offices or agency shall approve any financial assistance for acquisition or construction purposes as defined under section 3(a) of said Act, on and after July 1, 1975, (or one year after a community has been formally notified of its identification as a community containing an area of special flood hazard, whichever is later) for use in any area that has been identified by the Secretary of Housing and Urban Development as an area having special flood hazards unless the community in which such area is situated is then participating in the National Flood Insurance Program. Notwithstanding the date of HUD approval of the recipients' application, funds approved under this Part shall not be expended on or after July 1, 1975, or one year after a community has been formally notified, whichever is later, for acquisition or construction purposes in an area identified by the Secretary as having special flood hazards which is located in a community not in compliance with the requirements of the National Flood Insurance Program pursuant to section 201(d) of said Act. The use of any funds provided under this Part for acquisition or construction purposes in identified special flood hazard areas shall be subject to the mandatory purchase of flood insurance requirements of section 102(a) of said Act.

§ 570.610 Clean Air Act and Federal Water Pollution Control Act.

The recipient must comply with the provisions of the Clean Air Act, as amended (42 U.S.C. 1857 et seq.), and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq.), and the regulations thereunder (40 CFR Part 15).

Subpart H—Loan Guarantees

§ 570.700 Eligible applicants.

Units of general local government, which are eligible for grant assistance as specified in Subpart B, may apply for loan assistance under this subpart. Applications may also be made by public agencies designated by such units of general local government if the unit of general local government certifies that it does not have the legal capacity to carry out the activities for which the loan assistance is being made available and/or to accept the loan assistance.

§ 570.701 Application requirements.

(a) *Timing of submission of loan application.* Applications for loan guarantees must be submitted at the time of submission of an application for grant funds as specified in Subparts D and E.

(b) *Submission requirements.* Applications for loan guarantees must be made in the form prescribed by HUD. Units of general local government will be required to furnish full faith and credit pledges, or pledges of revenues approved by HUD, pursuant to § 570.-702(c).

§ 570.702 Guaranteed loan amount.

(a) *Eligible costs.* Guarantees of loans may be made to cover the costs for acquisition or assembly of real property and the related expenses of interest, demolition, relocation, and site improvements, as identified and approved in the grant application.

(b) *Prohibition on loans to benefit private individuals or corporations.* No loan guarantee shall be issued in behalf of any private individual, general or limited partnership, nonprofit organization, or private corporation, or in behalf of any agency designed to benefit any private individual, general or limited partnership, nonprofit organization or private corporation.

(c) *Security requirements.* No guarantee or commitment to guarantee shall be made unless:

(1) The Secretary has reserved and withheld, from the applicant's entitle-

ment or discretionary amount for the applicable program year, for the purpose of paying the guaranteed obligations (including interest), an amount which is at least equal to 110 percent of the difference between the cost of land acquisition and related expenses and the estimated disposition proceeds, which amount may subsequently be increased by the Secretary to the extent he determines such increase is necessary or appropriate because of any unanticipated, major reduction in such estimated disposition proceeds;

(2) The unit of general local government pledges its full faith and credit or revenues approved by the Secretary for the repayment of any amount required to be paid by the United States pursuant to its guarantee as is equal to the difference between the principal amount of the guaranteed loan and interest thereon and the amount to be reserved and withheld under the preceding paragraph. If revenues are pledged, the applicant must submit evidence to the satisfaction of the Secretary that: (i) There is a reasonable expectation that the revenues will be available; and (ii) the revenues are unencumbered by any superior claim under the pledge; and

(3) The unit of general local government pledges the proceeds of any grants to which it may become eligible under this for the repayment of any amounts which are required to be paid by the United States pursuant to its guarantee, and which are not otherwise fully repaid when due pursuant to paragraphs (c) (1) and (2) of this section.

§ 570.703 Federal guarantee.

The full faith and credit of the United States is pledged to the payment of all guarantees made under this section. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the obligations for such guarantee with respect to principal and interest, and validity of any such guarantee so made shall be incontestable in the hands of a holder of the guaranteed obligations.

§ 570.704 Marketing of notes and interest rates. [Reserved]

§ 570.705 Grants for taxable obligations. [Reserved]

Subpart I—Financial Settlement of Urban Renewal Projects

§ 570.800 General.

This subpart contains regulations governing the transition from the urban renewal and neighborhood development programs (NDP) pursuant to Title I of the Housing Act of 1949, as amended to the programs undertaken pursuant to this Part.

§ 570.801 Projects which can be completed without additional capital grants.

(a) Urban renewal and NDP projects which can be completed without additional capital grants may continue to completion under the existing contracts executed under Title I of the Housing Act of 1949, as amended.

(b) At the request of the local public agency (LPA) carrying out the project, with the approval of the governing body of the unit of general local government in which the project is located, the Secretary may approve a financial settlement of the project if a surplus of capital grant funds will result after full repayment of temporary loan indebtedness. The form of the request for financial settlement will be prescribed by the Secretary. Financial settlements so requested shall be made at the discretion of the Secretary.

(1) *Disbursement and use of surplus funds.* Surplus grant funds remaining after financial settlement will be made available to the unit of general local government for use in accordance with the provisions of this Part.

(i) *Entitlement recipients.* Surplus funds will be made available to recipients only after approval of an application showing the proposed use of the funds. A unit of general local government may either submit a mid-program year amendment as described in § 570.35, or it may include the proposed use of surplus funds in the first application for entitlement funds which is submitted after financial settlement. If the unit of general local government wishes to stage the use of surplus urban renewal funds over a period of years, it may request the Secretary to make the funds available on a schedule specified by the unit of general local government. In this event, the application or amendment must include only the surplus funds to be used in the program year covered by the application. The use of remaining surplus funds will be governed by subsequent years' applications. Amounts not identified in the application or amendment will be obligated to the recipient by reservation until the use of funds is included in an approved application.

(ii) *Non-Entitlement communities.* Surplus funds resulting from a financial settlement under this section will be made available to a unit of general local government which receives no entitlement amount under Subpart B upon approval of an application as specified in Subpart E, Applications and Criteria for Discretionary Grants.

(2) *Release from contractual obligations under Title I of the Housing Act of 1949.* Prior to financial settlement of the project, the Secretary will negotiate with the LPA the requirements which must be met for completion of the project under the contract executed under Title I of the Housing Act of 1949, as amended, in accordance with § 570.803.

§ 570.802 Projects which cannot be completed without additional capital grants.

(a) *Use of funds by locality.* Units of general local government may use funds made available under this Part to complete projects funded under Title I of the Housing Act of 1949, as amended, as specifically authorized by § 570.200(a) (10).

(b) *HUD review of locality's intended use of funds.* The Secretary will review the application submitted pursuant to § 570.303 to determine whether the unit of general local government's use of funds will be sufficient to protect the Federal Government's financial interest in existing urban renewal projects. The Federal Government's financial interest in the existing urban renewal projects shall be determined to be sufficiently protected if the unit of general local government's proposed use of funds will ultimately result in full repayment of outstanding temporary loans plus accrued interest. In the event that full repayment of outstanding temporary loans is proposed to be accomplished over a period of more than three years, the proposed use of funds for payment of interest on outstanding temporary loans until full repayment can be accomplished shall be reviewed. If he determines that the unit of general local government's intended use of funds does not sufficiently protect the Federal Government's financial interest in the existing urban renewal project, the Secretary may, after consultation with the chief executive of the unit of general local government and the local public agency, deduct up to 20 percent from the unit of general local government's entitlement funds in any fiscal year for application to outstanding temporary loans plus accrued interest.

(c) *Deductions at the request of the locality.* The Secretary is authorized to make deductions from a unit of general local government's entitlement for repayment of temporary loans plus accrued interest if the local public agency carrying out the project submits to the Secretary a request which is concurred in by the governing body of the unit of general local government.

(d) *Release from contractual obligations under Title I of the Housing Act of 1949.* Prior to financial settlement of the project, the Secretary will negotiate with the LPA the requirements which must be met for completion of the project under the contract executed under Title I of the Housing Act of 1949, as amended, in accordance with § 570.803.

§ 570.803 Requirements for Completion of Projects Prior to Financial Settlement [Reserved].

Subpart J—Program Management

§ 570.900 Performance Standards.

Performance standards are the standards against which the Secretary will determine whether the applicant or recipient has complied with the specific requirements of this Part. Performance standards are operational program requirements complementing the simplified application review requirements of this part which are designed to provide financial assistance, with maximum certainty and minimum delay, upon which communities can rely in their planning. The Secretary's review of performance against the standards set forth in this section will serve as the basic assurance that grants are being used properly to achieve the objectives of this Part. The Secretary may, either during or after performance, review, monitor, and evaluate the recipient's community develop-

ment program. The Secretary will use the following standards in determining compliance with this Part of the applicant's recipient's performance, including determinations under § 570.911.

(a) *Relocation.* With respect to displacement subject to § 570.602(a), the recipient has established operating procedures under which:

(1) All displaced persons were provided sufficient information in an assimilable form so that they fully understood the reason for their displacement and the relocation rights, payments, and assistance to which they were entitled;

(2) All displaced persons received formal notice establishing their eligibility for relocation payments;

(3) All displaced families and individuals were provided a reasonable number of referrals to comparable decent, safe, and sanitary housing and were provided assistance in obtaining such housing;

(4) All displaced businesses, organizations, and farm operations were offered assistance in obtaining replacement locations;

(5) All displaced persons were provided appropriate advisory services in order to minimize hardships to such persons in adjusting to relocation;

(6) All displaced persons received all the relocation payments to which they were entitled in a prompt manner;

(7) Displacement and relocation activities assisted under this Part were coordinated with those of other governmental agencies in the community carrying out programs resulting in concurrent displacement; and

(8) A locally developed administrative review process provides full opportunity for displaced persons to obtain reconsideration of determinations as to their eligibility for, or the amount of, a relocation payment made and consideration of complaints regarding the adequacy of replacement housing. The process assures that complaints of displaced persons are handled in a timely and responsive manner, that conflicts are resolved fairly and expeditiously, that the recipient will review determinations upon request, and that an appeal may be made to the HUD Area Office when necessary.

(b) *Acquisition.* Local acquisition policy complies with Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

(c) *Equal opportunity.* (1) The recipient will be required to document the actions undertaken to assure that no person, on the ground of race, color, national origin, religion, or sex, has been excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under any activity funded under this Part. Such documentation should indicate:

(i) Any methods of administration designed to assure that no person, on the ground of race, color, national origin or sex, has been excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under any activity funded under this Part.

(ii) Criteria used in selecting sites for public facilities designed to further the accomplishment of the objectives of the programs or activities conducted under this Part with respect to any identifiable segment of the total group of lower-income persons in the community.

(iii) Any actions undertaken to overcome the effects of conditions which may have resulted in limited participation, in the past, in programs or activities of the type funded under this Part, by any identifiable segment of the total group of lower-income persons in the community.

(iv) Any actions undertaken to promote equal employment opportunities for any identifiable segment of the total group of lower-income persons in the community.

(2) The recipient will be required to document the actions undertaken to further fair housing. Such documentation should indicate:

(i) Any actions undertaken to encourage the development and enforcement of fair housing laws.

(ii) Any actions taken to prevent discriminaion in housing and related facilities developed and operated with assistance under this Part, and in the lending practices, with respect to residential property and related facilities, of lending institutions.

(iii) Any action taken to assure that land use and development programs funded under this Part provide greater housing opportunities throughout the planning area for any identifiable segment of the total group of lower-income persons in the community.

(iv) Any site selection policies adopted to promote equal opportunity in housing.

(d) *Citizen participation.* (1) A local citizen participation plan has been developed and made public. The applicant or recipient shall make public how it intends to meet the citizen participation requirements of this Part, inclusive of a timetable specifying: (i) When and how information will be disseminated concerning the amount of funds available for projects that may be undertaken, along with other important program requirements; (ii) when in the initial stage of the planning process public hearings will be held; (iii) when and how citizens will have an opportunity to participate in the development of the application prior to submission; (iv) when and how any technical assistance the recipient may choose to provide, will be made available to assist citizen participants to understand program requirements such as Davis-Bacon, environmental policies, equal opportunity requirements, relocation provisions and like requirements in the preapplication process; and (v) the nature and timing of citizen participation in the development of any future community development program amendments, including reallocation of funds and designation of new activities or locations.

(2) Citizens likely to be affected by community development and housing activities, including low and moderate income persons, have been afforded an adequate opportunity to articulate needs, express preferences about proposed activities, assist in the selection of priorities, and otherwise participate in the development of the application, and have individual and other complaints answered in a timely and responsive manner. (Applicants may wish to provide bilingual opportunities for citizen participation, if feasible, where significant numbers of non-English speaking persons are likely to be affected by community development program activities.)

§ 570.905 Reports to be submitted by recipient.

(a) *General.* Recipients will submit such reports, including litigation reports as the Secretary may require.

(b) *Financial management.* Each recipient shall submit such financial reports as are deemed necessary by the Secretary, consistent with the requirements of Federal Management Circular 74–7.

(c) *Relocation and acquisition reports.* Recipients will report at least annually on a form prescribed by the Secretary on numbers of persons and businesses relocated, numbers remaining in the relocation workload, and a general breakdown of relocation costs and on real property acquired.

(d) *Equal opportunity reports.* Recipients shall submit such reports as may be necessary, pursuant to the rules and regulations under Title VI, Civil Rights Act of 1964; Title VIII, Civil Rights Act of 1968; Section 3 of the Housing and Urban Development Act of 1968; Section 109 of the Act, Executive Order 11246 as amended, and Executive Order 11063, or any reports as may be further prescribed by the Secretary.

§ 570.906 Annual performance report.

(a) *Submission.* Beginning with the application submitted in Fiscal Year 1976, and each fiscal year thereafter, each recipient shall submit a performance report.

(b) *Contents*—(1) *Progress on planned activities.* The recipient shall indicate, on a form prescribed by HUD, progress on each of the activities that were to be carried out pursuant to its approved application for the previous fiscal year, including requirements described in § 570.305(b).

(2) *Recipient assessment.* The performance report must include the recipient's assessment of the effectiveness of the program of community development activities conducted under this Part in meeting the objectives of this Part and the needs and objectives identifield in the recipient's previous fiscal year application for funding under this part.

(3) *Housing assistance provided.* If the recipient's last application indicated that any housing assistance planned under § 570.303(c)(3) was to be provided, the performance report should indicate, on a form prescribed by HUD, progress in providing such assistance.

(4) *Listing of environmental reviews.* The performance report should indicate, on a form prescribed by HUD, the nature and status of all environmental reviews, including historic preservation reviews,

and status of all environmental reviews required on projects funded pursuant to this part.

(5) *Equal opportunity.* The recipient shall indicate compliance with the performance standards outlined in § 570.900 (c).

(6) *Citizen participation.* The recipient shall indicate compliance with the performance standards outlined in § 570.900 (d).

(7) *Amount of local financial support.* The recipient shall indicate compliance with the objectives stated in § 570.2(c).

(c) *Public information.* The recipient will, at the time of submission of the annual performance report, make public notice of the availability of the report for examination by the public. The recipient will keep copies of the performance report for release as public information and make such copies available to the public at no charge.

§ 570.907 Records to be maintained by recipient.

(a) *Financial management.* Recipients are to maintain records, in accordance with Federal Management Circular 74–7, Attachment G, which identify adequately the source and application of funds for grant supported activities. These records shall contain information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income.

(b) *Citizen participation.* Recipients shall maintain the following records with respect to the citizen participation requirements outlined in § 570.900(d):

(1) narrative or other records describing the process used to inform citizens concerning the amount of funds available for proposed community development and housing activities, the range of activities that may be undertaken, and other important program requirements.

(2) records of public hearings held to obtain the views of citizens on community development and housing needs.

(3) narrative or other records of the opportunities provided citizens to participate in the development of block grant applications.

(c) *Other resources.* All recipients subject to the provisions of § 570.303(b) are required to set forth a community development program which includes activities to be undertaken to meet identified community development needs and objectives and indicates resources other than block grants which are expected to be made available toward meeting identified needs and objectives. Records shall be maintained which indicate what amount of the resources indicated in the previous application were annually provided for community development activities and for which activities they were used.

(d) *Relocation.* The recipient shall maintain a management control mechanism that indicates the overall status of the relocation workload and a separate relocation record for each person, business, organization, and farm operation displaced or in the relocation workload. Each separate record shall include:

(1) Name, address, and relocation needs of person(s) to be displaced; a description of the services and assistance provided; a statement of the type and amount of relocation payments made; and the location and a description of the replacement dwelling or nonresidential accomodation to which the person(s) relocated.

(2) The pertinent claim form(s) and supporting documentation submitted by the displaced person and a copy of the worksheet or other document used by the recipient to determine eligibility for and the amount of the payment(s) made.

(3) A copy of any grievance filed by the displaced person, a description of the actions taken to resolve it, and a copy of all pertinent determinations.

(e) *Acquisition.* Recipients' files shall contain the following records concerning real property acquisition governed by the provisions of § 570.602:

(1) Invitation to owner to accompany appraiser during inspection.

(2) Property appraisal.

(3) Statement of basis for the determination of just compensation.

(4) Written offer of just compensation.

(5) Purchase agreement, deed, declaration of taking, and any similar or related documents involving conveyance.

(6) Settlement cost reporting statement.

(7) Notice to surrender possession of premises.

(f) *Equal opportunity.* (1) The recipient shall maintain demographic data by census tract. The data shall include prevailing population characteristics relating to race, ethnic group, sex, age, and head of household.

(2) The recipient shall maintain racial, ethnic, and gender data showing the extent to which these categories of persons have participated in, or benefited from, programs and activities funded under this Part.

(3) The recipient shall maintain data which records its affirmative action in equal opportunity employment, including but not limited to employment, upgrading, demotions, transfers, recruitment or recruitment advertising, layoffs or terminations, pay or other compensation, and selection for training.

(4) The recipient shall maintain data which records its good faith efforts to identify, train and/or hire lower-income residents of the project area and to utilize business concerns which are located in or owned in substantial part by persons residing in the area of the project.

(g) *Labor Standards.* Recipients shall maintain records regarding compliance of all contractors performing construction work with grant funds, with the obligations imposed upon them by § 570.605.

(h) *Unavailability of other Federal assistance.* Recipients using funds provided under this Part for the provision of public services as described in § 570.200(a)(8) or for the acquisition, construction, reconstruction, or installation of flood and drainage facilities as described in § 570.200(a)(2), shall maintain records of compliance with the procedures as set forth in § 570.607 indicating that assistance for such facilities under other Federal laws or programs is unavailable.

(i) *OMB Circular A–95 comments.* The recipient shall retain copies of all letters, correspondence, or other records received as a result of review of the community development program application by the appropriate clearinghouse pursuant to the provisions of OMB Circular A–95.

(j) *Environment.* Recipients shall prepare and maintain environmental review records as specified in 24 CFR § 58.11 and as the Secretary may otherwise require.

§ 570.908 HUD Reports [Reserved].

§ 570.909 Secretarial review and monitoring of recipient's performance.

(a) *General.* The Secretary will review each recipient's annual performance. The review of the recipient's performance will take place where possible, prior to approval of the succeeding year's application for grant.

(b) *Objective.* The review system is designed to determine:

(1) Whether the recipient has carried out a program substantially as described in its application;

(2) Whether that program conformed to the requirements of this Part and other applicable laws and regulations;

(3) Whether the recipient has demonstrated a continuing capacity to carry out in a timely manner the approved community development program. To determine the recipient's continuing capacity, the Secretary will consider:

(i) The recipient's performance in moving activities into execution or accomplishing activities undertaken as a part of the community development program in substantial conformance with the recipient's schedule or timetable for its activities; and

(ii) The recipient's performance in utilizing its resources, including funds received under this Part, at a rate which indicates substantial conformance with the recipient's planned rate of expenditure or utilization.

In making determinations concerning a recipient's continuing capacity, the Secretary will be guided by the experience of other recipients of similar size with similar entitlement amounts as judged by the above factors. Where a recipient's performance with respect to the above factors lags substantially behind that of similar recipients, or for any other reason, the Secretary desires further information, the Secretary may require submission of additional information concerning the administrative, planning, budgeting, management, and evaluation functions of the recipient to determine whether a lack of capacity is the source of the recipient's substantial nonperformance. The Secretary shall further determine by this review if action on the part of the recipient to eliminate the causes of substantial nonperformance will satisfy the requirement of a finding that the necessary capacity to carry out in a timely manner its community devel-

opment program in succeeding years exists.

(c) *Basis for Review.* Each recipient shall assist the Secretary in performing his review function with respect to:

(1) Review of reports and records of recipients;

(2) Review of certification by the recipient of conformance to applicable laws and regulations;

(3) Site visits and inspections on a routine sampling basis including interviews with citizens and local officials.

§ 570.910 Evaluation by HUD.

(a) The Secretary shall, in addition to his annual reviews and audits, evaluate programs conducted under this Part and their effectiveness in meeting the objectives of this Part.

(b) The Secretary may conduct such evaluation using HUD personnel, or by contract or other arrangement with public or private agencies.

(c) Recipients under this Part may be required to supply data or make available such records as are necessary for the accurate completion of these evaluations.

§ 570.911 Secretarial adjustment of annual grants.

When the Secretary determines on the basis of such reviews and audits as may be necessary or appropriate, that the recipient has not carried out a program substantially as described in its application, that the program did not conform to the requirements of the Act and other applicable laws, or that the recipient does not have a continuing capacity to carry out in a timely manner the approved community development program, he then may make appropriate adjustment in the amount of the annual grants in accordance with his findings pursuant to such reviews and audits. Adjustments may be made in annual grants for the current program period, the forthcoming program period, or both. Where the determination involves a failure to comply substantially with any provision of the Act, the provisions of § 570.913 shall apply.

§ 570.912 Nondiscrimination compliance.

Whenever the Secretary determines that a State or unit of general local government which is a recipient of either grant or loan assistance under this Part has failed to comply with the provisions of § 570.601, he shall notify the Governor of such State or the chief executive officer of such unit of general local government of the noncompliance and shall request the Governor or the chief executive officer to secure compliance. If within a reasonable period of time, not to exceed sixty days, the Governor or the chief executive officer fails or refuses to secure compliance, the Secretary is authorized to (a) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted; (b) exercise the powers and functions provided by Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d); (c) exercise the powers and functions provided for in § 570.913; or (d) take such other action as may be provided by law. When a matter is referred to the Attorney General pursuant to the preceding sentence, or whenever he has reason to believe that a State government or unit of general local government is engaged in a pattern or practice in violation of the provisions of § 570.601(a), the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

§ 570.913 Other remedies for noncompliance.

(a) *Secretarial referral to the Attorney General.* The Secretary may, if he has reason to believe that a recipient has failed to comply substantially with any provision of the Act, refer the matter to the Attorney General of the United States with a recommendation that an appropriate civil action be instituted. Upon such a referral the Attorney General may bring a civil action in any United States district court having venue thereof for such relief as may be appropriate, including an action to recover the amount of the assistance furnished under this Part which was not expended in accordance with it, or for mandatory or injunctive relief.

(b) *Secretarial actions on payments.* If the Secretary finds a recipient has failed to comply substantially with any provision of this Part, he may, provided his finding of failure to comply is made after reasonable notice and opportunity for hearing,

(1) Terminate payments to the recipient; or

(2) Reduce payments to the recipient by an amount equal to the amount of such payments which were not expended in accordance with this Part; or

(3) Limit the availability of payments to programs, projects, or activities not affected by such failure to comply.

The following regulations govern the procedure and practice requirements involving adjudications where the Secretary desires to take action requiring reasonable notice and opportunity for hearing. The regulations in this part shall be liberally construed to secure just, expeditious, and efficient determination of the issues presented. The Administrative Procedure Act (5 U.S.C. 551 et seq.) where applicable shall be a guide in any situation not provided for or controlled by this subpart, but shall be liberally construed or relaxed when necessary.

(c) *Reasonable notice and opportunity for hearing.* (1) Whenever the Secretary has reason to believe that a recipient has failed to comply substantially with any section of the Act or of the provisions of this part, and that termination, reduction, or limiting the availability of payments is required, he shall give reasonable notice and opportunity of hearing to such recipient prior to the invocation of any sanction under the Act.

(2) Except in proceedings involving willfulness or those in which the public interest requires otherwise, a proceeding under this part will not be instituted until such facts or conduct which may warrant such action have been called to the attention of the chief executive officer of the recipient in writing and he has been accorded an opportunity to demonstrate or achieve compliance with the requirements of the Act and of this part. If the recipient fails to meet the requirements of the Act and regulations within such reasonable time as may be specified by the Secretary, a proceeding shall be initiated. Such proceeding shall be instituted by the Secretary by a complaint which names the recipient as the respondent.

(3) A complaint shall give a plain and concise description of the allegations which constitute the basis for the proceeding. A complaint shall be deemed sufficient if it fairly informs the respondent of the charges against it so that it is able to prepare a defense to the charges. Notification shall be given in the complaint as to the place and time within which the respondent shall file its answer, which time shall be not less than 30 days from the date of service of the complaint. The complaint shall also contain notice that a decision by default will be rendered against the respondent in the event it fails to file its answer as required.

(4) (i) *Service of Complaint.* The complaint or a true copy therefore may be served upon the respondent registered or by certified mail, return receipt requested; or it may be served in any other manner which has been agreed to in writing by the respondent. Where the service is by certified mail, the return Postal Service receipt duly signed on behalf of the respondent shall be proof of service.

(ii) *Service of papers other than complaint.* Any paper other than the complaint may be served upon the respondent or upon its attorney of record by registered or certified mail, return receipt requested. Such mailing shall constitute complete service.

(iii) *Filing of papers. Whenever the filing* of a paper is required or permitted in connection with a proceeding under this Part, and the place of filing is not specified in this subpart or by role or order of the administrative law judge, the paper shall be filed with the Secretary, Washington, D.C. 20410. All papers shall be filed in duplicate.

(iv) *Motions and Requests.* Motions and requests shall be filed with the designated administrative law judge, except that an application to extend the time for filing an answer shall be filed with the Secretary pursuant to § 570.913 (c) (4) (iii).

(5) (i) *Filing.* The respondent's answer shall be filed in writing within the time specified in the complaint, unless on application the time is extended by the Secretary. The respondent's answer shall be filed in duplicate with the Secretary.

(ii) *Contents.* The answer shall contain a statement of facts which constitute the grounds of defense, and it shall specifically admit or deny each allegation set forth in the complaint, except that

the respondent shall not deny a material allegation in the complaint which it knows to be true; nor shall a respondent state that it is without sufficient information to form a belief when in fact it possesses such information. The respondent may also state affirmatively special matters of defense.

(iii) *Failure to deny or answer allegation in the complaint.* Every allegation in the complaint which is not denied in the answer shall be deemed to be admitted and may be considered as proved, and no further evidence in respect of such allegation need be adduced at a hearing.

(iv) *Failure to file answer.* Failure to file an answer within the time prescribed in the complaint, except as the time for answer is extended under § 570.913(c)(5)(i), shall constitute an admission of the allegations of the complaint and a waiver of hearing, and the administrative law judge shall make his findings and decision by default without a hearing or further procedure.

(v) *Reply to answer.* No reply to the respondent's answer is required unless the administrative law judge so requests. Otherwise, the Secretary may file a reply in his discretion, but in any event within 10 days from his receipt of respondent's answer.

(vi) *Referral to administrative law judge.* Upon receipt of the answer by the Secretary or upon filing a reply if one is deemed necessary, or upon failure of the respondent to file an answer within the time prescribed in the complaint or as extended under § 570.913(c)(5)(i), the complaint (and answer, if one is filed) shall be referred to the administrative law judge. Where an answer has been filed, the administrative law judge shall set a time and place for hearing and shall serve notice thereof upon the parties at least 15 days in advance of the hearing date.

(6)(i) If it appears to the Secretary that the respondent in its answer falsely and in bad faith, denies a material allegation of fact in the cmoplaint or states that it has no knowledge sufficient to form a belief, when in fact it does possess such information, or if it appears that the respondent has knowingly introduced false testimony during the proceedings, the Secretary may thereupon file supplemental charges against the respondent. Such supplemental charges may be tried with other charges in the case, provided the respondent is given due notice thereof and is afforded an opportunity to prepare its defense thereto.

(ii) In the case of a variance between the allegations in a pleading and the evidence adduced in support of the pleading, the administrative law judge may order or authorize amendment of the pleading to conform to the evidence: *Provided,* The party that would otherwise be prejudiced by the amendment is given reasonable opportunity to meet the allegation of the pleading as amended. The administrative law judge shall make findings on any issue presented by the pleadings as so amended.

(iii) A respondent may appear in person through its chief executive officer and must be represented by counsel. Respondent's counsel may also appear as a witness in the proceeding. The Secretary shall be represented by the General Counsel of HUD.

(d) *Administrative law judge; powers.* (1) *Appointment.* An administrative law judge, appointed as provided by Section 11 of the Administrative Procedure Act (5 U.S.C. 3105), shall conduct proceedings upon complaints filed under this subpart.

(2) *Powers of administrative law judge.* Among other powers provided by law, the administrative law judge's authority, in connection with any proceeding under this subpart, shall include authority to:

(i) Administer oaths and affirmations;

(ii) Making ruling upon motions and requests. Prior to the close of the hearing no appeal shall lie from any such ruling except, at the discretion of the administrative law judge, in extraordinary circumstances;

(iii) Determine the time and place of hearing and regulate its course and conduct. In determining the place of hearing the administrative law judge may take into consideration the requests and convenience of the respondent or its counsel;

(iv) Adopt rules of procedure and modify the same from time to time as occasion requires for the orderly disposition of proceedings;

(v) Rule upon offers of proof, receive relevant evidence, and examine witnesses;

(vi) Take or authorize the taking of dispositions;

(vii) Receive and consider oral or written arguments on facts or law;

(viii) Hold or provide for the holding of conferences for the settlement or simplification of the issues by consent of the parties;

(ix) Perform such acts and take such measures as are necessary or appropriate to the efficient conduct of any proceeding; and

(x) Make initial findings and decision.

(e) *Hearings.* (1) In general: The administrative law judge shall preside at the hearing on a complaint. Testimony of witnesses shall be given under oath or affirmation. The hearing shall be stenographically recorded and transcribed. Hearings will be conducted pursuant to section 7 of the Administrative Procedure Act (5 U.S.C. 556).

(2) Failure to appear: If, after proper service and notice, a respondent fails to appear at the hearings, it shall be deemed to have waived the right to a hearing and the administrative law judge shall make his findings and decision against the respondent by default.

(3) Waiver of hearing: A respondent may waive the hearing by informing the administrative law judge, in writing on or before the date set for hearing, that it desires to waive hearing. In such event the administrative law judge shall make his findings and decision based upon the pleadings before him. The decision shall plainly show that the respondent waived hearing.

(4) The administrative law judge shall prior to or at the beginning of the hearing require that the parties attempt to arrive at such stipulations as will eliminate the necessity of taking evidence with respect to allegations of facts concerning which there is no substantial dispute. The administrative law judge shall take similar action, where it appears appropriate, throughout the hearing and shall call and conduct any conferences which he deems advisable with a view to the simplification, clarification, and disposition of any of the issues involved.

(f) *Evidence.* (1) Any evidence which would be admissible under the rules of evidence governing proceedings in matters not involving trial by jury in the Courts of the United States, shall be admissible and controlling as far as possible. Provided that, the administrative law judge may relax such rules in any hearing when in his judgment, such relaxation would not impair the rights of either party and would more speedily conclude the hearing, or would better serve the ends of justice. Evidence which is irrelevant, immaterial or unduly repetitious shall be excluded by the administrative law judge.

(2) *Depositions.* The deposition of any witness may be taken pursuant to § 570.913(g) and the deposition may be admitted.

(3) *Proof of documents.* Official documents, records and papers of a respondent shall be admissible as evidence without the production of the original provided that such documents, records and papers are evidenced as the original by a copy attested to or identified by the chief executive officer of the respondent or the custodian of the document, and contain the seal of the respondent.

(4) *Exhibits.* If any document, record, paper, or other tangible or material thing is introduced in evidence as an exhibit, the administrative law judge may authorize the withdrawal of the exhibit subject to any conditions he deems proper. An original document, paper or record need not be introduced and a copy duly certified (pursuant to paragraph (b) of this section) shall be deemed sufficient.

(5) *Objections.* Except as requested by counsel or the administrative law judge, oral or written objections to evidence shall be in short form, stating the grounds of objection relied upon, and the record shall not include subsequent argument thereon, except as permitted by the administrative law judge. Rulings on such objections shall be a part of the record. No exception to the ruling is necessary to preserve the right of either party to the proceeding.

(g) *Depositions.* (1) *In general.* Depositions for use at a hearing may, with the written approval of the administrative law judge, be taken by either the Secretary or the respondent or their duly authorized representatives. Depositions may be taken upon oral or written interrogatories, upon not less than 15 days written notice to the other party, before any officer duly authorized to administer an oath for general purposes. Such written notice shall state the

names of the witnesses and the time and place where the depositions are to be taken. The requirement of 15 days written notice may be waived by the parties in writing, and depositions may then be taken from the persons and at times and places mutually agreed to by the parties.

(2) *Written interrogatories.* When a deposition is taken upon written interrogatories, any cross-examination shall be upon written interrogatories. Copies of such written interrogatories shall be served upon the other party with the notice, and copies of any written cross-interrogatories shall be mailed by first class mail or delivered to the opposing party at least 10 days before the date of taking the depositions, unless the parties mutually agree otherwise. A party upon whose behalf a deposition is taken must file with the administrative law judge and serve one copy upon the opposing party. Expenses in the reporting of depositions shall be borne by the party at whose instance the deposition is taken.

(h) *Stenographic record; oath of reporter, transcript.* (1) *In general.* A stenographic record shall be made of the testimony and proceedings, including stipulations and admissions of fact in all proceedings. Arguments of counsel may be heard on request. A transcript of the proceedings (and evidence) at the hearing shall be made in all cases.

(2) *Oath of reporter.* The reporter making the stenographic record shall subscribe an oath before the administrative law judge, to be filed in the record of the case, that he (or she) will truly and correctly report the oral testimony and proceedings at such hearing and accurately transcribe the same to the best of his (or her) ability.

(3) *Transcript.* Copies of the transcript may be obtained from the reporter at rates not to exceed the actual cost of duplication. Copies of exhibits introduced at the hearings or at the taking of depositions will be supplied to the parties upon the payment of a reasonable fee (31 U.S.C. 483(a)).

(i) *Proposed findings and conclusions.* Except in cases where a respondent has failed to appear to answer the complaint or has failed at the hearings, or has waived the hearing, the administrative law judge, prior to making his initial decision, shall afford the parties a reasonable opportunity to submit proposed findings and conclusions and supporting reasons therefor.

(j) *Initial decision of the Administrative Law Judge.* Within 30 days after the conclusion of a hearing, the administrative law judge shall make his initial decision. However, where proposed findings and conclusions are timely submitted by the parties, such decision shall be made within 30 days after receipt of the findings and conclusions. The initial decision shall include a statement of the findings of fact and the conclusions therefrom, as well as the reasons or basis therefor, upon all the material issues of fact, law or discretion preserved on the record, and may provide for one of the following orders:

(1) An order that the respondent's payments be terminated, or

(2) An order that the respondent's payments be reduced, or

(3) An order that the Secretary limit the availability of payments to activities not affected by respondent's failure to comply, or

(4) An order in favor of respondent.

After reaching his initial decision the administrative law judge shall certify to the complete record, together with a certified copy of his initial decision, to the Secretary. The administrative law judge shall serve also a copy of the initial decision upon the Secretary and the respondent. The administrative law judge shall serve also a copy of the initial decision by certified mail to the chief executive officer of the respondent or to its attorney of record.

(k) *What constitutes record.* The transcript of testimony, pleadings and exhibits, all papers and requests filed in the proceeding together with all findings, decisions and orders, shall constitute the exclusive record in the matter.

(l) *Procedure on review of decision of administrative law judge*—(1) *Appeal to the Secretary.* Within 30 days from the date of the initial decision and order of the administrative law judge, the respondent may appeal to the Secretary and file his exceptions to the initial decision and his reasons therefor. The respondent shall transmit a copy of his appeal and reasons therefor to the HUD counsel who may, within 30 days from receipt of the respondent's appeal, file a reply brief in opposition to the appeal. A copy of the reply brief, if one is filed, shall be transmitted to the respondent or its counsel of record. Upon the filing of an appeal and a reply brief, if any, the Secretary shall make the final agency decision on the record of the administrative law judge submitted to him.

(2) *Absence of appeal.* In the absence of exceptions by the respondent within the time set forth in paragraph (l)(1) of this section or a review initiated by HUD counsel within 45 days after the initial decision, such initial decision of the administrative law judge shall constitute the final decision of the Department.

(m) *Decision of the Secretary.* On appeal from or review of the initial decision of the administrative law judge, the Secretary will make the final agency decision. In making his decision the Secretary will review the record or such portions thereof as may be cited by the parties to permit limiting of the issues. The Secretary may affirm, modify, or revoke the findings and initial decision of the administrative law judge. A copy of the Secretary's decision shall be transmitted immediately to the chief executive officer of the respondent or its counsel of record.

(n) *Publicity of proceedings.* (1) *In general.* A proceeding conducted under this subpart shall be open to the public and to elements of the news media provided that in the judgment of the administrative law judge, the presence of the media does not detract from the decorum and dignity of the proceeding.

(2) *Availability of record.* The record established in any proceeding conducted under this subpart shall be made available to inspection by the public as provided for and in accordance with regulations of the Department of HUD pursuant to 24 CFR Part 15.

(3) *Decisions of the administrative law judge.* The statement of findings and the initial decision of the administrative law judge in any proceedings, whether or not on appeal or review shall be indexed and maintained by the Secretary and made available for inspection by the public at the public documents room of the Department. If practicable, the statement of findings and the decisions of the administrative law judge shall be published periodically by the Department and offered for sale through the Superintendent of Documents.

(4) Based on written advice from the Department of Justice that publicity of the proceedings or public release of the record pursuant to (n)(1), (2), and (3) of this section would adversely affect criminal prosecution, the Secretary may deem the applicability of (n)(1), (2), and (3) stayed.

(o) *Judicial review.* (1) Actions taken under administrative proceedings pursuant to this subpart shall be subject to judicial review pursuant to Section 111(c) of the Act. If a respondent desires to appeal a decision of the administrative law judge which has become final, or a final order of the Secretary for review of appeal, to the U.S. Court of Appeals, as provided by law, the Secretary, upon prior notification of the filing of the petition for review, shall have prepared in triplicate, a complete transcript of the record of the proceedings, and shall certify to the correctness of the record. The original certificate together with the original record shall then be filed with the Court of Appeals which has jurisdiction.

(2) Any recipient which receives the final agency decision of the termination, reduction or limitation of payments under this title may, within sixty days after receiving such notice, file with the United States Court of Appeals for the circuit in which such State is located, or in the United States Court of Appeals for the District of Columbia, a petition for review of the Secretary's action. The petitioner shall forthwith transmit copies of the petition to the Secretary and the Attorney General of the United States, who, shall represent the Secretary in the litigation.

(3) The Secretary shall file in the court the record of the proceeding on which he based his action, as provided in Section 2112 of Title 28, United States Code. No objection to the action of the Secretary shall be considered by the

court unless such objection has been urged before the Secretary.

(4) The court shall have jurisdiction to affirm or modify the action of the Secretary or to set it aside in whole or in part. The findings of fact by the Secretary, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may order additional evidence to be taken by the Secretary, and to be made part of the record. The Secretary may modify his findings of fact, or make new findings, by reason of the new evidence so taken and filed with the court, and he shall also file such modified or new findings, which findings with respect to questions of fact shall be conclusive if supported by substantial evidence on the record considered as a whole, and shall also file his recommendations, if any, for the modification or setting aside of his original action.

(5) Upon the filing of the record with the court, the jurisdiction of the court shall be exclusive and its judgment shall be final, except that such judgment shall be subject to review by the Supreme Court of the United States upon writ of certiorari or certification as provided in Section 1254 of Title 28, United States Code.

Effective date. This part shall be effective January 1, 1975.

DAVID O. MEEKER, Jr.,
FAIA, Assistant Secretary for Community Planning and Development.

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